the preliminary offering materials with respect to such issue were mailed (or otherwise delivered) to members of the underwriting syndicate before September 15, 1989.

''(4) CERTAIN OTHER BONDS.—In the case of a bond issued before January 1, 1991, with respect to which official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before November 18, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue, the issuer may elect to apply section 149(g)(2) of the Internal Revenue Code of 1986 (as added by this section) by substituting '15 percent' for '10 percent' in subparagraph (A) and '50 percent' for '60 percent' in subparagraph (C).

''(5) BONDS ISSUED TO FINANCE SELF-INSURANCE FUNDS.—The amendment made by subsection (a) shall not apply to any bonds issued before July 1, 1990, to finance a self-insurance fund if official action was taken (or a series of official actions were taken), or other comparable preliminary approval was given, before September 15, 1989, demonstrating an intent to issue such bonds in a maximum specified amount for such issue or with a maximum specified amount of net proceeds of such issue.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(20)–(22) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Section 5051(b) of Pub. L. 100–647 provided that:

''(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to bonds issued after October 21, 1988.

''(2) SPECIAL RULE FOR REFUNDING BONDS.—In the case of a bond issued to refund a bond issued before October 22, 1988—

''(A) if the 3-year period described in section 149(f)(2)(A) of the 1986 Code would (but for this paragraph) expire on or before October 22, 1989, such period shall expire on October 21, 1990, and

''(B) if such period expires after October 22, 1989, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after October 21, 1988) for purposes of applying section 149(f) of the 1986 Code.''

EFFECTIVE DATE

Subsec. (e) applicable to bonds issued after Dec. 31, 1986, see section 1311(d) of Pub. L. 99–514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and its functions transferred, see sections 401 to 406 of Pub. L. 101–73 set out as a note under section 1437 of Title 12, Banks and Banking.

SUBPART C—DEFINITIONS AND SPECIAL RULES

Sec.
150. Definitions and special rules.

§ 150. Definitions and special rules

(a) General rule

For purposes of this part—

(1) Bond

The term ''bond'' includes any obligation.

(2) Governmental unit not to include Federal Government

The term ''governmental unit'' does not include the United States or any agency or instrumentality thereof.

(3) Net proceeds

The term ''net proceeds'' means, with respect to any issue, the proceeds of such issue reduced by amounts in a reasonably required reserve or replacement fund.

(4) 501(c)(3) organization

The term ''501(c)(3) organization'' means any organization described in section 501(c)(3) and exempt from tax under section 501(a).

(5) Ownership of property

Property shall be treated as owned by a governmental unit if it is owned on behalf of such unit.

(6) Tax-exempt bond

The term ''tax-exempt'' means, with respect to any bond (or issue), that the interest on such bond (or on the bonds issued as part of such issue) is excluded from gross income.

(b) Change in use of facilities financed with tax-exempt private activity bonds

(1) Mortgage revenue bonds

(A) In general

In the case of any residence with respect to which financing is provided from the proceeds of a tax-exempt qualified mortgage bond or qualified veterans' mortgage bond, if there is a continuous period of at least 1 year during which such residence is not the principal residence of at least 1 of the mortgagors who received such financing, then no deduction shall be allowed under this chapter for interest on such financing which accrues on or after the date such period began and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing.

(B) Exception

Subparagraph (A) shall not apply to the extent the Secretary determines that its application would result in undue hardship and that the failure to meet the requirements of subparagraph (A) resulted from circumstances beyond the mortgagor's control.

(2) Qualified residential rental projects

In the case of any project for residential rental property—

(A) with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond described in paragraph (7) of section 142(a), and

(B) which does not meet the requirements of section 142(d),

no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the 1st day of the taxable year in which such project fails to meet such requirements and ending on the date such project meets such requirements. If the provisions of prior law cor-

responding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond.

(3) Qualified 501(c)(3) bonds

(A) In general

In the case of any facility with respect to which financing is provided from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt qualified 501(c)(3) bond, if any portion of such facility—

(i) is used in a trade or business of any person other than a 501(c)(3) organization or a governmental unit, but

(ii) continues to be owned by a 501(c)(3) organization,

then the owner of such portion shall be treated for purposes of this title as engaged in an unrelated trade or business (as defined in section 513) with respect to such portion. The amount of gross income attributable to such portion for any period shall not be less than the fair rental value of such portion for such period.

(B) Denial of deduction for interest

No deduction shall be allowed under this chapter for interest on financing described in subparagraph (A) which accrues during the period beginning on the date such facility is used as described in subparagraph (A)(i) and ending on the date such facility is not so used.

(4) Certain exempt facility bonds and small issue bonds

(A) In general

In the case of any facility with respect to which financing is provided from the proceeds of any private activity bond to which this paragraph applies, if such facility is not used for a purpose for which a tax-exempt bond could be issued on the date of such issue, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the date such facility is not so used and ending on the date such facility is so used.

(B) Bonds to which paragraph applies

This paragraph applies to any private activity bond which, when issued, purported to be a tax-exempt exempt facility bond described in a paragraph (other than paragraph (7)) of section 142(a) or a qualified small issue bond.

(5) Facilities required to be owned by governmental units or 501(c)(3) organizations

If—

(A) financing is provided with respect to any facility from the proceeds of any private activity bond which, when issued, purported to be a tax-exempt bond,

(B) such facility is required to be owned by a governmental unit or a 501(c)(3) organization as a condition of such tax exemption, and

(C) such facility is not so owned,

then no deduction shall be allowed under this chapter for interest on such financing which accrues during the period beginning on the date such facility is not so owned and ending on the date such facility is so owned.

(6) Small issue bonds which exceed capital expenditure limitation

In the case of any financing provided from the proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond.

(c) Exception and special rules for purposes of subsection (b)

For purposes of subsection (b)—

(1) Exception

Any use with respect to facilities financed with proceeds of an issue which are not required to be used for the exempt purpose of such issue shall not be taken into account.

(2) Treatment of amounts other than interest

If the amounts payable for the use of a facility are not interest, subsection (b) shall apply to such amounts as if they were interest but only to the extent such amounts for any period do not exceed the amount of interest accrued on the bond financing for such period.

(3) Use of portion of facility

In the case of any person which uses only a portion of the facility, only the interest accruing on the financing allocable to such portion shall be taken into account by such person.

(4) Cessation with respect to portion of facility

In the case of any facility where part but not all of the facility is not used for an exempt purpose, only the interest accruing on the financing allocable to such part shall be taken into account.

(5) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection and subsection (b).

(d) Qualified scholarship funding bond

For purposes of this part and section 103—

(1) Treatment as State or local bond

A qualified scholarship funding bond shall be treated as a State or local bond.

(2) Qualified scholarship funding bond defined

The term ''qualified scholarship funding bond'' means a bond issued by a corporation which—

(A) is a corporation not for profit established and operated exclusively for the purpose of acquiring student loan notes incurred under the Higher Education Act of 1965, and

(B) is organized at the request of the State or 1 or more political subdivisions thereof or is requested to exercise such power by 1 or more political subdivisions and required by its corporate charter and bylaws, or required by State law, to devote any income (after payment of expenses, debt service, and the

creation of reserves for the same) to the purchase of additional student loan notes or to pay over any income to the United States.

(3) Election to cease status as qualified scholarship funding corporation

(A) In general

Any qualified scholarship funding bond, and qualified student loan bond, outstanding on the date of the issuer's election under this paragraph (and any bond (or series of bonds) issued to refund such a bond) shall not fail to be a tax-exempt bond solely because the issuer ceases to be described in subparagraphs (A) and (B) of paragraph (2) if the issuer meets the requirements of subparagraphs (B) and (C) of this paragraph.

(B) Assets and liabilities of issuer transferred to taxable subsidiary

The requirements of this subparagraph are met by an issuer if—

(i) all of the student loan notes of the issuer and other assets pledged to secure the repayment of qualified scholarship funding bond indebtedness of the issuer are transferred to another corporation within a reasonable period after the election is made under this paragraph;

(ii) such transferee corporation assumes or otherwise provides for the payment of all of the qualified scholarship funding bond indebtedness of the issuer within a reasonable period after the election is made under this paragraph;

(iii) to the extent permitted by law, such transferee corporation assumes all of the responsibilities, and succeeds to all of the rights, of the issuer under the issuer's agreements with the Secretary of Education in respect of student loans;

(iv) immediately after such transfer, the issuer, together with any other issuer which has made an election under this paragraph in respect of such transferee, hold all of the senior stock in such transferee corporation; and

(v) such transferee corporation is not exempt from tax under this chapter.

(C) Issuer to operate as independent organization described in section 501(c)(3)

The requirements of this subparagraph are met by an issuer if, within a reasonable period after the transfer referred to in subparagraph (B)—

(i) the issuer is described in section 501(c)(3) and exempt from tax under section 501(a);

(ii) the issuer no longer is described in subparagraphs (A) and (B) of paragraph (2); and

(iii) at least 80 percent of the members of the board of directors of the issuer are independent members.

(D) Senior stock

For purposes of this paragraph, the term ''senior stock'' means stock—

(i) which participates pro rata and fully in the equity value of the corporation with all other common stock of the corporation but which has the right to payment of liquidation proceeds prior to payment of liquidation proceeds in respect of other common stock of the corporation;

(ii) which has a fixed right upon liquidation and upon redemption to an amount equal to the greater of—

(I) the fair market value of such stock on the date of liquidation or redemption (whichever is applicable); or

(II) the fair market value of all assets transferred in exchange for such stock and reduced by the amount of all liabilities of the corporation which has made an election under this paragraph assumed by the transferee corporation in such transfer;

(iii) the holder of which has the right to require the transferee corporation to redeem on a date that is not later than 10 years after the date on which an election under this paragraph was made and pursuant to such election such stock was issued; and

(iv) in respect of which, during the time such stock is outstanding, there is not outstanding any equity interest in the corporation having any liquidation, redemption or dividend rights in the corporation which are superior to those of such stock.

(E) Independent member

The term ''independent member'' means a member of the board of directors of the issuer who (except for services as a member of such board) receives no compensation directly or indirectly—

(i) for services performed in connection with such transferee corporation, or

(ii) for services as a member of the board of directors or as an officer of such transferee corporation.

For purposes of clause (ii), the term ''officer'' includes any individual having powers or responsibilities similar to those of officers.

(F) Coordination with certain private foundation taxes

For purposes of sections 4942 (relating to the excise tax on a failure to distribute income) and 4943 (relating to the excise tax on excess business holdings), the transferee corporation referred to in subparagraph (B) shall be treated as a functionally related business (within the meaning of section 4942(j)(4)) with respect to the issuer during the period commencing with the date on which an election is made under this paragraph and ending on the date that is the earlier of—

(i) the last day of the last taxable year for which more than 50 percent of the gross income of such transferee corporation is derived from, or more than 50 percent of the assets (by value) of such transferee corporation consists of, student loan notes incurred under the Higher Education Act of 1965; or

(ii) the last day of the taxable year of the issuer during which occurs the date

which is 10 years after the date on which the election under this paragraph is made.

(G) Election

An election under this paragraph may be revoked only with the consent of the Secretary.

(e) Bonds of certain volunteer fire departments

For purposes of this part and section 103—

(1) In general

A bond of a volunteer fire department shall be treated as a bond of a political subdivision of a State if—

(A) such department is a qualified volunteer fire department with respect to an area within the jurisdiction of such political subdivision, and

(B) such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used for the acquisition, construction, reconstruction, or improvement of a firehouse (including land which is functionally related and subordinate thereto) or firetruck used or to be used by such department.

(2) Qualified volunteer fire department

For purposes of this subsection, the term ''qualified volunteer fire department'' means, with respect to a political subdivision of a State, any organization—

(A) which is organized and operated to provide firefighting or emergency medical services for persons in an area (within the jurisdiction of such political subdivision) which is not provided with any other firefighting services, and

(B) which is required (by written agreement) by the political subdivision to furnish firefighting services in such area.

For purposes of subparagraph (A), other firefighting services provided in an area shall be disregarded in determining whether an organization is a qualified volunteer fire department if such other firefighting services are provided by a qualified volunteer fire department (determined with the application of this sentence) and such organization and the provider of such other services have been continuously providing firefighting services to such area since January 1, 1981.

(3) Treatment as private activity bonds only for certain purposes

Bonds which are part of an issue which meets the requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d).

(Added Pub. L. 99–514, title XIII, §1301(b), Oct. 22, 1986, 100 Stat. 2651; amended Pub. L. 100–647, title I, §1013(a)(23), (24)(A), (30)–(33), title VI, §6182(a), (b), Nov. 10, 1988, 102 Stat. 3542, 3543, 3729; Pub. L. 104–188, title I, §1614(a), Aug. 20, 1996, 110 Stat. 1851.)

REFERENCES IN TEXT

The Higher Education Act of 1965, referred to in subsec. (d)(2)(A), (3)(F)(i), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, as amended, which is classified principally to chapter 28 (§1001 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

AMENDMENTS

1996—Subsec. (d)(3). Pub. L. 104–188 added par. (3).

1988—Subsec. (b)(1)(A). Pub. L. 100–647, §1013(a)(23)(C), inserted ''tax-exempt'' before ''qualified mortgage bond''.

Pub. L. 100–647, §1013(a)(30), inserted before period at end ''and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing''.

Subsec. (b)(2). Pub. L. 100–647, §1013(a)(32), inserted at end ''If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond.''

Subsec. (b)(2)(A). Pub. L. 100–647, §1013(a)(31), substituted ''described in paragraph'' for ''described paragraph''.

Subsec. (b)(4). Pub. L. 100–647, §1013(a)(23)(A), (B), inserted ''and small issue bonds'' after ''bonds'' in heading, and ''or a qualified small issue bond'' before period at end of subpar. (B).

Subsec. (b)(6). Pub. L. 100–647, §1013(a)(33), added par. (6).

Subsec. (e)(1)(B). Pub. L. 100–647, §6182(b), inserted ''(including land which is functionally related and subordinate thereto)'' after ''a firehouse''.

Subsec. (e)(2). Pub. L. 100–647, §6182(a), inserted at end ''For purposes of subparagraph (A), other firefighting services provided in an area shall be disregarded in determining whether an organization is a qualified volunteer fire department if such other firefighting services are provided by a qualified volunteer fire department (determined with the application of this sentence) and such organization and the provider of such other services have been continuously providing firefighting services to such area since January 1, 1981.''

Subsec. (e)(3). Pub. L. 100–647, §1013(a)(24)(A), added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1614(b) of Pub. L. 104–188 provided that: ''The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 20, 1996].''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1013(a)(24)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending this section] shall apply to bonds issued after October 21, 1988.''

Amendment by section 1013(a)(23), (30)–(33) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Section 6182(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after the date of the enactment of this Act [Nov. 10, 1988].''

EFFECTIVE DATE

Section applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, with subsec. (b) applicable to changes in use (and ownership) after Aug. 15, 1986, but only with respect to financing (including refinancings) provided after such date, and with subsec. (d) applicable to payments made after Aug. 15, 1986, see sections 1311 to 1318 of Pub. L. 99–514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

PART V—DEDUCTIONS FOR PERSONAL EXEMPTIONS

Sec.
151. Allowance of deductions for personal exemptions.