

SUPPORTING STATEMENT
OMB# 1545-1451
(TD 8712, TD9 9741)

CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

TD 8712

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.

TD 9741

This document contains final regulations on allocation and accounting, and certain remedial actions, for purposes of the private activity bond restrictions under section 141 of the Internal Revenue Code that apply to tax-exempt bonds issued by State and local governments. The final regulations provide State and local governmental issuers of tax-exempt bonds with guidance for applying the private activity bond restrictions.

USE OF DATA

TD 8712

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.

TD 9741

The collection of information in these final regulations is in § 1.141-12(d)(3), which requires an issuer to make a declaration of official intent to remediate bonds. This collection of information is necessary

for an issuer's redemption or defeasance of bonds to be treated as a remedial action under § 1.141-12 to preserve the tax-exempt status of the bonds.

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

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**

There are no small entities affected by this collection.

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

Consequences of less frequent collection on federal programs or policy activities could result in a decrease of the amount of taxes collected by the Service, inaccurate and untimely filing of tax returns, and an increase in tax violations.

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

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

. **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). TD 9741 was published in the

Federal Register on October 27, 2015 (80 FR 65637).

In response to the Federal Register Noticed dated May 13, 2016 (81 FR 29955), we received no comments during the comment period regarding TD 8712.

· **EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

No payment or gift has been provided to any respondents.

· **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

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

· **JUSTIFICATION OF SENSITIVE QUESTIONS**

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master file (BMF)” and a Privacy Act System of Records notice (SORN) has been issued for these systems under IRS 22.062 - Electronic Filing Records; IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; IRS 24.046 - CADE Business Master File (BMF); IRS 34.037 - IRS Audit Trail and Security Records System. The Internal Revenue Service PIA’s can be found at <http://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

· **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.

The total reporting and recordkeeping burden for TD 9741 is 30,250 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

There are no start-up costs associated with this collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

TD 9741 has been added to this collection resulting in an overall burden increase of 30,250 hours. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND

PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

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

There are no exceptions to the certification statement..

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.