

total costs (that is, the sum of the debt service required to be paid on both the series A and the series B bonds and all other operating costs). The allocation of all of M's private business use to the series A bonds does not reflect economic substance because the series of transactions transfers to M significant benefits of the tax-exempt interest rates paid on the series B bonds. A principal purpose of the financing arrangement is to transfer to M significant benefits of the tax-exempt financing. Accordingly, the Commissioner may allocate M's private business use on a pro rata basis to both the series B bonds as well as the series A bonds, in which case the series B bonds are private activity bonds.

Example 6. Allocations respected. The facts are the same as in *Example 5*, except that the debt service component of M's payments under the take or pay contract is based exclusively on the amounts necessary to pay the debt service on the taxable series A bonds. E's allocation of all of M's private business use to the series A bonds is respected because the series of transactions does not actually transfer benefits of tax-exempt interest rates to M. Accordingly, the series B bonds are not private activity bonds. The result would be the same if M's payments under the take or pay contract were based exclusively on fair market value pricing, rather than the tax-exempt interest rates on E's bonds. The result also would be the same if the series A bonds and the series B bonds had substantially equivalent weighted average maturities and E and M had entered into a customary contract providing for payments based on a ratable share of total debt service. E would not be treated by the Commissioner in any of these cases as entering into the contract with a principal purpose of transferring the benefits of tax-exempt financing to M in a manner inconsistent with the purposes of section 141.

[T.D. 8712, 62 FR 2301, Jan. 16, 1997]

§ 1.141-15 Effective dates.

(a) *Scope.* The effective dates of this section apply for purposes of §§ 1.141-1 through 1.141-6(a), 1.141-9 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b).

(b) *Effective dates—(1) In general.* Except as otherwise provided in this section, §§ 1.141-1 through 1.141-6(a), 1.141-9 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b) apply to bonds issued on or after May 16, 1997, that are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602).

(2) *Certain short-term arrangements.* The provisions of § 1.141-3 that refer to arrangements for 200 days, 100 days, or 50 days apply to any bond sold on or after November 20, 2001 and may be applied to any bond outstanding on November 20, 2001 to which § 1.141-3 applies.

(c) *Refunding bonds.* Sections 1.141-1 through 1.141-6(a), 1.141-9 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b) do not apply to any bonds issued on or after May 16, 1997, to refund a bond to which those sections do not apply unless—

(1) The refunding bonds are subject to section 1301 of the Tax Reform Act of 1986 (100 Stat. 2602); and

(2)(i) The weighted average maturity of the refunding bonds is longer than—

(A) The weighted average maturity of the refunded bonds; or

(B) In the case of a short-term obligation that the issuer reasonably expects to refund with a long-term financing (such as a bond anticipation note), 120 percent of the weighted average reasonably expected economic life of the facilities financed; or

(ii) A principal purpose for the issuance of the refunding bonds is to make one or more new conduit loans.

(d) *Permissive application of regulations.* Except as provided in paragraph (e) of this section, §§ 1.141-1 through 1.141-6(a), 1.141-9 through 1.141-14, 1.145-1 through 1.145-2, 1.150-1(a)(3) and the definition of bond documents contained in § 1.150-1(b) may be applied in whole, but not in part, to actions taken before February 23, 1998, with respect to—

(1) Bonds that are outstanding on May 16, 1997, and subject to section 141; or

(2) Refunding bonds issued on or after May 16, 1997 that are subject to section 141.

(e) *Permissive application of certain sections.* The following sections may each be applied to any bonds—

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

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

(3) Section 1.141-12.

[T.D. 8757, 63 FR 3265, Jan. 22, 1998, as amended by T.D. 8941, 66 FR 4670, Jan. 18, 2001; T.D. 8967, 66 FR 58062, Nov. 20, 2001]