

repayment schedule imposes extreme financial hardship on the employee. The Commission will notify the employee in writing within 30 calendar days of its determination, including, if appropriate, a revised offset or payment schedule. If the special review results in a revised offset or repayment schedule, the Commission will provide a new certification to the paying agency.

§ 513.36 Under what conditions will the Commission refund amounts collected by salary offset?

(a) As the creditor agency, the Commission will promptly refund any amount deducted under the authority of 5 U.S.C. 5514, when:

- (1) The Commission determines that the debt is not owed; or
 - (2) An administrative or judicial order directs the Commission to make a refund.
- (b) Unless required or permitted by law or contract, refunds under this section will not bear interest.

§ 513.37 What will the Commission do as the paying agency?

(a) When the Commission receives a certification from a creditor agency that has complied with the Office of Personnel Management's requirements set out at 5 CFR 550.1109, the Commission will send the employee a written notice of salary offset.

(b) If the Commission receives an incomplete certification from a creditor agency, the Commission will return the certification with notice that the procedures under 5 U.S.C. 5514 and 5 CFR 550.1104 must be followed and a properly certified claim submitted before the Commission will take action to collect the debt from the employee's current pay account.

(c) Notice to a debtor will include:

- (1) The Commission's receipt of a certification from a creditor agency;
- (2) The amount of the debt and the deductions to be made, which may be stated as a percentage of disposable pay; and

(3) The date and pay period when the salary offset will begin.

(d) The Commission will provide a copy of the notice of salary offset to a creditor agency.

(e) The Commission will coordinate salary deductions under this subpart as appropriate.

(f) The Commission's payroll officer will determine the amount of the debtor's disposable pay and will implement the salary offset.

(g) The Commission may use the following types of salary debt collection:

(1) Lump sum offset. If the amount of the debt is equal to or less than 15

percent of disposable pay, the debt generally will be collected through one lump sum offset.

(2) Installment deductions. The amount deducted from any period will not exceed 15 percent of the disposable pay from which the deduction is made unless the debtor has agreed in writing to the deduction of a greater amount. If possible, installment payments will liquidate the debt in three years or less.

(3) Deductions from final check. A deduction exceeding the 15 percent of disposable pay limitation may be made from any final salary payment under 31 U.S.C. 3716 and the Federal Claims Collection Standards, in order to liquidate the debt, whether the employee is leaving voluntarily or involuntarily.

(4) Deductions from other sources. If an employee subject to salary offset is leaving the Commission and the balance of the debt cannot be liquidated by offset of the final salary check, then the Commission may offset later payments of any kind against the balance of the debt, as allowed by 31 U.S.C. 3716 and the Federal Claims Collection Standards.

(h) When two or more creditor agencies are seeking salary offsets, the Commission's payroll office may, in its discretion, determine whether one or more debts should be offset simultaneously within the 15 percent limitation.

(i) The Commission is not authorized to review the merits of the creditor agency's determination with respect to the amount or validity of the debt certified by the creditor agency.

Subpart D—Administrative Wage Garnishment

§ 513.40 How will the Commission handle debt collection through administrative wage garnishment?

This part adopts all the provisions of the administrative wage garnishment regulations contained in 31 CFR 285.11, promulgated by Treasury, which allow Federal agencies to collect debts from a debtor's non-Federal pay by means of administrative wage garnishment authorized by 31 U.S.C. 3720D, and in 5 CFR parts 581 and 582, promulgated by the Office of Personnel Management, which provides for garnishment orders for child support and/or alimony and commercial garnishment of federal employees' pay.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 8967]

RIN 1545-AY88

Definition of Private Business Use

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document amends the final regulations on the definition of private business use applicable to tax-exempt bonds issued by State and local governments. The amendments provide that certain arrangements do not result in private business use if the term of the use does not exceed 50, 100 or 200 days, as applicable.

DATES: *Effective Date:* These regulations are effective November 20, 2001.

Applicability Date: For dates of applicability, see § 1.141-15.

FOR FURTHER INFORMATION CONTACT: Michael P. Brewer at (202) 622-3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Section 103(a) of the Internal Revenue Code (Code) provides that, generally, interest on any State or local bond is not included in gross income. However, this exclusion does not apply to any private activity bond that is not a qualified bond.

Under section 141, a bond is a private activity bond if it is issued as part of an issue that meets either the private business use test and the private security or payment test, or the private loan financing test.

The private business use test is met if more than 10 percent of the proceeds of an issue are to be used for any private business use. Section 141(b)(6)(A) defines the term *private business use* as use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. For this purpose, use as a member of the general public is not taken into account.

Section 1.141-3 provides guidance regarding the private business use test. Generally, the private business use test is met only if a nongovernmental person has special legal entitlements to use the financed property under an arrangement with the issuer. The existing regulations provide the following three special rules for use by nongovernmental persons under short-term arrangements:

1. Section 1.141-3(c)(3) states that an arrangement is not treated as general

public use if the term of the use under the arrangement, including all renewal options, is greater than 180 days.

2. Section 1.141-3(d)(3)(i) provides that certain arrangements are not private business use if the term of the use under the arrangement, including all renewal options, is not longer than 90 days.

3. Section 1.141-3(d)(3)(ii) provides that certain arrangements are not private business use if the term of the use under the arrangement, including all renewal options, is not longer than 30 days.

Section 1.141-3(f) contains examples that illustrate these special rules.

Explanation of Provisions

Comments have been received requesting that the regulations provide for additional flexibility in structuring short-term arrangements with nongovernmental persons. For example, commentators have requested that the 180-day, 90-day, and 30-day rules of § 1.141-3 be changed to accommodate six-month, three-month, and one-month arrangements, respectively (i.e., arrangements with terms of use based on months that exceed 30 days). This Treasury decision adopts this suggested modification by amending § 1.141-3(c)(3), (d)(3) and (f) to change all

references to 180 days, 90 days, and 30 days to 200 days, 100 days, and 50 days, respectively.

Effective Dates

The changes made by this Treasury decision apply to any bond sold on or after November 20, 2001. The changes made by this Treasury decision may be applied by issuers to any bond outstanding on November 20, 2001 to which § 1.141-3 applies.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this final regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these final regulations are Bruce M. Serchuk and Michael P. Brewer, Office of Chief Counsel (TE/GE), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.141-3 [Amended]

Par. 2. In the list below, for each paragraph indicated in the left column, remove the words indicated in the middle column from wherever they appear in the paragraph, and add the words indicated in the right column:

Paragraph	Remove (days)	Add (days)
1.141-3(c)(3), first sentence of introductory text	180	200
1.141-3(d)(3)(i)(A)	90	100
1.141-3(d)(3)(ii)(A)	30	50
1.141-3(f) <i>Example 10</i> , penultimate sentence	180	200
1.141-3(f) <i>Example 12</i> , third sentence (twice)	180	200
1.141-3(f) <i>Example 13</i> , fifth sentence	180	200
1.141-3(f) <i>Example 15</i> , fourth sentence	90	100
1.141-3(f) <i>Example 16(i)</i> , last sentence	30	50

Par. 3. Section 1.141-15 is amended as follows:

1. Paragraph (b) is redesignated (b)(1).

2. A paragraph heading for newly designated paragraph (b)(1) is added.

3. Paragraph (b)(2) is added.

The additions read as follows:

§ 1.141-15 Effective dates.

* * * * *

(b) *Effective Dates*—(1) *In general.*

* * *

(2) *Certain short-term arrangements.* The provisions of § 1.141-3 that refer to arrangements for 200 days, 100 days, or 50 days apply to any bond sold on or after November 20, 2001 and may be applied to any bond outstanding on

November 20, 2001 to which § 1.141-3 applies.

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: November 14, 2001.

Mark Weinberger,

Assistant Secretary of the Treasury.

[FR Doc. 01-28998 Filed 11-19-01; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD01-01-203]

RIN 2115-AE47

Drawbridge Operation Regulations: Neponset River, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary final rule governing the operation of the Granite Avenue Bridge, mile 2.5, across the Neponset River between Boston and Milton, Massachusetts. This temporary rule will allow the bridge to remain in the closed position from November 19, 2001 through February 22, 2002. This