Issued in Kansas City, Missouri, on August 3, 2006.

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[FR Doc. E6–12943 Filed 8–8–06; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 1

**[REG–118775–06]**

**RIN 1545–BF64**

### Revisions to Regulations Relating to Repeal of Tax on Interest of Nonresident Alien Individuals and Foreign Corporations Received From Certain Portfolio Debt Investments; Hearing

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Changes of date and location for public hearing.

**SUMMARY:** This document provides changes of date and location for a public hearing on proposed regulations under sections 871 and 881 of the Internal Revenue Code (Code) relating to the exclusion from gross income of portfolio interest paid to a nonresident alien individual or foreign corporation.

**DATES:** The public hearing originally scheduled for Thursday, September 7, 2006, at 10 a.m. is rescheduled for Friday, October 6, 2006, at 10 a.m. Outlines of topics to be discussed at the public hearing will be due by August 24, 2006.

**ADDRESSES:** The public hearing was originally being held in the IRS Auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington DC. The hearing location has changed. The public hearing will be held in the IRS Auditorium, New Carrollton Federal Building, 5000 Ellin Road, Lanham, Maryland 20706.

**FOR FURTHER INFORMATION CONTACT:** Guy R. Traynor, (301) 922–0539 (not a toll free number) or Richard Hurst at *Richard.A.Hurst@irscounsel.treas.gov.*

**SUPPLEMENTARY INFORMATION:**

A notice of proposed rulemaking and notice of public hearing (REG–118775–06) appearing in the **Federal Register** on Tuesday, June 13, 2006 (71 FR 34047), announced that a public hearing on proposed regulations relating to the exclusion from gross income of portfolio interest paid to a nonresident alien individual or foreign corporation would be held on Thursday, September 7, 2006, beginning at 10 a.m. in the IRS Auditorium, 1111 Constitution Avenue, NW., Washington, DC.

The date and location of the hearing have changed. The hearing is rescheduled for Friday, October 6, 2006, beginning at 10 a.m. in the IRS Auditorium, New Carrollton Federal Building, 5000 Ellin Road, Lanham, Maryland 20706.

A period of 10 minutes is allotted to each person for presenting oral comments. The IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing.

**Guy R. Traynor,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E6–12887 Filed 8–8–06; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

**[REG–118788–06]**

**RIN 1545–BF63**

### Definition of Essential Governmental Function Under Section 7871 and Limitation to Activities Customarily Performed by States and Local Governments

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This document applies to Indian tribal governments and to State and local governments that issue bonds for the benefit of Indian tribal governments. This document describes rules that the IRS and the Treasury Department anticipate proposing, in a notice of proposed rulemaking, regarding the definition of an essential governmental function under section 7871(c) of the Internal Revenue Code and the limitation of that term to activities customarily performed by State and local governments for purposes of section 7871(e) of the Internal Revenue Code. This document also invites comments from the public regarding this proposed standard.

**DATES:** Written or electronic comments must be submitted by November 7, 2006.

**ADDRESSES:** Send submissions to: CC:PA:LPD:PR (REG–118788–06), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be sent electronically, via the IRS Internet site at *http://www.irs.gov/regs* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (indicate IRS and REG–118788–06).

**FOR FURTHER INFORMATION CONTACT:** Concerning submissions, Kelly Banks, (202) 927–1443; concerning the proposed rules, Timothy L. Jones or Aviva M. Roth, (202) 622–3980 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

#### Background

Section 7871(a)(4) of the Internal Revenue Code of 1986 provides that an Indian tribal government is to be treated as a State ''subject to subsection (c), for purposes of section 103 (relating to State and local bonds)''. Section 7871(c)(1) provides that ''section 103(a) shall apply to any obligation (not described in paragraph (2)) issued by an Indian tribal government (or subdivision thereof) only if such obligation is part of an issue substantially all of the proceeds of which are to be used in the exercise of any essential governmental function''. Section 7871(e) provides that ''[f]or purposes of this section, the term 'essential governmental function' shall not include any function which is not customarily performed by State and local governments with general taxing powers''.

Section 7871 was originally enacted in 1982 by The Indian Tribal Government Tax Status Act, Public Law 97–473, 96 Stat. 2605 § 202 (1983). In the legislative history to that Act, the Senate Finance Committee indicated that tax-exempt bond financing was not intended to be available to Indian tribal governments for ''commercial or industrial activities (or other activities other than essential governmental functions).'' S. Rep. No. 97–646, at 13–14 (1982).

Section 7871(e) was added to the statute by The Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, 101 Stat. 1330, § 10632(a) (1987). In the legislative history to this provision, the House Ways and Means Committee criticized 1984 Temporary Treasury Regulations interpreting the term essential governmental function in section 7871(c) for including certain activities eligible for Federal funding in that definition. The House Ways and Means Committee stated that the reason for this amendment was that the Committee was concerned about reports that Indian tribal governments were issuing tax-exempt bonds for interests in