

under this section if the allocation employs an abusive arbitrage device under § 1.148-10 to avoid the arbitrage restrictions or to avoid the restrictions under sections 142 through 147.

(2) *One-year step transaction rule*—(i) *Creation of replacement proceeds.* A purported reimbursement allocation is invalid and thus is not an expenditure of proceeds of an issue if, within 1 year after the allocation, funds corresponding to the proceeds of a reimbursement bond for which a reimbursement allocation was made are used in a manner that results in the creation of replacement proceeds (as defined in § 1.148-1) of that issue or another issue. The preceding sentence does not apply to amounts deposited in a bona fide debt service fund (as defined in § 1.148-1).

(ii) *Example.* The provisions of paragraph (h)(2)(i) of this section are illustrated by the following example.

*Example.* On January 1, 1994, County A issues an issue of 7 percent tax-exempt bonds (the *1994 issue*) and makes a purported reimbursement allocation to reimburse an original expenditure for specified capital improvements. A immediately deposits funds corresponding to the proceeds subject to the reimbursement allocation in an escrow fund to provide for payment of principal and interest on its outstanding 1991 issue of 9 percent tax-exempt bonds (the *prior issue*). The use of amounts corresponding to the proceeds of the reimbursement bonds to create a sinking fund for another issue within 1 year after the purported reimbursement allocation invalidates the reimbursement allocation. The proceeds retain their character as unspent proceeds of the 7 percent issue upon deposit in the escrow fund. Accordingly, the proceeds are subject to the 7 percent yield restriction of the 1994 issue instead of the 9 percent yield restriction of the prior issue.

(i) *Authority of the Commissioner to prescribe rules.* The Commissioner may by revenue ruling or revenue procedure (see § 601.601(d)(2)(ii)(b) of this chapter) prescribe rules for the expenditure of proceeds of reimbursement bonds in circumstances that do not otherwise satisfy this section.

(j) *Effective date*—(1) *In general.* The provisions of this section apply to all allocations of proceeds of reimbursement bonds issued after June 30, 1993.

(2) *Transitional rules*—(i) *Official intent.* An official intent is treated as satisfying the official intent require-

ment of paragraph (d)(1) of this section if it—

(A) Satisfied the applicable provisions of § 1.103-8(a)(5) as in effect prior to July 1, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made prior to that date, or

(B) Satisfied the applicable provisions of § 1.103-18 as in effect between January 27, 1992, and June 30, 1993, (as contained in 26 CFR part 1 revised as of April 1, 1993) and was made during that period.

(ii) *Certain expenditures of private activity bonds.* For any expenditure that was originally paid prior to August 15, 1993, and that would have qualified for expenditure by reimbursement from the proceeds of a private activity bond under T.D. 7199, section 1.103-8(a)(5), 1972-2 C.B. 45 (see § 601.601(d)(2)(ii)(b)) of this chapter, the requirements of that section may be applied in lieu of this section.

[T.D. 8476, 58 FR 33551, June 18, 1993; 58 FR 44453, Aug. 23, 1993]

**§ 1.150-4 Change in use of facilities financed with tax-exempt private activity bonds.**

(a) *Scope.* This section applies for purposes of the rules for change of use of facilities financed with private activity bonds under sections 150(b)(3) (relating to qualified 501(c)(3) bonds), 150(b)(4) (relating to certain exempt facility bonds and small issue bonds), 150(b)(5) (relating to facilities required to be owned by governmental units or 501(c)(3) organizations), and 150(c).

(b) *Effect of remedial actions*—(1) *In general.* Except as provided in this section, the change of use provisions of sections 150(b) (3) through (5), and 150(c) apply even if the issuer takes a remedial action described in §§ 1.142-2, 1.144-2, or 1.145-2.

(2) *Exceptions*—(i) *Redemption.* If non-qualified bonds are redeemed within 90 days of a deliberate action under § 1.145-2(a) or within 90 days of the date on which a failure to properly use proceeds occurs under § 1.142-2 or § 1.144-2, sections 150(b) (3) through (5) do not apply during the period between that date and the date on which the non-qualified bonds are redeemed.

(ii) *Alternative qualifying use of facility.* If a bond-financed facility is used

for an alternative qualifying use under §§ 1.145-2 and 1.141-12(f), sections 150(b) (3) and (5) do not apply because of the alternative use.

(iii) *Alternative use of disposition proceeds.* If disposition proceeds are used for a qualifying purpose under §§ 1.145-2 and 1.141-12(e), 1.142-2(c)(4), or 1.144-2, sections 150(b) (3) through (5) do not apply because of the deliberate action that gave rise to the disposition proceeds after the date on which all of the disposition proceeds have been expended on the qualifying purpose. If all of the disposition proceeds are so expended within 90 days of the date of the deliberate action, however, sections 150(b) (3) through (5) do not apply because of the deliberate action.

(c) *Allocation rules*—(1) *In general.* If a change in use of a portion of the property financed with an issue of qualified private activity bonds causes section 150 (b)(3), (b)(4), or (b)(5) to apply to an issue, the bonds of the issue allocable to that portion under section 150(c)(3) are the same as the nonqualified bonds determined for purposes of §§ 1.142-1, 1.144-1, and 1.145-1, except that bonds allocable to all common areas are also allocated to that portion.

(2) *Special rule when remedial action is taken.* If an issuer takes a remedial action with respect to an issue of private activity bonds under §§ 1.142-2, 1.144-2, or 1.145-2, the bonds of the issue allocable to a portion of property are the same as the nonqualified bonds determined for purposes of those sections.

(d) *Effective dates.* For effective dates of this section, see § 1.141-16.

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

#### § 1.150-5 Filing notices and elections.

(a) *In general.* Notices and elections under the following sections must be filed with the Internal Revenue Service, 1111 Constitution Avenue, NW, Attention: T:GE:TEB:O, Washington, DC 20224 or such other place designated by publication of a notice in the Internal Revenue Bulletin—

- (1) Section 1.141-12(d)(3);
- (2) Section 1.142(f)(4)-1; and
- (3) Section 1.142-2(c)(2).

(b) *Effective dates.* This section applies to notices and elections filed on or after January 19, 2001.

[T.D. 8941, 66 FR 4671, Jan. 18, 2001]

#### REGULATIONS APPLICABLE TO CERTAIN BONDS SOLD PRIOR TO JULY 8, 1997

EDITORIAL NOTE: IRS redesignated the following sections to appear below the undesignated center heading "Regulations Applicable to Certain Bonds Sold Prior to July 8, 1997" and preceding the undesignated center heading "Deductions for Personal Exemptions." See 62 FR 25507 and 25513, May 9, 1997 for the specific sections involved in the redesignation.

#### § 1.148-1A Definitions and elections.

(a) [Reserved]. For guidance see § 1.148-1.

(b) *Certain definitions.*

*Investment-type property.* See § 1.148-1(b). Investment-type property also includes a contract that would be a hedge (within the meaning of § 1.148-4(h)) except that it contains a significant investment element.

(c) through (c)(4)(i) [Reserved]. For guidance see § 1.148-1.

(c)(4)(ii) *Bonds financing a working capital reserve*—(A) *In general.* Except as otherwise provided in § 1.148-1(c)(4)(ii)(B), replacement proceeds arise to the extent a working capital reserve is, directly or indirectly, financed with the proceeds of the issue (regardless of the expenditure of proceeds of the issue). Thus, for example, if an issuer that does not maintain a working capital reserve borrows to fund such a reserve, the issuer will have replacement proceeds. To determine the amount of a working capital reserve maintained, an issuer may use the average amount maintained as a working capital reserve during annual periods of at least one year, the last of which ends within a year before the issue date. For example, the amount of a working capital reserve may be computed using the average of the beginning or ending monthly balances of the amount maintained as a reserve (net of unexpended gross proceeds) during the one year period preceding the issue date.

[T.D. 8538, 59 FR 24041, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]