

\$500,000 or 2½ percent of the carryforward amount.

(iv) For purposes of (ii) of this A-2, in the case of a carryforward election for the purpose of issuing student loan bonds, the statement need not include the address of a facility or the name, address, and TIN of an initial owner, operator, or manager of a project but shall state that the carryforward election is for the purpose of issuing student loan bonds.

Q-3: Is a carryforward election revocable?

A-3: Any carryforward election, and any specification contained therein, shall be irrevocable after the last day of the calendar year in which the election is made. Thus, for example, obligations issued to finance a carryforward project with a different initial owner, operator, or manager from the owner, operator, or manager specified in the carryforward election shall not be issued pursuant to such carryforward election. An insubstantial deviation from a specification contained in a carryforward election shall not prevent obligations from being issued pursuant to such carryforward election. In addition, where a carryforward election is made with respect to more than one carryforward project, a substantial deviation with respect to one carryforward project shall not prevent obligations from being issued pursuant to such carryforward election with respect to the other carryforward projects.

Q-4: How is a carryforward used?

A-4: Any private activity bonds issued during the three calendar years (six calendar years in the case of a project described in section 103(b)(4)(F)) following the calendar year in which the carryforward election was first made with respect to a carryforward project shall not be taken into account in determining whether the issue meets the requirements of section 103(n). If, however, the amount of private activity bonds issued for the carryforward project exceeds the amount of the carryforward elected with respect to the project, then the portion of the issue that exceeds the carryforward shall be taken into account in determining whether the issue meets with the requirements of section

103(n); if that portion of the issue does not meet the requirements of section 103(n) then the entire issue is treated as consisting of obligations not described in section 103(a). Carryforwards elected with respect to any project shall be used in the order of the calendar years in which they arose. Thus, for example, if an issuing authority makes carryforward elections in 1986 and 1988 for a carryforward project and issues private activity bonds for that project in 1989 and 1990, the obligations issued in 1989 will be applied to the 1986 carryforward election to the extent thereof.

Q-5: For what projects may a carryforward election be made?

A-5: A carryforward election may be made for any project described in section 103(b) (4) or (5), and for the purpose of issuing student loan bonds. Thus, for example, an issuing authority may elect to carry forward its unused private activity bond limit in order to provide a sports facility described in section 103(b)(4)(B). In addition, a governmental unit may elect to carry forward its unused private activity bond limit in order to issue qualified scholarship funding bonds. An issuing authority may not, however, elect to carry forward its unused private activity bond limit in order to issue an exempt small issue of industrial development bonds under section 103(b)(6).

(Secs. 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 916, 26 U.S.C.103(n); 68A Stat. 917, 26 U.S.C. 7805); sec. 644(b) of the Tax Reform Act of 1984 (98 Stat. 940); secs. 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 915, 26 U.S.C. 103(n); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7981, 49 FR 39325, Oct. 5, 1984, as amended by T.D. 8001, 49 FR 50389, Dec. 28, 1984]

**§ 1.103(n)-5T Certification of no consideration for allocation (temporary).**

Q-1: Who must certify that there was no consideration for an allocation?

A-1: Section 103(n)(12)(A) provides that, with respect to any private activity bond allocated any portion of the State ceiling, the private activity bond will not be described under section 103(a) unless the public official, if any, responsible for such allocation (“responsible public official”) certifies

under penalties of perjury that to the best of his knowledge the allocation of the State ceiling to that private activity bond was not made in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign. With respect to any issue of private activity bonds, the responsible public official is the official or officer of the issuing authority that in fact is responsible for choosing which individual projects will be allocated a portion of the State ceiling. If a body of several individuals is responsible for such choices, any one member of such body qualifies as the responsible public official.

**Q-2:** What is the penalty for willfully making an allocation in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign?

**A-2:** Section 103(n)(12)(B) provides that any person willfully making an allocation of any portion of the State ceiling in consideration of any bribe, gift, gratuity, or direct or indirect contribution to any political campaign will be subject to criminal penalty as though the allocation were a willful attempt to evade tax imposed by the Internal Revenue Code.

(Secs. 103(n) and 7805 of the Internal Revenue Code of 1954 (98 Stat. 916, 26 U.S.C.103(n); 68A Stat. 917, 26 U.S.C. 7805))

[T.D. 7981, 49 FR 39326, Oct. 5, 1984]

**§ 1.103(n)-6T Determinations of population (temporary).**

**Q-1:** What is the proper method for determining population?

**A-1:** All determinations of population must be made with respect to any calendar year on the basis of the most recent census estimate (whether final or provisional) of the resident population of the State or other governmental unit published by the Bureau of the Census in the "Current Population Reports" series before the beginning of the calendar year.

However, determinations of the population of a general purpose governmental unit (other than a State, territory, or possession) within a State, territory, or possession may not be based on estimates that do not contain estimates for all of the general purpose

governmental units within such State, territory, or possession. Thus, a county may not determine its population on the basis of a census estimate that does not provide an estimate of the population of the other general purpose governmental units within the State (*e.g.*, cities, towns). If no census estimate is available for all such general purpose governmental units, the most recent decennial census of population may be relied on.

*Example:* The following example illustrates the provisions of A-1 of this § 1.103(n)-6T:

*Example.* County Q is located within State R. There are no constitutional home rule cities in State R. State R has not adopted a formula for allocating the State ceiling different from the formula provided in section 103(n) (2) and (3). The geographical area within the jurisdiction of County Q is not within the jurisdiction of any other governmental unit having jurisdiction over a smaller geographical area. As of December 31, 1984, the Bureau of the Census has published the following estimates of resident population: "Current Population Reports; Series P-25: Population Estimates and Projections, Estimates of the Population of States: July 1, 1981-1983" and "Current Population Reports; Series P-26: Local Population Estimates: Population of State R, Counties, Incorporated Places, and Minor Civil Divisions: July 1, 1981-1982." The most recent population estimate for State R available prior to 1985 provides population estimates as of July 1, 1983. The most recent population estimates for County Q available prior to 1985 is the estimate for July 1, 1982. Assuming that the State ceiling for State R for 1985 is in excess of \$200 million (*i.e.*, \$150 multiplied by the estimated population of State R as of July 1, 1983, exceeds \$200 million), County Q may determine its private activity bond limit by using the following formula:

$P = \$150 \times .5 \times W \times Y / Z$ , where,

P = County Q's private activity bond limit,

W = the July 1, 1983, population estimate for State R,

Y = the July 1, 1982, population estimate for County Q, and

Z = the July 1, 1982, population estimate for State R.

If the State ceiling for State R is not in excess of \$200 million, County Q may determine its private activity bond limit by using the following formula:

$P = \$200,000,000 \times .5 \times Y / Z$ , where