

SUPPORTING STATEMENT  
OMB No. 1545-1226  
FI-59-89 (Final- TD 8394)  
Proceeds of Bonds Used for Reimbursement

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

For purposes of sections 103 and 141-150 of the Code, these regulations clarify when the allocation of bond proceeds to reimburse expenditures previously made by an issuer of the bond is treated as an expenditure of the bond proceeds.

When bond proceeds are "spent," they are no longer subject to arbitrage rebate, arbitrage yield limitations, and certain other restrictions imposed by the Code. Because the applicability of many restrictions and requirements imposed by the Code ceases when bond proceeds are spent, it is essential to the proper administration of sections 103 and 141-150 to define what constitutes an expenditure of bond proceeds.

Under these regulations, the issuer must express a reasonable official intent to reimburse the expenditure. The purposes of the official intent requirement are to provide evidence that, on or prior to the date of payment, the issuer intended to reimburse the expenditure, and to assure that the reimbursement is not a device to evade requirements imposed by the Code with respect to tax exempt bonds. Generally, the recordkeeping requirement can be satisfied by any official expression such as a resolution, ordinance, public notice, or other public document that is recognized as representing an official action or declaration by or on behalf of the issuer, so long as the document is available for inspection by the general public and is maintained or supervised by a person authorized to act on behalf of the issuer or by the governing body of the issuer.

2. USE OF DATA

The purposes of the official intent requirement are to provide evidence that, on or prior to the date of payment, the issuer intended to reimburse the expenditure, and to assure that the reimbursement is not a device to evade requirements imposed by the Code with respect to tax exempt bonds. The purpose of requiring that the official intent be

available to the general public is to ensure that any proposed reimbursement of expenditures with proceeds of a borrowing will be subject to public scrutiny, thereby encouraging the issuer to have bona fide financial and budgetary reasons for incurring debt for reimbursement.

Because an issuer retains control of bond proceeds after a reimbursement allocation, potential for abuse exists unless recognition of these allocations for federal income tax purposes is limited to allocations justified by the issuer's economic circumstances.

3. 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.

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

There are no methods to minimize burden on small businesses or other small entities.

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

Consequences of less frequent collection would result in not ensuring that proposed reimbursement of expenditures with proceeds of a borrowing will be subject to public scrutiny, thereby not encouraging the issuer to have bona fide financial and budgetary reasons for incurring debt for reimbursement.

7. 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).

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

These regulations were published in the Federal Register as a notice of proposed rulemaking on April 25, 1991. A public hearing was held on August 8, 1991. Final regulations were published in the Federal Register on January 30, 1992.

We received no comments during the comment period in response to the *Federal Register* notice dated September 26, 20163 (81 FR 66130).

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

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

The taxpayers affected are states and political subdivisions that issue bonds, entities that issue bonds on behalf of states or political subdivisions and certain section 501(c) (3) organizations. Generally, the recordkeeping requirement can be satisfied by any official expression such as a resolution, ordinance, public notice, or other public document that is recognized as representing an official action or declaration by or on behalf of the issuer, so long as the document is available for inspection by the general public and is maintained or supervised by a person authorized to act on behalf of the issuer or by the governing body of the issuer. The purpose of requiring that the official intent be available to the general public is to ensure that any proposed reimbursement of expenditures with proceeds of a borrowing will be subject to public scrutiny, thereby encouraging the issuer to have bona fide financial and budgetary reasons for incurring debt for reimbursement.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The collection of information in this regulation is in §1.150-2(e). This information will be used to verify that a tax exempt bond issuer is properly allocating bond proceeds for reimbursement purposes. The taxpayers affected are states and political subdivisions that issue bonds, entities that issue bonds on behalf of states or political subdivisions and certain section 501(c)(3) organizations.

The collection was originally contained in §1.103-18(c), but that section was removed by TD 8476, which was published 58 FR 33510 (June 18, 1993). TD 8476 also added §1.150-2, which contains the subject matter and information collection previously contained in §1.103-18(c). Thus, TD 8476 moved the reimbursement provisions from §1.103-18 to §1.150-2. The burden was not changed by this move.

The burden estimate is as follows:

TD	Number of Recordkeepers (Responses)	Estimated Average Annual burden/per/recordkeepers (Time/per/Response)	Total Annual Recordkeeping Burden Hours
TD 8392	2500	2.4 hours	6000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There were no estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services provided to respondents.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no annualized cost to the federal government.

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

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

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.