Internal Revenue Service, Treasury

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the regular monthly payments on the mortgages (less certain fees), whether or not received by the lender (plus any prepayments and liquidation proceeds in the event of a foreclosure or other disposition of any mortgages). FNMA guarantees the timely payment of principal and interest on each PTS. From the payments received from each mortgagor, the lender pays a fee to FNMA for its guarantee of the PTS. The amounts paid to FNMA do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds. Under this paragraph (b)(2)(iii), the fees for the guarantee provided by FNMA are an insurance charge because the guarantee is pool mortgage insurance. Because the amounts charged for the guarantee do not exceed the amounts charged in the area with respect to a similar pool of mortgages that is not financed with mortgage revenue bonds, the amounts charged for the guarantee are not taken into account in computing the effective rate of interest on the mortgages financed with X’s bonds.

(3) Additional rules. To the extent not inconsistent with the Tax Reform Act of 1986, Public Law 99–514 (the 1986 Act), or subsequent law, § 6a.103A–2(i)(2) (other than paragraphs (1)(2)(1) and (1)(2)(1)(A) through (C)) of this chapter applies to provide additional rules relating to compliance with the requirement that the effective rate of mortgage interest not exceed the bond yield by more than 1.125 percentage points.

(a) Overview. Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(D), a qualified small issue bond issued under section 144(a) may be a qualified bond. Under section 144(a), any qualified small issue bond is any bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used for one or more redevelopment purposes and which meets certain other requirements. Under section 141(e)(1)(F) a qualified redevelopment bond issued under section 144(c) is a qualified bond. Under section 144(c), a qualified redevelopment bond is any bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used for one or more redevelopment purposes and which meets certain other requirements.

(b) Scope. Sections 1.144–0 through 1.144–2 apply for purposes of the rules for small issue bonds under section 144(a) and qualified redevelopment bonds under section 144(c), except that
§ 1.144–2 Remedial actions.

The remedial action rules of §1.142–2 apply to qualified small issue bonds issued under section 144(a) and to qualified redevelopment bonds issued under section 144(c), for this purpose treating those bonds as exempt facility bonds and the qualifying purposes for those bonds as exempt facilities.


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This section lists the captioned paragraphs contained in §§1.145–1 and 1.145–2.

§ 1.145–1 Qualified 501(c)(3) bonds. (a) Overview. Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(G), a qualified 501(c)(3) bond issued under section 145 is a qualified bond. Under section 145, a qualified 501(c)(3) bond is any bond issued as a part of an issue that satisfies the requirements of sections 145(a) through (d).

(b) Scope. Sections 1.145–0 through 1.145–2 apply for purposes of section 145(a).

(c) Effective dates. For effective dates of §§1.145–0 through 1.145–2, see §1.141–15.


§ 1.145–2 Application of private activity bond regulations. (a) In general. Except as provided in this section, §§1.141–0 through 1.141–15 apply to section 145(a). For example, under this section, §1.141–1, and §1.141–2, an issue ceases to be an issue of qualified 501(c)(3) bonds if the issuer or a conduit borrower 501(c)(3) organization takes a deliberate action subsequent to the issue date, that causes the issue to fail to comply with the requirements of sections 141(e) and 145 (such as an action that results in revocation of exempt status of the 501(c)(3) organization).

(b) Modification of private business tests. In applying §§1.141–0 through 1.141–15 to section 145(a)—

(1) References to governmental persons include 501(c)(3) organizations with respect to their activities that do not constitute unrelated trades or businesses under section 512(a);

(2) References to “10 percent” and “proceeds” in the context of the private business use test and the private security or payment test mean “5 percent” and “net proceeds”; and

(3) References to the private business use test in §§1.141–2 and 1.141–12 include the ownership test of section 145(a)(1).

(c) Exceptions—(1) Certain provisions relating to governmental programs. The following provisions do not apply to section 145: §1.141–2(d)(4) (relating to the special rule for dispositions of personal property in the ordinary course of an established governmental program) and §1.141–2(d)(5) (relating to the special rule for general obligation bond programs that finance a large number of separate purposes).

(2) Costs of issuance. Section 1.141–3(g)(6) does not apply to section 145(a)(2) to the extent that it provides that costs of issuance are allocated ratably among the other purposes for which the proceeds are used. For purposes of section 145(a)(2), costs of issuance are treated as private business use.

(d) Issuance costs financed by prior issue. Solely for purposes of applying