

## Part III. Administrative, Procedural, and Miscellaneous

### Compliance With Tax-Exempt Bond Arbitrage Requirements

#### Notice 96-49

Rev. Proc. 96-41, 1996-32 I.R.B. 9, is part of a continuing initiative of the Internal Revenue Service to address the complex compliance matters associated with the arbitrage yield restriction and rebate requirements of § 148 of the Internal Revenue Code. In particular, Rev. Proc. 96-41 provides a voluntary closing agreement program for issuers of state or local government bonds that may have used bond proceeds to pay more than fair market value for nonpurpose investments deposited into an advance refunding escrow. As discussed below, this notice requests comments on Rev. Proc. 96-41 and modifies section 5.01 of Rev. Proc. 96-41 by extending the deadline for requesting a closing agreement under the program. In the meantime, issuers can continue to take advantage of the closing agreement program.

Rev. Proc. 96-41 reflects the Service's efforts to provide issuers with a relatively standardized, voluntary procedure to identify and correct potential noncompliance with the arbitrage yield restriction and rebate requirements of § 148. As part of the standardized approach, the closing agreement program described in Rev. Proc. 96-41 utilizes the concept of spot price as the basis for the closing agreement amount. Rev. Proc. 96-41 acknowledges, however, that the use of spot price is for the administrative convenience of issuers of state or local government bonds and the Service. As indicated in Rev. Proc. 96-41, no inference should be drawn that spot price necessarily reflects fair market value in any particular case.

Since the release of Rev. Proc. 96-41, the Service has received written and oral comments on the revenue procedure. In response to these comments, the Service is reviewing the revenue procedure and is taking the following steps.

(1) The Service extends the deadline in section 5.01 of Rev. Proc. 96-41 for requesting a closing agreement under the revenue procedure from July 19, 1997, to a date that will be no earlier than 1 year from the date the Service publishes further guidance relating to the duration of the closing agreement program described in Rev. Proc. 96-41. See section 4.02 of Rev. Proc. 96-41,

however, for a limitation on the use of the closing agreement program for issues under examination (or which come under examination).

(2) The Service invites interested parties to submit written comments on all aspects of Rev. Proc. 96-41. The Service is particularly interested in receiving comments and specific proposals on the following matters:

(i) What is an appropriate time period within which to request a closing agreement under the closing agreement program described in Rev. Proc. 96-41?

(ii) What methods or procedures are appropriate to determine spot price (including the range of values acceptable as spot price) for purposes of determining the closing agreement amount under section 6 of Rev. Proc. 96-41?

(iii) Are there other methods appropriate for determining the closing agreement amount that would be easier for the Service and issuers to apply?

(iv) Are alternative closing agreement programs warranted either for all types of issues or for particular types of issues such as (a) small issues, or (b) bonds issued on or prior to August 15, 1986, or prior to other effective dates of the Tax Reform Act of 1986?

The Service requests that comments (a signed original and eight (8) copies) be submitted in writing on or before December 17, 1996. Send submissions to: CC:DOM:CORP:R (Notice 96-49), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, comments (1) may be hand delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (Notice 96-49), Courier's Desk, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC, or (2) may be submitted electronically via the Service's internet site at [http://www.irs.ustreas.gov/prod/tax\\_regs/comments.html](http://www.irs.ustreas.gov/prod/tax_regs/comments.html). All comments will be available for public inspection and copying.

A public hearing has been scheduled for January 15, 1997, at 10 a.m. in Room 332, Federal Trade Commission Building, 6th and Pennsylvania Ave., NW, Washington, DC. Because of access restrictions, visitors will not be admitted beyond the Federal Trade Commission Building lobby more than 15 minutes before the hearing starts.

The hearing will be subject to procedures similar to those described in 26 CFR 601.601(a)(3).

Persons that wish to present oral comments at the hearing must submit written comments by December 17, 1996, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by December 24, 1996.

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.

#### EFFECT ON OTHER DOCUMENTS

Rev. Proc. 96-41, section 5.01 is modified by extending the deadline for requesting a closing agreement from July 19, 1997, to a date that will be no earlier than 1 year from the date the Service publishes further guidance relating to the duration of the closing agreement program described in Rev. Proc. 96-41.

#### DRAFTING INFORMATION

The principal author of this notice is Loretta J. Finger of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice contact Loretta J. Finger on (202) 622-3980.

#### Furnishing Statements Required With Respect To Certain Substitute Payments; Correction

##### Notice 96-50

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains a correction to final regulations (TD 8029 [1985-2 C.B. 303]), which were published in the **Federal Register** on Wednesday, June 5, 1985 (50 FR 23676) relating to statements required to be furnished by brokers and information returns of brokers.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: Donna Welch, (202) 622-4910, (not a toll-free number).