

restrictions, visitors will not be admitted beyond the lobby more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons who wish to present oral comments at the hearing must submit written comments by October 14, 2003, and submit an outline of the topics to be discussed and the amount of time to be devoted to each topic by October 14, 2003.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Comments are requested on all aspects of the proposed regulations.

#### Drafting Information

The principal authors of these regulations are Rebecca L. Harrigal and Gary W. Bornholdt, Office of Associate Chief Counsel (Tax-exempt and Government Entities), IRS, and Bruce M. Serchuk, Office of Tax Policy, Treasury Department. However, other personnel from the IRS and Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Proposed Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

#### PART 1—INCOME TAXES

1. The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

2. Section 1.141-0 is amended by adding an entry to the table for § 1.141-16(d) to read as follows:

#### § 1.141-0 Table of contents.

\* \* \* \* \*

#### § 1.141-16 Effective dates for qualified private activity bond provisions.

\* \* \* \* \*

(d) Certain remedial actions.

\* \* \* \* \*

3. In § 1.141-12, paragraphs (j) and (k) *Example 8* are revised to read as follows:

#### § 1.141-12 Remedial actions.

\* \* \* \* \*

(j) *Nonqualified bonds*—(1) *Amount of nonqualified bonds*. The nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test or private loan financing test, as applicable. For this purpose, the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the deliberate action.

(2) *Allocation of nonqualified bonds*. Allocations of nonqualified bonds must be made on a pro rata basis, except that, for purposes of paragraph (d) of this section (relating to redemption or defeasance), an issuer may treat any bonds of an issue as the nonqualified bonds so long as—

(i) The remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer in accordance with this section, is not greater than

(ii) The remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

(k) \* \* \*

*Example 8. Compliance after remedial action.* In 2000, City G issues bonds with proceeds of \$10 million to finance a courthouse. The bonds have a weighted average maturity that does not exceed 120 percent of the reasonably expected economic life of the courthouse. G uses \$1 million of the proceeds for a private business use and more than 10 percent of the debt service on the issue is secured by private security or payments. In 2004, in a bona fide and arm's length arrangement, G enters into a management contract with a nongovernmental person that results in private business use of 40 percent of the courthouse per year during the remaining term of the bonds. G immediately redeems the nonqualified bonds, or 44.44 percent of the outstanding bonds. This is the portion of the outstanding bonds that, if the remaining bonds were issued on the date on which the deliberate action occurs, the remaining bonds would not satisfy the private business use test, if the amount of private business use is the greatest percentage of private business use in any one-year period commencing with the deliberate action (50 percent). This percentage is computed by dividing the percentage of the facility used for a government use (50 percent) by the minimum

amount of government use required (90 percent), and subtracting the resulting percentage (55.56 percent) from 100 percent (44.44 percent). For purposes of subsequently applying section 141 to the issue, G may continue to use all of the proceeds of the outstanding bonds in the same manner (that is, for the courthouse and the private business use) without causing the issue to meet the private business use test. The issue, however, continues to meet the private security or payment test. The result would be the same if G, instead of redeeming the bonds, established a defeasance escrow for those bonds, provided that the requirement of paragraph (d)(4) of this section was met.

4. Section 1.141-15 is amended as follows:

1. Paragraph (b)(4) is added.

2. Paragraph (e) is revised.

The amendments read as follows:

#### § 1.141-15 Effective dates.

\* \* \* \* \*

(b) *Effective dates*. \* \* \*

(4) *Certain remedial actions*. For bonds subject to § 1.141-12, the provisions of §§ 1.141-12(j) and 1.141-12(k), *Example 8*, apply to deliberate actions that occur on or after the date of publication of final regulations in the **Federal Register** and may be applied by issuers to deliberate actions that occur on or after April 21, 2003 and before the date of publication of final regulations in the **Federal Register**.

\* \* \* \* \*

(e) *Permissive application of certain sections*—(1) *In general*. Except as otherwise provided in paragraph (b)(4) of this section and this paragraph (e), the following sections may each be applied by issuers to any bonds—

(i) Section 1.141-3(b)(4);

(ii) Section 1.141-3(b)(6); and

(iii) Section 1.141-12.

(2) *Transition rule for pre-effective date bonds*. For purposes of paragraphs (e)(1) and (h) of this section, issuers may apply § 1.141-12 to bonds issued before May 16, 1997, without regard to paragraph (d)(4) thereof with respect to deliberate actions that occur on or after April 21, 2003.

\* \* \* \* \*

5. Section 1.141-16 is amended by revising paragraph (c) and adding paragraph (d) to read as follows:

#### § 1.141-16 Effective dates for qualified private activity bond provisions.

\* \* \* \* \*

(c) *Permissive application*. The regulations designated in paragraph (a) of this section may be applied by issuers in whole, but not in part, to bonds outstanding on the effective date. For this purpose, issuers may apply § 1.142-2 without regard to paragraph (c)(3) thereof to failures to properly use