

SUPPORTING STATEMENT
1545-1490
(FI-28-96)(TD 8801/Final)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 148 provides rules concerning the use of proceeds of state and local bonds to acquire higher yielding investments. Section 148(a) provides that, except as otherwise permitted by section 148, interest on a state or local bond generally is tax-exempt only if the issuer invests bond proceeds at a yield not exceeding the bond yield. Section 148(f) provides, in general, that interest on a state or local bond is tax-exempt only if the issuer rebates to the United States certain earnings from investing bond proceeds at a yield exceeding the bond yield.

Section 1.148-6(c) provides that gross proceeds of an issue of bonds are not allocated to a payment for a nonpurpose investment in an amount greater than the fair market value of that investment on the purchase date. For this purpose only, the fair market value of a nonpurpose investment is adjusted to take into account qualified administrative costs allocable to that investment.

The final regulations provide safe harbors for establishing the fair market value of all investments purchased for yield restricted defeasance escrows. In addition, the regulations modify certain provisions of the existing safe harbor regulations with respect to the acquisition of guaranteed investment contracts in order to conform those provisions to the safe harbor requirements applicable to investments acquired for yield restricted defeasance escrows.

2. USE OF DATA

The final regulations provide that issuers are required to retain certain records and information with the bond documents. The recordkeeping requirements are necessary for the Service to verify compliance with section 148. This information will be used to establish that a Treasury obligation is purchased at fair market value.

3. 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.

4. EFFORTS TO IDENTIFY DUPLICATION

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

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

Not applicable.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

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

Not applicable.

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

In response to the **Federal Register Notice** dated October 8, 2014, we received one comment during the comment period regarding TD 8801. The comment suggested the strengthening of recordkeeping requirements to retain records of actual bids rather records of bids which can be fabricated and lead to fraud. While we do not, at this time, have conclusive data on the magnitude of such fraud, we will look at and address measures to identify potential loopholes and reduce the potential for any criminal intent.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

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

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The recordkeeping requirement of the final regulations is contained in section 1.148-5(d)(6)(iii)(E). Under section 1.148-5(d)(6)(iii)(E), the issuer is required to retain the following records with the bond documents until three years after the last outstanding bond is redeemed:

(1) For purchases of guaranteed investment contracts, a copy of the contracts and for purchases of investments other than guaranteed investment contracts, the purchase agreement confirmation.

(2) A receipt or other record of the amount, including administrative costs, actually paid by the issuer for the investments, and a certification by the provider of the investments or the obligor on the guaranteed investment contract regarding the administrative costs it paid or expects to pay to third parties in connection with supplying the investment.

(3) The identity of each bidder, the time and date of each bid, and the bid results.

(4) The bid solicitation form and, if the terms of the purchase agreement or the guaranteed investment contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose of the deviation.

(5) For purchases of investments other than guaranteed investment contracts, the cost of the most efficient portfolio of State and Local Government Series Securities, determined at the time that the bids were required to be submitted pursuant to the terms of the bid specifications.

We estimate that the application of this recordkeeping requirement to investments acquired for yield restricted defeasance escrows will affect 400 taxpayers and that it

will take approximately 45 minutes to meet the recordkeeping burden for each issue. We estimate 800 issues. The burden of this requirement is approximately 600 hours.

We estimate that the application of the recordkeeping requirements to guaranteed investment contracts will affect 1,000 taxpayers and that it will take approximately 45 minutes to meet this recordkeeping burden for each issue. We estimate 1,100 issues. The burden of this requirement is approximately 825 hours.

We thus estimate 1,400 taxpayers and 1,900 issues will be affected by the recordkeeping requirements of the final regulations. The total paperwork burden is approximately 1,425 hours.

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

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

As suggested by OMB, our **Federal Register Notice** dated October 8, 2014, 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

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.