

Rev. Proc. 88-10, 1988-1 CB 635—Extension of Time to File Information Reports (PS)

Section 1. Purpose

This revenue procedure provides guidance to issuers of state or local bonds for requesting an extension of time to file the statement of information required by section 149(e) of the Internal Revenue Code of 1986.

Sec. 2. Background

.01 The Tax Reform Act of 1986, 1986-3 (Vol. 1) C.B. 1, 567, amended and reorganized the sections of the 1954 Code pertaining to information reporting for certain state or local bonds. Former section 103(1), pertaining to information reporting for private purpose bonds, and former section 103A(j)(3)(A), pertaining to information reporting for qualified mortgage bonds, were consolidated in new section 149(e) of the 1986 Code, which requires information reporting for any state or local bond.

.02 Section 103(a) of the 1986 Code provides that, with certain exceptions, gross income does not include interest on any state or local bond.

.03 Internal Revenue Service News Release IR-83-152, dated December 14, 1983, announced procedures for issuers of private purpose bonds to request relief from the consequences of the late filing of information reports. News Release IR-83-152 was published as Announcement 84-51, 1984-20 I.R.B. 14.

.04 Section 149(e)(1) of the 1986 Code provides that interest on a state or local bond will not be excludable from gross income unless certain information reporting requirements are satisfied. The issuer must submit a statement that contains the information required under section 149(e)(2). The statement must be submitted not later than the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond is issued (or such later time as the Secretary may prescribe with respect to any portion of the statement).

.05 In general, the statement required by section 149(e)(2) of the 1986 Code must be filed on one of the following forms: Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues Under Section 149(e); Form 8038-G, Information Return for Tax-Exempt Governmental Bond Issues Under Section 149(e); or Form 8038-GC, Consolidated Information Return for Small Tax-Exempt Governmental Bond Issues Under Section 149(e).

.06 Section 1.149(e)-IT(d)(2)(ii) of the Temporary Income Tax Regulations provides that the Commissioner may grant an extension of time to file any form required under this section if the Commissioner determines that the failure to file in a timely manner was not due to willful neglect.

Sec. 3. Procedures

.01 An issuer of a state or local bond who fails to timely submit the statement (Form 8038, 8038-G, or 8038-GC) required by section 149(e)(2) of the 1986 Code should take the following action after discovery of the failure:

(1) Mail the statement to the Internal Revenue Service, Philadelphia Service Center, Statistics of Income Unit, P:DA:Unit F-SOI, Philadelphia, Pennsylvania 19255, Stop # 335. The words, "This Statement Is Submitted In Accordance With Rev. Proc. 88-10," should be typed or printed across the top of the statement.

(2) Attach the statement to a letter briefly setting forth the reasons why the statement was not timely submitted to the Service. The letter should also indicate whether the bond issue in question is under examination by the Service. Copies of the trust indenture or other bond documents should not be submitted with the letter.

.02 The S.O.I. Unit will acknowledge receipt of the letter and statement within 30 days after they are received. If the S.O.I. Unit determines that the failure to file the statement is not due to willful neglect, it will so inform the issuer in writing within this 30-day period. If the S.O.I. Unit is unable to determine that the failure to file the statement is not due to willful neglect, it will inform the issuer in writing within this 30-day period that the matter has been referred for technical advice to the Associate Chief Counsel (Technical and International) at the National Office of the Internal Revenue Service in Washington, D.C. If

after an analysis of the technical advice request it appears that advice adverse to the issuer will be given, the issuer is entitled to a conference in the National Office in accordance with the procedures set forth in section 8 of Rev. Proc. 88-2, page 571, this Bulletin. The S.O.I. Unit will inform the issuer in writing of the results of the request for technical advice within 30 days after the technical advice memorandum is received from the National Office.

Sec. 4. Effect of Determination

.01 If the failure to timely file the statement is not due to willful neglect, then the filing of the statement in section 3.01 above is accepted, and the information reporting requirement of section 149(e)(1) of the 1986 Code is deemed satisfied.

.02 If the failure to timely file the statement is due to willful neglect, then the filing of the statement in section 3.01 is not accepted, and the information reporting requirement of section 149(e)(1) is not deemed satisfied. In such case, the interest on the bond is not excludable from gross income under section 103(a) of the 1986 Code.

Sec. 5. Effective Date

This revenue procedure is effective January 25, 1988.

Sec. 6. Effect on Other Documents

Announcement 84-51 is superseded.