

**I. Introduction**

CUB submits this straw proposal for a tax attribution methodology from a consolidated company to the regulated operations of an Oregon regulated utility. CUB is supportive of the attribution methodology contained in the temporary rules, and this proposal should not be interpreted as an indication that CUB's position has changed. We provide this proposal because we believe that having a variety of options available to discuss and consider is in the interests of all stakeholders.

**II. The Theory: Attribute Tax Deductions Based on Type of Deduction**

SB 408 requires the Commission to examine an affiliated group that files consolidated taxes, and attribute a portion of that actual tax payment to the regulated operations of the utility. This is then compared to the taxes that are contained in rates, in order to true-up any difference between the taxes collected in rates and the utility's attributed share of actual tax payments to the government.

The central issues in attribution are how to attribute interest-related tax deductions in a utility's chain of ownership, and how to attribute the impact on consolidated taxes of the presence of affiliates with a negative tax liability. This methodology begins with a utility's stand-alone tax liability, and would attribute a reasonable share of interest-related tax deductions within a utility's ownership chain, and a fair share of the tax offset provided by the presence of affiliate loss-companies within a corporate family to a regulated utility.

Through the consideration of SB 408 in the AR 499 workshops, it has become apparent that not all tax deductions are the same – tax deductions that are related to accelerated depreciation are different than tax deductions related to operating losses. This methodology acknowledges the differences between tax deductions, and considers, when attributing taxes to a regulated utility, the different types of tax deductions.

**III. The Proposal: Attribute Tax Deductions by Type & Apply an Earnings Test**

While there may be a variety of tax deductions available to corporate entities, the workshop discussions circled around 4 types of deductions: accelerated depreciation, interest on debt, operating losses, and Oregon's Business Energy Tax Credits.

- A. *Accelerated Depreciation.* Both under SB 408 and as done traditionally, when calculating a utility's taxes to be included in rates, the impact of accelerated depreciation is adjusted out. Using this methodology, tax reductions due to accelerated depreciation would likewise be adjusted out. This must be done in a consistent manner throughout the corporate family, and must be easy for the Commission Staff to track and audit.
- B. *Parent Company & Chain of Ownership Interest Payments.* Net interest-related tax deductions in a regulated utility's chain of ownership – its direct parent and above – would be attributed to a regulated utility based on the proportional stand-alone taxable income of the subsidiaries. Net interest is the amount of interest payments minus interest income within a stand-alone parent company. If the parent company produces additional taxable income that is not interest income, the interest-related tax deduction would be attributed to that income as well. The rationale behind this attribution is that the interest payments are paid with income from the subsidiaries. This puts earnings pressure on the subsidiaries and can impact the credit rating of the subsidiaries. These interest deductions can be forecast, and included in base rates.
- C. *Affiliates With Negative Tax Liabilities.* The negative stand-alone tax liabilities of those affiliates with negative stand-alone tax liabilities would be allocated to the utility only to the extent the utility earned above its authorized return on equity for the tax year in question, and then, only to the extent those tax offsets bring the utility back to its authorized return on equity. When a utility is earning above its authorized return on equity, the utility has a greater tax liability than expected; this excess tax liability may be offset with excess tax deductions at an affiliate with a negative tax liability. This attribution would NOT include that portion of an affiliate's negative tax liability due to accelerated depreciation. It would also not include the impact of interest-related tax deductions in the utility's ownership chain that had already been accounted for. This negative tax liability would be allocated to each subsidiary with a positive tax liability based on that subsidiary's stand-alone taxable income.
- D. *Business Energy Tax Credit.* Oregon Business Energy Tax Credits that are purchased by the unregulated operations of a utility or its affiliates would not be attributed to a regulated utility. These tax credits are offset by the cost of purchasing them, so there are no real tax benefits to attribute.