

§ 1.145-0

26 CFR Ch. I (4-1-04 Edition)

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[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

§ 1.145-1 Qualified 501(c)(3) bonds.

(a) *Overview.* Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(G), a qualified 501(c)(3) bond issued under section 145 is a qualified bond. Under section 145, a qualified 501(c)(3) bond is any bond issued as a part of an issue that satisfies the requirements of sections 145(a) through (d).

(b) *Scope.* Sections 1.145-0 through 1.145-2 apply for purposes of section 145(a).

(c) *Effective dates.* For effective dates of §§1.145-0 through 1.145-2, see §1.141-15.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

§ 1.145-2 Application of private activity bond regulations.

(a) *In general.* Except as provided in this section, §§1.141-0 through 1.141-15 apply to section 145(a). For example, under this section, §1.141-1, and §1.141-2, an issue ceases to be an issue of qualified 501(c)(3) bonds if the issuer or a conduit borrower 501(c)(3) organization takes a deliberate action, subsequent to the issue date, that causes the issue to fail to comply with the requirements of sections 141(e) and 145 (such as an action that results in revocation of exempt status of the 501(c)(3) organization).

(b) *Modification of private business tests.* In applying §§1.141-0 through 1.141-15 to section 145(a)—

- (1) References to governmental persons include 501(c)(3) organizations

with respect to their activities that do not constitute unrelated trades or businesses under section 513(a);

(2) References to “10 percent” and “proceeds” in the context of the private business use test and the private security or payment test mean “5 percent” and “net proceeds”; and

(3) References to the private business use test in §§1.141-2 and 1.141-12 include the ownership test of section 145(a)(1).

(c) *Exceptions—(1) Certain provisions relating to governmental programs.* The following provisions do not apply to section 145: §1.141-2(d)(4) (relating to the special rule for dispositions of personal property in the ordinary course of an established governmental program) and §1.141-2(d)(5) (relating to the special rule for general obligation bond programs that finance a large number of separate purposes).

(2) *Costs of issuance.* Section 1.141-3(g)(6) does not apply to section 145(a)(2) to the extent that it provides that costs of issuance are allocated ratably among the other purposes for which the proceeds are used. For purposes of section 145(a)(2), costs of issuance are treated as private business use.

[T.D. 8712, 62 FR 2303, Jan. 16, 1997]

§ 1.147-0 Table of contents.

This section lists the captioned paragraphs contained in §§1.147-1 and 1.147-2.

§1.147-1 Other requirements applicable to certain private activity bonds.

- (a) Overview.
- (b) Scope.
- (c) Effective dates.

§1.147-2 Remedial actions.

[T.D. 8712, 62 FR 2304, Jan. 16, 1997]

§ 1.147-1 Other requirements applicable to certain private activity bonds.

(a) *Overview.* Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 147, certain requirements must be met for a private activity bond to qualify as a qualified bond.

(b) *Scope.* Sections 1.147-0 through 1.147-2 apply for purposes of the rules

in section 147 for qualified private activity bonds that permit use of proceeds to acquire land for environmental purposes (section 147(c)(3)), permit use of proceeds for certain rehabilitations (section 147(d) (2) and (3)), prohibit use of proceeds to finance skyboxes, airplanes, gambling establishments and similar facilities (section 147(e)), and require public approval (section 147(f)), but not for the rules limiting use of proceeds to acquire land or existing property under sections 147(c) (1) and (2), and (d)(1).

(c) *Effective dates.* For effective dates of §§ 1.147-0 through 1.147-2, see § 1.141-16.

[T.D. 8712, 62 FR 2304, Jan. 16, 1997]

§ 1.147-2 Remedial actions.

The remedial action rules of § 1.142-2 apply to the rules in section 147 for qualified private activity bonds that permit use of proceeds to acquire land for environmental purposes (section 147(c)(3)), permit use of proceeds for certain rehabilitations (section 147(d) (2) and (3)), prohibit use of proceeds to finance skyboxes, airplanes, gambling establishments and similar facilities (section 147(e)), and require public approval (section 147(f)), for this purpose treating those private activity bonds subject to the rules under section 147 as exempt facility bonds and the qualifying purposes for those bonds as exempt facilities.

[T.D. 8712, 62 FR 2304, Jan. 16, 1997]

§ 1.147(b)-1 Bond maturity limitation-treatment of working capital.

Section 147(b) does not apply to proceeds of a private activity bond issue used to finance working capital expenditures.

[T.D. 8476, 58 FR 33515, June 18, 1993]

§ 1.148-0 Scope and table of contents.

(a) *Overview.* Under section 103(a), interest on certain obligations issued by States and local governments is excludable from the gross income of the owners. Section 148 was enacted to minimize the arbitrage benefits from investing gross proceeds of tax-exempt bonds in higher yielding investments and to remove the arbitrage incentives to issue more bonds, to issue bonds ear-

lier, or to leave bonds outstanding longer than is otherwise reasonably necessary to accomplish the governmental purposes for which the bonds were issued. To accomplish these purposes, section 148 restricts the direct and indirect investment of bond proceeds in higher yielding investments and requires that certain earnings on higher yielding investments be rebated to the United States. Violation of these provisions causes the bonds in the issue to become *arbitrage bonds*, the interest on which is not excludable from the gross income of the owners under section 103(a). The regulations in §§ 1.148-1 through 1.148-11 apply in a manner consistent with these purposes.

(b) *Scope.* Sections 1.148-1 through 1.148-11 apply generally for purposes of the arbitrage restrictions on State and local bonds under section 148.

(c) *Table of contents.* This paragraph (c) lists the table of contents for §§ 1.148-1, 1.148-2, 1.148-3, 1.148-4, 1.148-5, 1.148-6, 1.148-7, 1.148-8, 1.148-9, 1.148-10 and 1.148-11.

§ 1.148-1 Definitions and elections.

- (a) In general.
- (b) Certain definitions.
- (c) Definition of replacement proceeds.
 - (1) In general.
 - (2) Sinking fund.
 - (3) Pledged fund.
- (d) Other replacement proceeds.
- (e) Elections.
- (f) Investment-type property.
 - (1) In general.
 - (2) Prepayments.
 - (3) Certain hedges.

§ 1.148-2 General arbitrage yield restriction rules.

- (a) In general.
- (b) Reasonable expectations.
 - (1) In general.
 - (2) Certification of expectations.
- (c) Intentional acts.
- (d) Materially higher yielding investments.
 - (1) In general.
 - (2) Definitions of materially higher yield.
 - (3) Mortgage loans.
 - (4) Temporary periods.
 - (1) In general.
 - (2) General 3-year temporary period for capital projects and qualified mortgage loans.
 - (3) Temporary period for restricted working capital expenditures.
 - (4) Temporary period for pooled financings.
 - (5) Temporary period for replacement proceeds.
 - (6) Temporary period for investment proceeds.