

Seating is restricted to about 150 people. If more people appear than can be accommodated, the first ones to arrive will be seated. We plan to prepare a record of the hearing and place it in the docket for this rulemaking, so that anyone who is unable to attend the hearing can learn what was said.

Any person who wishes to have a sign language interpreter present at the hearing should so advise us by Monday, May 19, so that we may make the necessary arrangements.

Finally, Sabre on its own initiative has filed a document stating its views on when a hearing should be held and how it should be organized. Other commenters have filed responses supporting or opposing Sabre's proposals. We have reviewed these documents and determined that the hearing procedures and timing set forth in this notice will best suit our purpose of supplementing the record without delaying a final decision. The opportunity to submit comments and reply comments will give all interested persons the ability to set forth in detail their positions on the factual, legal, and policy issues presented in this proceeding. As some of the commenters requested, however, we have extended the reply comment period to June 9. That will give interested persons additional time for their preparation of reply comments and their participation in the hearing.

Issued in Washington, DC, on May 9, 2003.

Read C. Van de Water,

Assistant Secretary for Aviation and International Affairs.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-113007-99]

RIN 1545-AU98

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations on the definition of private activity bond applicable to tax-exempt bonds issued by State and local governments. These regulations affect issuers of tax-exempt bonds and provide needed guidance for applying

the private activity bond restrictions to refunding issues. This document also contains a notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by August 19, 2003. Outlines of topics to be discussed at the public hearing scheduled for September 9, 2003, at 10 a.m., must be received by August 19, 2003.

ADDRESSES: Send submissions to CC:PA:RU (REG-113007-99), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG-113007-99), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically to the IRS Internet site at www.irs.gov/regs. The public hearing will be held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Gary W. Bornholdt, (202) 622-3980; concerning submissions and the hearing, Treena Garrett, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

In general, under section 103 of the Internal Revenue Code (Code), gross income does not include the interest on any State or local bond. However, this exclusion does not apply to private activity bonds (other than certain qualified bonds). Section 141(a) defines a private activity bond as any bond issued as part of an issue that meets either (1) the private business use test in section 141(b)(1) and the private security or payment test in section 141(b)(2) (the private business tests) or (2) the private loan financing test in section 141(c) (the private business tests and the private loan financing test are referred to collectively as the "private activity bond tests").

The private business use test is met if more than 10 percent of the proceeds of an issue are to be used for any private business use. Section 141(b)(6) defines private business use as use directly or indirectly in a trade or business that is carried on by any person other than a governmental unit.

The private security or payment test is met if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of an issue is directly or indirectly (1) secured by an interest in

property used or to be used for a private business use, (2) secured by an interest in payments in respect of such property, or (3) to be derived from payments, whether or not to the issuer, in respect of property, or borrowed money, used or to be used for a private business use.

The private loan financing test is satisfied if more than the lesser of \$5 million or 5 percent of the proceeds of an issue are to be used to make or finance loans to persons other than governmental units.

In 1994, proposed regulations (FI-72-88) were published in the **Federal Register** (59 FR 67658) (the 1994 Proposed Regulations) to provide guidance under the Code with respect to the application of the private activity bond tests. Generally, the 1994 Proposed Regulations provide that the private business use of a facility is equal to the greatest percentage of private business use of that facility for any one year period during the term of the bonds. The amount of private security or private payments is determined by comparing the present value of the private security or private payments to the present value of the debt service to be paid over the term of the issue, using the bond yield as the discount rate.

With respect to refunding issues, the 1994 Proposed Regulations provide that the determination of whether a refunding issue satisfies either the private business tests or the private loan financing test is made without regard to whether the prior issue satisfied those tests. In general, under the 1994 Proposed Regulations, the private business tests and the private loan financing test are applied to a refunding issue by treating the proceeds of the refunding issue as used for the same purposes as the proceeds of the prior issue, but disregarding any use of the property financed with the prior issue that occurred before the issue date of the refunding issue. In addition, in applying the private business tests to a refunding issue under the 1994 Proposed Regulations, an issuer may treat the refunding issue as a continuation of the prior issue.

On January 16, 1997, final regulations (TD 8712) relating to the definition of private activity bond and related rules under sections 103, 141, 142, 144, 145, 147, 148, and 150 were published in the **Federal Register** (62 FR 2275) (the Final Regulations). Under the Final Regulations, the amount of private business use of property financed by an issue is equal to the average percentage of private business use of that property during a defined measurement period. The measurement period begins on the later of the issue date of the issue or the