

of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Tillitt Field Airport, Forsyth, MT.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9U, Airspace Designations and Reporting Points, dated August 18, 2010, and effective September 15, 2010 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT E5 Forsyth, MT [Modified]

Tillitt Field Airport, MT

(Lat. 46°16'16" N., long. 106°37'26" W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Tillitt Field Airport, and within 2.5 miles north and 5.5 miles south of the 075° bearing of the airport extending from the 7-mile radius to 13 miles east of the airport; that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 46°31'00" N., long. 107°00'00" W.; to lat. 46°22'00" N., long. 106°03'00" W.; to lat. 46°05'00" N., long. 106°210'3" W.; to lat. 46°00'00" N., long. 107°15'00" W.; to lat. 46°15'00" N., long. 107°16'00" W.; to lat. 46°20'00" N., long. 107°00'00" W., thence to the point of beginning.

Issued in Seattle, Washington on May 27, 2011.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2011–13944 Filed 6–6–11; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AD46

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 33–9204A; 34–64372A; File No. S7–16–11]

RIN 3235–AK65

Further Definition of “Swap,” “Security-Based Swap,” and “Security-Based Swap Agreement”; Mixed Swaps; Security-Based Swap Agreement Recordkeeping

AGENCY: Commodity Futures Trading Commission; Securities and Exchange Commission.

ACTION: Joint proposed rules; proposed interpretations; correction.

SUMMARY: The Commodity Futures Trading Commission and the Securities and Exchange Commission published a document in the *Federal Register* of May 23, 2011 that referenced an incorrect RIN and an incorrect cite in an authority citation. This correction is being published to correct both the RIN and the authority citation.

FOR FURTHER INFORMATION CONTACT: CFTC: Julian E. Hammar, Assistant General Counsel, at 202–418–5118, jhammar@cftc.gov, Mark Fajfar, Assistant General Counsel, at 202–418–6636, mfajfar@cftc.gov, or David E. Aron, Counsel, at 202–418–6621, daron@cftc.gov, Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581; SEC: Matthew A. Daigler, Senior Special Counsel, at 202–551–5578, Cristie L. March, Attorney-Adviser, at 202–551–5574, or Leah M. Drennan, Attorney-Adviser, at 202–551–5507, Division of Trading and Markets, or Michael J. Reedich, Special Counsel, or Tamara Brightwell, Senior Special Counsel to the Director, at 202–551–3500, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–7010.

Correction

In the *Federal Register* of May 23, 2011, in FR Doc. 2011–11008, on page 29818, in the 10th line of the first column, the Security and Exchange Commission’s RIN is corrected to read as noted above.

In the *Federal Register* of May 23, 2011, in FR Doc. 2011–11008, on page 29888, the authority citation in the second column reads as follows:

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 6r, 7, 7a, 7b, 8, 9, 10, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 21, 23, and 24.

Commodity Futures Trading Commission.

David A. Stawick,

Secretary, Securities and Exchange Commission.

Dated: June 1, 2011.

Elizabeth M. Murphy,

Secretary.

[FR Doc. 2011–13976 Filed 6–6–11; 8:45 am]

BILLING CODE 6351–01–P; 8011–01–P

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–114206–11]

RIN 1545–BK21

Encouraging New Markets Tax Credit Non-Real Estate Investments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document invites comments from the public on issues that the Treasury Department and the IRS may address in regulations relating to the new markets tax credit. Specifically, this document invites comments from the public on how the new markets tax credit program may be amended to encourage non-real estate investments. The regulations will affect taxpayers claiming the new markets tax credit. The Treasury Department and the IRS have published separately in this issue of the *Federal Register*, a notice of proposed rulemaking REG–101826–11 modifying the new markets tax credit program by providing specific rules concerning a qualified community development entity’s investment of certain returns of capital from non-real estate businesses.

DATES: Written and electronic comments must be submitted by September 6, 2011.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–114206–11), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–114206–11),

Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-114206-11).

FOR FURTHER INFORMATION CONTACT:

Concerning the proposals, Julie Hanlon-Bolton, (202) 622-3040; concerning submissions, Oluwafunmilayo Taylor, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 45D was added to the Internal Revenue Code by section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106-554, 114 Stat. 2763 (2000)) and amended by section 221 of the American Jobs Creation Act of 2004 (Pub. L. 108-357, 118 Stat. 1418 (2004)); section 101 of the Gulf Opportunity Zone Act of 2005 (Pub. L. 109-135, 119 Stat. 25 (2005)); section 102, Division A, of the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432, 120 Stat. 2922 (2006)); section 302 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Pub. L. 110-343, 122 Stat. 3765 (2008)); section 1403(a) of the American Recovery and Reinvestment Tax Act of 2009 (Pub. L. 111-5, 123 Stat. 115 (2009)); and section 733 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Pub. L. 111-312, 124 Stat. 3296 (2010)).

Section 45D(a)(1) allows a new markets tax credit on certain credit allowance dates described in section 45D(a)(3) with respect to a qualified equity investment in a qualified community development entity (CDE) described in section 45D(c).

Under section 45D(b)(1), an equity investment in a CDE is a *qualified equity investment* if, among other requirements: (A) The investment is acquired by the taxpayer at its original issue (directly or through an underwriter) solely in exchange for cash; (B) substantially all of the cash is used by the CDE to make qualified low-income community investments; and (C) the investment is designated for purposes of section 45D by the CDE.

Section 45D(c)(1) provides that an entity is a CDE if, among other requirements, the entity is certified by the Secretary as a CDE.

Section 45D(d)(1) defines the term *qualified low-income community investment* to mean: (A) Any capital or equity investment in, or loan to, any qualified active low-income community business (as defined in section 45D(d)(2)); (B) the purchase from

another CDE of any loan made by the entity that is a qualified low-income community investment; (C) financial counseling and other services specified in regulations prescribed by the Secretary to businesses located in, and residents of, low-income communities; and (D) any equity investment in, or loan to, any CDE.

Under section 45D(d)(2), a *qualified active low-income community business* is any corporation (including a nonprofit corporation) or partnership if for such year, among other requirements, (i) at least 50 percent of the total gross income of the entity is derived from the active conduct of a qualified business within any low-income community, (ii) a substantial portion of the use of the tangible property of the entity (whether owned or leased) is within any low-income community, and (iii) a substantial portion of the services performed for the entity by its employees are performed in any low-income community.

Under section 45D(d)(3), with certain exceptions, a *qualified business* is any trade or business. The rental to others of real property is a qualified business only if, among other requirements, the real property is located in a low-income community.

Groups and organizations representing investors, qualified community development entities, businesses, and other entities involved with the new markets tax credit program have submitted comments requesting additional guidance to encourage greater investment in non-real estate businesses. The commentators suggested that revising the new markets tax credit program to encourage investment in non-real estate businesses will bring increased amounts of capital to underserved businesses in low-income communities. The Treasury Department believes that revisions to the regulations under the new markets tax credit program would have a favorable effect on the ability of the program to benefit non-real estate businesses in low-income communities.

The new markets tax credit has been a successful tool for encouraging private sector investments in low-income communities. According to the Treasury Department's Community Development Financial Institutions Fund, through 2009, the new markets tax credit has helped to spur \$16 billion of investments in approximately 3,000 businesses and real estate projects located in low-income communities throughout the country, including investments in manufacturing businesses, alternative energy companies, charter schools, health care

facilities, and job training centers. Although new markets tax credit investments may be made in non-real estate businesses, the investments made to date have been predominantly in real estate projects. Through 2009, only 35 percent of new market tax credit dollars invested in qualified active low-income community businesses were invested in non-real estate businesses, and much of these investments supported real estate related projects (for example, purchasing or renovations of owner-occupied facilities).

The purpose of this document is to seek comments on measures that could facilitate greater investment in non-real estate businesses without disrupting the success of new markets tax credit real estate investments overall. The Treasury Department and the IRS have identified certain issues with regard to non-real estate businesses under the new markets tax credit program that may be considered for guidance or administrative pronouncements. The Treasury Department and the IRS invite comments from the public on the following issues and any other issues for which the taxpayers believe guidance would be necessary to promote greater investment in non-real estate businesses under the new markets tax credit program while still maintaining the structure of the credit that has been so successful for other types of investments.

A. Streamlined Substantiation Requirements for Second Tier CDEs Making Small Loans to Non-Real Estate Businesses

Under § 1.45D-1(d)(1)(iv)(A)(1), the term *qualified low-income community investment* includes any equity investment in, or loan to, any CDE (the second CDE) by a CDE (the primary CDE), but only to the extent that the second CDE uses the proceeds of the investment or loan in a manner described in § 1.45D-1(d)(1)(i) or (d)(1)(iii) and that would constitute a qualified low-income community investment if it were made directly by the primary CDE. The net effect of this provision is that, if the primary CDE makes a qualified low-income community investment into a second CDE, the primary CDE must ensure that the new markets tax credit proceeds are ultimately invested in a qualified active low-income community business and/or are used to provide financial counseling and other services. This added layer of substantiation has placed constraints on the ability of a primary CDE to invest funds in a second CDE—particularly in instances where the second CDE intends to make smaller sized loans to non-real

estate businesses because transaction and compliance monitoring costs are higher relative to the size of smaller loans than they are for larger, real estate-secured transactions.

The Treasury Department and the IRS are soliciting comments on whether the substantiation requirements governing investments under § 1.45D-1(d)(1)(iv)(A)(1) should be simplified in cases where: (i) The second CDE uses the new markets tax credit proceeds to make smaller-sized loans (for example, less than \$250,000) to non-real estate businesses; (ii) neither the second CDE nor the non-real estate business receiving the new markets tax credit proceeds is affiliated with the primary CDE or the qualified equity investment investors; and (iii) the second CDE demonstrates that, at the time of initial investment in the non-real estate business, the non-real estate business receiving the new markets tax credit proceeds met some basic qualifying requirements (for example, the business is in a low-income community).

In particular, the Treasury Department and the IRS encourage taxpayers to submit comments on the following issues:

1. Would simplifying the substantiation requirements in the manner proposed facilitate greater new markets tax credit investment in non-real estate businesses? Are there other areas where § 1.45D-1 could be modified to achieve a similar outcome?

2. The Treasury Department and the IRS believe that, if there is to be a simplification of the substantiation requirements for these transactions, there may need to be a cap on the total transaction size. Is \$250,000 the appropriate cap to put on the initial loan size? Should special considerations be made for follow-on investments and/or lines of credit? For example, should there be a cap on the total aggregate investment in one business? If so, what should that cap be?

3. What are the appropriate minimum requirements that a non-real estate business should satisfy in order for the second CDE to be able to take advantage of the simplified substantiation requirements (for example, the business must be located in a low-income community, employ community residents, etc. at the time of initial investment)? How should this be measured (for example, that substantially all of the real property is located in a low-income community)?

4. Should the Treasury Department and the IRS consider additional limitations (other than those specified) on unaffiliated CDEs or businesses? For example, should the regulations require

that the second CDE be a non-profit entity or the affiliate of a non-profit entity?

B. Encouraging Equity Investments in Non-Real Estate Businesses

1. What non-statutory requirements in § 1.45D-1 can be revised to encourage CDEs to make equity investments in non-real estate businesses?

2. If consideration is given to potential changes to the *reasonable expectations* test of § 1.45D-1(d)(6)(i), what modifications would be most effective in encouraging equity investments in non-real estate businesses, while still preserving the purpose of the existing limitations on the *reasonable expectations* test?

Request for Comments

Before the notice of proposed rulemaking is issued, consideration will be given to any written and electronic comments that are submitted timely to the IRS. All comments will be available for public inspection and copying.

Drafting Information

The principal author of this advance notice of proposed rulemaking is Julie Hanlon-Bolton of the Office of Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and the Treasury Department participated in its development.

Steven T. Miller,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2011-13981 Filed 6-3-11; 4:15 pm]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-101826-11]

RIN 1545-BK04

New Markets Tax Credit Non-Real Estate Investments

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations modifying the new markets tax credit program to facilitate and encourage investments in non-real estate businesses in low-income communities. The regulations will affect taxpayers claiming the new markets tax credit and businesses in low-income

communities relying on the program. This document also provides a notice of a public hearing on these proposed regulations. The Treasury Department and the IRS have published separately in this issue of the **Federal Register** an advance notice of proposed rulemaking REG-114206-11 requesting comments on additional modifications to the new markets tax credit program to facilitate and encourage investments in non-real estate businesses in low-income communities.

DATES: Written or electronic comments must be received by September 8, 2011. Outlines of topics to be discussed at the public hearing scheduled for Thursday, September 29, 2011, must be received by September 8, 2011.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG-101826-11), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-101826-11), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-101826-11). The public hearing will be held in the Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Julie Hanlon-Bolton, (202) 622-3040; concerning submission of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Richard Hurst, (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 to provide additional rules relating to the new markets tax credit under section 45D of the Internal Revenue Code (Code). Section 45D was added to the Code by section 121 of the Community Renewal Tax Relief Act of 2000 (Pub. L. 106-554, 114 Stat. 2763 (2000)) and amended by section 221 of the American Jobs Creation Act of 2004 (Pub. L. 108-357, 118 Stat. 1418 (2004)), section 101 of the Gulf Opportunity Zone Act of 2005 (Pub. L. 109-135, 119 Stat. 25 (2005)), Division A, section 102 of the Tax Relief and Health Care Act of 2006 (Pub. L. 109-432, 120 Stat. 2922 (2006)), section 302, Division C of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (Pub. L. 110-343, 122 Stat. 3765 (2008)),