

Notice of Proposed Rulemaking and Notice of Public Hearing

Obligations of States and Political Subdivisions

REG-110965-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking; notice of proposed rulemaking by cross-reference to temporary regulations; and notice of public hearing.

SUMMARY: This document withdraws portions of the notice of proposed rulemaking published in the **Federal Register** (59 F.R. 67658 [FI-72-88, 1995-1 C.B. 859]) on December 30, 1994. In T.D. 8757, the IRS is issuing temporary regulations that provide guidance to state and local governments that issue bonds for output facilities and to certain non-governmental persons that are engaged in the local furnishing of electric energy or gas using facilities financed with state or local bonds. These proposed regulations reflect changes made by the Tax Reform Act of 1986 and the Small Business Job Protection Act of 1996. The text of those temporary regulations also serves as the text of these proposed regulations. This document provides a notice of public hearing on these proposed regulations.

DATES: Written comments must be received by April 22, 1998. Outlines of topics to be discussed at the public hearing scheduled for April 28, 1998, at 10 a.m. must be received by April 7, 1998.

ADDRESSES: Send Submissions to: CC:DOM:CORP:R (REG-110965-97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-110965-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly

to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax_reggs/comments.html. The public hearing will be held in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Allan B. Seller, 202-622-3980; concerning submissions and the hearing, Michael L. Slaughter, Jr., 202-622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Proposed regulations §§1.141-7 and 1.141-8, published on December 30, 1994 (59 F.R. 67658) addressed the application of the private activity bond tests of section 141(b)(2) to output contract for output facilities and the application of the \$15 million limitation on output facility financings of section 141(b)(4). These proposed sections are withdrawn. These sections were issued as part of proposed regulations under §§1.141-0 through 1.141-16, Definition of Private Activity Bonds, which were finalized in part in T.D. 8712 published in the **Federal Register** on January 16, 1997.

Sections 1.141-7T, 1.141-8T, 1.141-15T, 1.142(f)(4)-1T, and 1.150-5T published in T.D. 8757 are issued to provide guidance on certain aspects of the private activity bond restrictions under section 141 of the Internal Revenue Code.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that these regulations do not have a significant impact on a substantial number of small entities. This

certification is based upon the fact that in the years 1987 through 1993 a total of 61 different state or local government issuers of exempt facility bonds issued under section 142(f) for the local furnishing of electric energy or gas filed information returns with the Internal Revenue Service under section 149(e). Further, an election under section 142(f)(4) is in no event required to be filed with the Internal Revenue Service more than once by a person engaged in the local furnishing of electric energy or gas. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are regulations, consideration will be given to any written comments that are submitted timely (a signed original and eight (8) copies) to the IRS. All comments will be available for public inspection and copying.

A public hearing has been scheduled for April 28, 1998, at 10 a.m. in the Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the lobby more than 15 minutes before the hearing starts.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments by April 22, 1998 and submit an outline of the topics to be discussed and the time to be devoted to each topic by April 7, 1998.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal authors of these regulations are Michael G. Bailey and Allan

Seller, Office of the Assistant Chief Counsel (Financial Institutions and Products), and Nancy M. Lashnits, formerly of that office. However, other personnel from the IRS and Treasury Department participated in their development.

Partial Withdrawal of Notice of Proposed Rulemaking

Under the authority of 26 U.S.C. 7805, §§1.141-7 and 1.141-8 in the notice of proposed rulemaking that was published on December 30, 1994 (59 F.R. 67658) are withdrawn.

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Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOMETAXES

Paragraph 1 . The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.141-7 is added to read as follows:

§1.141-7 Special rules for output facilities.

[The text of this proposed section is the same as the text of §§1.141-7T published in T.D. 8757.]

Par. 3. Section 1.141-8 is amended by adding the text of the section to read as follows:

§1.141-8 \$15 million limitation for output facilities.

[The text of this proposed section is the same as the text of §1.141-8T published in T.D. 8757.]

Par. 4. Section 1.141-15 is amended by adding paragraphs (f) through (i) to read as follows:

§1.141-15 Effective dates.

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(f) through (i) [The text of proposed paragraphs (f) through (i) are the same as the text of §1.141-15T(f) through (i) published in T.D. 8757.]

Par. 5. Section 1.142(f)(4)-1 is added to read as follows:

§1.142(f)(4)-1 Manner of making election to terminate tax-exempt bond financing.

[The text of this proposed section is the same as the text of §1.142(f)(4)-1T published in T.D. 8757.]

Par. 6. Section 1.150-5 is added to read as follows:

§1.150-5 Filing notices and elections.

[The text of this proposed section is the same as the text of §1.150-5T published in T.D. 8757.]

Michael P. Dolan,
Deputy Commissioner of Internal Revenue.

(Filed by the Office of the Federal Register on January 21, 1998, 8:45 a.m., and published in the issue of the Federal Register for January 22, 1998, 63 F.R. 3296)

