

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

§ 1.103(n)-7T

26 CFR Ch. I (4-1-02 Edition)

P, Y, and Z have the same meaning as above. (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)-7T Election to allocate State ceiling to certain facilities for local furnishing of electricity (temporary).

(a) *Election*—(1) *In general.* The issuing authorities of the State of New York (“New York”) may elect to use in 1984 up to one-half of the amount that would have been New York’s State ceiling (as defined in section 103(n)(4) and A-1 of §1.103(n)-3T) for calendar years 1985, 1986, and 1987 for the purpose of issuing obligations to provide facilities for the local furnishing of electric energy described in section 644(a) of the Tax Reform Act of 1984 (the “Act”). For purposes of this paragraph, New York’s State ceiling for calendar years 1985, 1986, and 1987 is considered equal to the State ceiling for 1984 (without taking into account any increase in the State ceiling for 1984 as a result of an election under section 644(b) and this section).

(2) *Procedure.* The election shall be made by filing the statement described in this paragraph (a)(2) with the Internal Revenue Service Center, Philadelphia, Pennsylvania, on or before December 31, 1984. The statement shall be titled “Allocation election under section 644 of the Tax Reform Act of 1984,” shall be signed by the Governor of New York or his authorized representative, and shall contain the following information:

(i) The name, address, and TIN of the issuing authority (or authorities) that is expected to issue the obligations for the facilities described in section 644(a) of the Act pursuant to the election described in section 644(b) of the Act and this section, and

(ii) The amount of the State ceiling for each of calendar years 1985, 1986, and 1987 with respect to which the election is made.

(b) *Effect of election*—(1) *In 1984.* The amount of the State ceiling for calendar years 1985, 1986, and 1987 with respect to which the election is made will be considered part of New York’s State ceiling for calendar year 1984. For pur-

poses of section 644(b) of the Act, such amount will be considered used in 1984 only to the extent that obligations are issued in 1984 to provide facilities for the local furnishing of electric energy described in section 644(a) of the Act, or to the extent that a proper election is made on or before December 31, 1984 (and is not revoked or amended between the time it is made and the end of 1984) pursuant to section 103(n)(10) and §1.103(n)-4T to carry forward all or part of such amount to provide such facilities during the carryforward period applicable to calendar year 1984 State ceiling.

(2) *In 1985, 1986, and 1987.* An election under section 644(b) of the Act and this section to use in calendar year 1984 an amount of New York’s State ceiling for a subsequent calendar year reduces the State ceiling for such subsequent calendar year by the amount with respect to which the election is made, whether or not such amount is considered used in 1984 pursuant to this paragraph (b). Thus, no obligations may be issued pursuant to the election described in section 644(b) of the Act and this section to provide a facility other than the facilities for the furnishing of electric energy described in section 644(a) of the Act.

(3) *Other effects.* An election or the failure to make an election under section 644(b) of the Act and this section shall not affect any otherwise applicable rule that permits an issuing authority, for any calendar year, to—

(i) Allocate a portion of its private activity bond limit,

(ii) Issue obligations within its private activity bond limit, or

(iii) Elect under section 103(n)(10) and §1.103(n)-4T to carry forward any portion of its private activity bond limit, in order to issue obligations to provide a facility described in section 644(a) of the Act.

(c) *Revocation of election.* An election made under section 644(b) of the Act and this section may not be revoked or amended. An insubstantial deviation from a specification contained in an election under section 644(b) of the Act