

SUPPORTING STATEMENT
TD 8712

· **CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Section 103 provides generally that interest on certain State or local bonds (tax-exempt bonds) is excluded from gross income. Section 103(b)(1) provides, however, that private activity bonds (other than qualified bonds) are not tax-exempt bonds. Section 141 provides that a bond is a private activity bond if the issue of which the bond is a part satisfies either the private business test or the private loan financing test. The private business test of section 141(b) is satisfied if the issue satisfies both the private business use test, which relates to the use of the bond proceeds, and the private security or payment test, which relates to the manner in which the issue is secured or will be repaid. Section 141(c) provides that the private loan financing test is satisfied if the lesser of 5 percent or \$5 million of the proceeds of an issue are to be used to make or finance loans to persons other than governmental units.

The regulations provide rules, for purposes of section 141, to determine how proceeds are measured and used and how debt service is paid or secured.

· **USE OF DATA**

This information will be used to verify the amount of proceeds available to be used for a facility, the allocation of proceeds following the disposition of bond financed assets, and the reasonable expectations of the issuer regarding the future use of proceeds.

· **USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

We have no plans to offer electronic filing. IRS publication, regulations, notices and letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

· **EFFORTS TO IDENTIFY DUPLICATION**

We have attempted to eliminate duplication within the agency wherever possible.

· **METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR**

OTHER SMALL ENTITIES

Not applicable.

CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

On December 30, 1994, a notice of proposed rulemaking was published in the **Federal Register** (59 FR 67658). On June 8, 1995, the Internal Revenue Service held a public hearing on the proposed regulations. Written comments responding to the proposed regulations were received. After consideration of all the comments, on January 16, 1997, final regulations (TD 8712) were published in the **Federal Register** (62 FR 2275).

In response to the Federal Register Noticed dated October 29, 2009 (74 F. R. 55896), we received no comments during the comment period regarding TD 8712.

EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.141-1(b) provides in the definition of "project period" that an issuer may elect to treat the project period for the entire issue as ending on either the expiration of the temporary period described in §1.148-2(e)(2) or the fifth bond year after the issue date.

Section 1.141-1(d) provides that elections must be made in writing and retained as part of the bond documents.

Section 1.148-6(a)(3) of the regulations provides that if an issuer fails to maintain books and records sufficient to establish the accounting method for an issue and the allocation of the proceeds of that issue, the rules are applied using the specific tracing method. Section 1.148-6(d)(1)(iii) of the regulations requires an issuer to account for the allocation of proceeds to expenditures not later than 18 months after the later of the date the expenditure is paid or the date the project, if any, that is financed by this issue is placed in service, but in any event, by the date 60 days after the fifth anniversary of the issue date or the date 60 days after the retirement of the issue, if earlier.

Sections 1.141-12(d)(3) and 1.142-2(c)(2) of the regulation require an issuer to provide written notification upon the defeasance of its bonds.

The taxpayers affected are states and political subdivisions that issue bonds and entities that issue bonds on behalf of states or political subdivisions.

We estimate that 10,000 recordkeepers will be subject to these recordkeeping requirements and that it will take an estimated average of 3 hours to prepare the necessary documentation. The total recordkeeping burden is 30,000 hours. In addition, we estimate that 100 respondents will be subject to the reporting requirements in §§1.141-12(d)(3) and 1.142-2(c)(2) and that it will take 1 hour to prepare the notification. The total reporting burden is 100 hours. Thus, the total reporting and recordkeeping burden is 30,100 hours, affecting 10,100 respondents.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register** notice dated October 29, 2009, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of

capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. **ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

Not applicable.

15. **REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. **PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

Not applicable.

17. **REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. **EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I**

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.