cial Security Amendments of 1983, Pub. L. 98–21, see section 2664(a) of Pub. L. 98–369, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96–589 effective Oct. 1, 1979, but not to apply to proceedings under Title 11 commenced before Oct. 1, 1979, see section 7 of Pub. L. 96–589, set out as a note under section 108 of this title.

Amendment by Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS

Subpart
A. Private activity bonds.
B. Requirements applicable to all State and local bonds.
C. Definitions and special rules.

AMENDMENTS

1986—Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2603, in amending part IV generally, substituted ''TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS'' for ''DETERMINATION OF MARITAL STATUS'' as heading for part IV and added part analysis.

1977—Pub. L. 95–30, title I, § 101(e)(2), May 23, 1977, 91 Stat. 134, substituted ''DETERMINATION OF MARITAL STATUS'' for ''STANDARD DEDUCTION FOR INDIVIDUALS'' as heading for part IV.

SUBPART A—PRIVATE ACTIVITY BONDS

Sec.
141. Private activity bond; qualified bond.
142. Exempt facility bond.
143. Mortgage revenue bonds: qualified mortgage and qualified veterans' mortgage bond.[1]
144. Qualified small issue bond; qualified student loan bond; qualified redevelopment bond.
145. Qualified 501(c)(3) bond.
146. Volume cap.
147. Other requirements applicable to certain private activity bonds.

AMENDMENTS

1986—Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2603, in amending part IV generally, added subpart heading and analysis and struck out item 143 ''Determination of marital status''.

1977—Pub. L. 95–30, title I, § 101(e)(2), May 23, 1977, 91 Stat. 134, struck out items 141 ''Standard deduction'', 142 ''Individuals not eligible for standard deduction'', 144 ''Election of standard deduction'', and 145 ''Cross reference''.

§ 141. Private activity bond; qualified bond

(a) Private activity bond

For purposes of this title, the term ''private activity bond'' means any bond issued as part of an issue—

(1) which meets—

(A) the private business use test of paragraph (1) of subsection (b), and

(B) the private security or payment test of paragraph (2) of subsection (b), or

(2) which meets the private loan financing test of subsection (c).

(b) Private business tests

(1) Private business use test

Except as otherwise provided in this subsection, an issue meets the test of this paragraph if more than 10 percent of the proceeds of the issue are to be used for any private business use.

(2) Private security or payment test

Except as otherwise provided in this subsection, an issue meets the test of this paragraph if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of such issue is (under the terms of such issue or any underlying arrangement) directly or indirectly—

(A) secured by any interest in—

(i) property used or to be used for a private business use, or

(ii) payments in respect of such property, or

(B) to be derived from payments (whether or not to the issuer) in respect of property, or borrowed money, used or to be used for a private business use.

(3) 5 percent test for private business use not related or disproportionate to government use financed by the issue

(A) In general

An issue shall be treated as meeting the tests of paragraphs (1) and (2) if such tests would be met if such paragraphs were applied—

(i) by substituting ''5 percent'' for ''10 percent'' each place it appears, and

(ii) by taking into account only—

(I) the proceeds of the issue which are to be used for any private business use which is not related to any government use of such proceeds,

(II) the disproportionate related business use proceeds of the issue, and

(III) payments, property, and borrowed money with respect to any use of proceeds described in subclause (I) or (II).

(B) Disproportionate related business use proceeds

For purposes of subparagraph (A), the disproportionate related business use proceeds of an issue is an amount equal to the aggregate of the excesses (determined under the following sentence) for each private business use of the proceeds of an issue which is related to a government use of such proceeds. The excess determined under this sentence is the excess of—

(i) the proceeds of the issue which are to be used for the private business use, over

(ii) the proceeds of the issue which are to be used for the government use to which such private business use relates.

[1] So in original. Does not conform to section catchline.

(4) Lower limitation for certain output facilities

An issue 5 percent or more of the proceeds of which are to be used with respect to any output facility (other than a facility for the furnishing of water) shall be treated as meeting the tests of paragraphs (1) and (2) if the nonqualified amount with respect to such issue exceeds the excess of—

(A) $15,000,000, over

(B) the aggregate nonqualified amounts with respect to all prior tax-exempt issues 5 percent or more of the proceeds of which are or will be used with respect to such facility (or any other facility which is part of the same project).

There shall not be taken into account under subparagraph (B) any bond which is not outstanding at the time of the later issue or which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue.

(5) Coordination with volume cap where nonqualified amount exceeds $15,000,000

If the nonqualified amount with respect to an issue—

(A) exceeds $15,000,000, but

(B) does not exceed the amount which would cause a bond which is part of such issue to be treated as a private activity bond without regard to this paragraph,

such bond shall nonetheless be treated as a private activity bond unless the issuer allocates a portion of its volume cap under section 146 to such issue in an amount equal to the excess of such nonqualified amount over $15,000,000.

(6) Private business use defined

(A) In general

For purposes of this subsection, the term ''private business use'' means use (directly or indirectly) in a trade or business carried on by any person other than a governmental unit. For purposes of the preceding sentence, use as a member of the general public shall not be taken into account.

(B) Clarification of trade or business

For purposes of the 1st sentence of subparagraph (A), any activity carried on by a person other than a natural person shall be treated as a trade or business.

(7) Government use

The term ''government use'' means any use other than a private business use.

(8) Nonqualified amount

For purposes of this subsection, the term ''nonqualified amount'' means, with respect to an issue, the lesser of—

(A) the proceeds of such issue which are to be used for any private business use, or

(B) the proceeds of such issue with respect to which there are payments (or property or borrowed money) described in paragraph (2).

(9) Exception for qualified 501(c)(3) bonds

There shall not be taken into account under this subsection or subsection (c) the portion of the proceeds of an issue which (if issued as a separate issue) would be treated as a qualified 501(c)(3) bond if the issuer elects to treat such portion as a qualified 501(c)(3) bond.

(c) Private loan financing test

(1) In general

An issue meets the test of this subsection if the amount of the proceeds of the issue which are to be used (directly or indirectly) to make or finance loans (other than loans described in paragraph (2)) to persons other than governmental units exceeds the lesser of—

(A) 5 percent of such proceeds, or

(B) $5,000,000.

(2) Exception for tax assessment, etc., loans

For purposes of paragraph (1), a loan is described in this paragraph if such loan—

(A) enables the borrower to finance any governmental tax or assessment of general application for a specific essential governmental function,

(B) is a nonpurpose investment (within the meaning of section 148(f)(6)(A)), or

(C) is a qualified natural gas supply contract (as defined in section 148(b)(4)).

(d) Certain issues used to acquire nongovernmental output property treated as private activity bonds

(1) In general

For purposes of this title, the term ''private activity bond'' includes any bond issued as part of an issue if the amount of the proceeds of the issue which are to be used (directly or indirectly) for the acquisition by a governmental unit of nongovernmental output property exceeds the lesser of—

(A) 5 percent of such proceeds, or

(B) $5,000,000.

(2) Nongovernmental output property

Except as otherwise provided in this subsection, for purposes of paragraph (1), the term ''nongovernmental output property'' means any property (or interest therein) which before such acquisition was used (or held for use) by a person other than a governmental unit in connection with an output facility (within the meaning of subsection (b)(4)) (other than a facility for the furnishing of water). For purposes of the preceding sentence, use (or the holding for use) before October 14, 1987, shall not be taken into account.

(3) Exception for property acquired to provide output to certain areas

For purposes of paragraph (1)—

(A) In general

The term ''nongovernmental output property'' shall not include any property which is to be used in connection with an output facility 95 percent or more of the output of which will be consumed in—

(i) a qualified service area of the governmental unit acquiring the property, or

(ii) a qualified annexed area of such unit.

(B) Definitions

For purposes of subparagraph (A)—

(i) Qualified service area

The term ''qualified service area'' means, with respect to the governmental

unit acquiring the property, any area throughout which such unit provided (at all times during the 10-year period ending on the date such property is acquired by such unit) output of the same type as the output to be provided by such property. For purposes of the preceding sentence, the period before October 14, 1987, shall not be taken into account.

(ii) Qualified annexed area

The term ''qualified annexed area'' means, with respect to the governmental unit acquiring the property, any area if—

(I) such area is contiguous to, and annexed for general governmental purposes into, a qualified service area of such unit,

(II) output from such property is made available to all members of the general public in the annexed area, and

(III) the annexed area is not greater than 10 percent of such qualified service area.

(C) Limitation on size of annexed area not to apply where output capacity does not increase by more than 10 percent

Subclause (III) of subparagraph (B)(ii) shall not apply to an annexation of an area by a governmental unit if the output capacity of the property acquired in connection with the annexation, when added to the output capacity of all other property which is not treated as nongovernmental output property by reason of subparagraph (A)(ii) with respect to such annexed area, does not exceed 10 percent of the output capacity of the property providing output of the same type to the qualified service area into which it is annexed.

(D) Rules for determining relative size, etc.

For purposes of subparagraphs (B)(ii) and (C)—

(i) The size of any qualified service area and the output capacity of property serving such area shall be determined as the close of the calendar year preceding the calendar year in which the acquisition of nongovernmental output property or the annexation occurs.

(ii) A qualified annexed area shall be treated as part of the qualified service area into which it is annexed for purposes of determining whether any other area annexed in a later year is a qualified annexed area.

(4) Exception for property converted to nonoutput use

For purposes of paragraph (1)—

(A) In general

The term ''nongovernmental output property'' shall not include any property which is to be converted to a use not in connection with an output facility.

(B) Exception

Subparagraph (A) shall not apply to any property which is part of the output function of a nuclear power facility.

(5) Special rules

In the case of a bond which is a private activity bond solely by reason of this subsection—

(A) subsections (c) and (d) of section 147 (relating to limitations on acquisition of land and existing property) shall not apply, and

(B) paragraph (8) of section 142(a) shall be applied as if it did not contain ''local''.

(6) Treatment of joint action agencies

With respect to nongovernmental output property acquired by a joint action agency the members of which are governmental units, this subsection shall be applied at the member level by treating each member as acquiring its proportionate share of such property.

(7) Exception for qualified electric and natural gas supply contracts

The term ''nongovernmental output property'' shall not include any contract for the prepayment of electricity or natural gas which is not investment property under section 148(b)(2).

(e) Qualified bond

For purposes of this part, the term ''qualified bond'' means any private activity bond if—

(1) In general

Such bond is—

(A) an exempt facility bond,
(B) a qualified mortgage bond,
(C) a qualified veterans' mortgage bond,
(D) a qualified small issue bond,
(E) a qualified student loan bond,
(F) a qualified redevelopment bond, or
(G) a qualified 501(c)(3) bond.

(2) Volume cap

Such bond is issued as part of an issue which meets the applicable requirements of section 146, and[1]

(3) Other requirements

Such bond meets the applicable requirements of each subsection of section 147.

(Added Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2603; amended Pub. L. 100–203, title X, § 10631(a), Dec. 22, 1987, 101 Stat. 1330–453; Pub. L. 100–647, title I, § 1013(a)(38), Nov. 10, 1988, 102 Stat. 3544; Pub. L. 109–58, title XIII, § 1327(b), (c), Aug. 8, 2005, 119 Stat. 1019.)

PRIOR PROVISIONS

A prior section 141, acts Aug. 16, 1954, ch. 736, 68A Stat. 40; Feb. 26, 1964, Pub. L. 88–272, title I, § 112(a), 78 Stat. 23; Dec. 30, 1969, Pub. L. 91–172, title VIII, § 802(a), (c)(4), (e), 83 Stat. 676, 678; Dec. 10, 1971, Pub. L. 92–178, title II, §§ 202, 203(a)–(c), title III, § 301(a), 85 Stat. 511, 520; Mar. 29, 1975, Pub. L. 94–12, title II, §§ 201(a), 202(a), 89 Stat. 28, 29; Dec. 23, 1975, Pub. L. 94–164, § 2(a)(1), (b)(1), 89 Stat. 970, 971; Oct. 4, 1976, Pub. L. 94–455, title IV, § 401(b)(1), (2), title XIX, § 1906(b)(13)(A), 90 Stat. 1556, 1834, provided for standard deduction, prior to repeal by Pub. L. 95–30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133, applicable to taxable years beginning after Dec. 31, 1976.

AMENDMENTS

2005—Subsec. (c)(2)(C). Pub. L. 109–58, § 1327(b), added subpar. (C).

[1] So in original. Probably should end with a period after ''146''.

Subsec. (d)(7). Pub. L. 109–58, §1327(c), added par. (7).

1988—Subsec. (b)(5)(B). Pub. L. 100–647 substituted ''cause a bond'' for ''cause bond''.

1987—Subsecs. (d), (e). Pub. L. 100–203 added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–58, title XIII, §1327(d), Aug. 8, 2005, 119 Stat. 1019, provided that: ''The amendments made by this section [amending this section and section 148 of this title] shall apply to obligations issued after the date of the enactment of this Act [Aug. 8, 2005].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10631(c) of Pub. L. 100–203 provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 142 and 146 of this title] shall apply to bonds issued after October 13, 1987 (other than bonds issued to refund bonds issued on or before such date).

''(2) BINDING AGREEMENTS.—The amendments made by this section shall not apply to bonds (other than advance refunding bonds) with respect to a facility acquired after October 13, 1987, pursuant to a binding contract entered into on or before such date.

''(3) TRANSITIONAL RULE.—The amendments made by this section shall not apply to bonds issued—

''(A) after October 13, 1987, by an authority created by a statute—

''(i) approved by the State Governor on July 24, 1986, and

''(ii) sections 1 through 10 of which became effective on January 15, 1987, and

''(B) to provide facilities serving the area specified in such statute on the date of its enactment.''

EFFECTIVE DATE; TRANSITIONAL RULES

Subtitle B (§§1311–1318) of title XIII of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, §1013(b), (c)(1), (2)(A), (3)–(11)(D), (13), (14)(A), (d), (e)(1), (2)(A), (f)(1)(A), (2)–(7)(A), (8), (9), (11), (g), (h), Nov. 10, 1988, 102 Stat. 3545–3550, 3558; Pub. L. 101–239, title VII, §7831(e), Dec. 19, 1989, 103 Stat. 2427, provided that:

''SEC. 1311. GENERAL EFFECTIVE DATES.

''(a) IN GENERAL.—Except as otherwise provided in this subtitle, the amendments made by section 1301 [enacting sections 141 to 150 and 7703 of this title, amending sections 2, 22, 25, 32, 86, 103, 105, 152, 153, 163, 194, 269A, 414, 879, 1398, 3402, 4701, 4940, 4942, 4988, 6362, 6652, and 7871 of this title, repealing section 103A of this title, omitting former section 143 of this title, enacting provisions set out as notes under sections 141 and 148 of this title, and amending provisions set out as a note under section 103A of this title] shall apply to bonds issued after August 15, 1986.

''(b) SECTION 1301(f).—

''(1) INCREASE IN TRADE-IN RATE.—The amendments made by paragraph (1) of section 1301(f) [amending section 25 of this title] shall apply to nonissued bond amounts elected after August 15, 1986.

''(2) CERTIFICATES.—The amendments made by paragraph (2) of section 1301(f) [amending section 25 of this title] shall apply to certificates issued with respect to non-issued bond amounts elected after August 15, 1986.

''(c) CHANGES IN USE, ETC., OF FACILITIES FINANCED WITH PRIVATE ACTIVITY BONDS.—Subsection (b) of section 150 of the 1986 Code shall apply to changes in use (and ownership) after August 15, 1986, but only with respect to financing (including refinancings) provided after such date.

''(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

''(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986.

''(f) SECTION 1303.—The amendments made by section 1303 [amending sections 172, 1016, and 3402 of this title and repealing sections 1391 to 1397 and 6039B of this title] shall take effect on the date of the enactment of this Act [Oct. 22, 1986].

''SEC. 1312. TRANSITIONAL RULES FOR CONSTRUCTION OR BINDING AGREEMENTS AND CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.

''(a) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENTS.—

''(1) IN GENERAL.—The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to bonds (other than a refunding bond) with respect to a facility—

''(A)(i) the original use of which commences with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before September 26, 1985, and was completed on or after such date,

''(ii) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before September 26, 1985, and some of such expenditures are incurred on or after such date, or

''(iii) acquired on or after September 26, 1985, pursuant to a binding contract entered into before such date, and

''(B) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before September 26, 1985.

''(2) SIGNIFICANT EXPENDITURES.—For purposes of paragraph (1)(A), the term 'significant expenditures' means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

''(b) CERTAIN AMENDMENTS TO APPLY TO BONDS UNDER SUBSECTION (a) TRANSITIONAL RULE.—

''(1) IN GENERAL.—In the case of a bond issued after August 15, 1986, and to which subsection (a) of this section applies, the requirements of the following provisions shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code:

''(A) The requirement that 95 percent or more of the net proceeds of an issue are to be used for a purpose described in section 103(b)(4) or (5) of such Code in order for section 103(b)(4) or (5) of such Code to apply, including the application of section 142(b)(2) of the 1986 Code (relating to limitation on office space).

''(B) The requirement that 95 percent or more of the net proceeds of an issue are to be used for a purpose described in section 103(b)(6)(A) of the 1954 Code in order for section 103(b)(6)(A) of such Code to apply.

''(C) The requirements of section 143 of the 1986 Code (relating to qualified mortgage bonds and qualified veterans' mortgage bonds) in order for section 103A(b)(2) of the 1954 Code to apply.

''(D) The requirements of section 144(a)(11) of the 1986 Code (relating to limitation on acquisition of depreciable farm property) in order for section 103(b)(6)(A) of the 1954 Code to apply.

''(E) The requirements of section 147(b) of the 1986 Code (relating to maturity may not exceed 120 percent of economic life).

''(F) The requirements of section 147(f) of the 1986 Code (relating to public approval required for private activity bonds).

''(G) The requirements of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue).

''(H) The requirements of section 148 of the 1986 Code (relating to arbitrage).

''(I) The requirements of section 149(e) of the 1986 Code (relating to information reporting).

''(J) The provisions of section 150(b) of the 1986 Code (relating to changes in use).

''(2) CERTAIN REQUIREMENTS APPLY ONLY TO BONDS ISSUED AFTER DECEMBER 31, 1986.—In the case of subparagraphs (F) and (I) of paragraphs (1), paragraph (1) shall be applied by substituting 'December 31, 1986' for 'August 15, 1986'.

''(3) APPLICATION OF VOLUME CAP.—Except as provided in section 1315, any bond to which this subsection applies shall be treated as a private activity bond for purposes of section 146 of the 1986 Code if such bond would have been taken into account under section 103(n) or 103A(g) of the 1954 Code (determined without regard to any carryforward election) were such bond issued before August 16, 1986.

''(4) APPLICATION OF PROVISIONS.—For purposes of applying the requirements referred to in any subparagraph of paragraph (1) or of subsection (a)(3) or (b)(3) of section 1313 to any bond, such bond shall be treated as described in the subparagraph of section 141(d)(1) of the 1986 Code to which the use of the proceeds of such bond most closely relates.

''(c) SPECIAL RULES FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—

''(1) IN GENERAL.—In the case of any bond described in paragraph (2)—

''(A) section 1311(a) and (c) and subsection (b) of this section shall be applied by substituting 'August 31, 1986' for 'August 15, 1986' each place it appears,

''(B) subsection (b)(1) shall be applied without regard to subparagraphs (F), (G), and (J), and

''(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (H) and (I) of subsection (b)(1).

''(2) BOND DESCRIBED.—A bond is described in this paragraph if such bond is not—

''(A) an industrial development bond, as defined in section 103(b)(2) of the 1954 Code but determined—

''(i) by inserting 'directly or indirectly' after 'is' in the material preceding clause (i) of subparagraph (B) thereof, and

''(ii) without regard to subparagraph (B) of section 103(b)(3) of such Code,

''(B) a mortgage subsidy bond (as defined in section 103A(b)(1) of such Code, without regard to any exception from such definition), or

''(C) a private loan bond (as defined in section 103(*o*)(2)(A) of such Code, without regard to any exception from such definition other than section 103(*o*)(2)(C) of such Code).

''(d) ELECTION OUT.—This section shall not apply to any issue with respect to which the issuer elects not to have this section apply.

''SEC. 1313. TRANSITIONAL RULES RELATING TO REFUNDINGS.

''(a) CERTAIN CURRENT REFUNDINGS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to any bond the proceeds of which are used exclusively to refund (other than to advance refund) a qualified bond (or a bond which is part of a series of refundings of a qualified bond) if—

''(A) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(B)(i) the average maturity of the issue of which the refunding bond is a part does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the net proceeds of such issue (determined under section 147(b) of the 1986 Code), or

''(ii) the refunding bond has a maturity date not later than the date which is 17 years after the date on which the qualified bond was issued.

In the case of a qualified bond which was (when issued) a qualified mortgage bond or a qualified veterans' mortgage bond, subparagraph (B)(i) shall not apply and subparagraph (B)(ii) shall be applied by substituting '32 years' for '17 years'.

''(2) QUALIFIED BOND.—For purposes of paragraph (1), the term 'qualified bond' means any bond (other than a refunding bond)—

''(A) issued before August 16, 1986, or

''(B) issued after August 15, 1986, if section 1312(a) applies to such bond.

''(3) CERTAIN AMENDMENTS TO APPLY.—The following provisions of the 1986 Code shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code and shall apply to refunding bonds described in paragraph (1):

''(A) The requirements of section 147(f) (relating to public approval required for private activity bonds) but only if the maturity date of the refunding bond is later than the maturity date of the refunded bond.

''(B) The requirements of section 147(g) (relating to restriction on issuance costs financed by issue).

''(C) The requirements of sections 143(g) and 148 (relating to arbitrage).

''(D) The requirements of section 149(e) (relating to information reporting).

''(E) The provisions of section 150(b) (relating to changes in use).

Subparagraphs (A) and (D) shall apply only if the refunding bond is issued after December 31, 1986. In the case of a refunding bond described in paragraph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond.

''(4) SPECIAL RULES FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—In the case of any bond described in section 1312(c)(2)—

''(A) paragraph (2) of this subsection shall be applied by substituting 'August 31, 1986' for 'August 15, 1986' and by substituting 'September 1, 1986' for 'August 16, 1986',

''(B) paragraph (3) shall be applied without regard to subparagraphs (A), (B), and (E), and

''(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (C) and (D) of paragraph (3).

''(b) CERTAIN ADVANCE REFUNDINGS.—

''(1) IN GENERAL.—Except as provided in paragraph (3), the amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to any bond the proceeds of which are used exclusively to advance refund a bond if—

''(A) the refunded bond is described in paragraph (2), and

''(B) the requirements of subsection (a)(1)(B) are met.

''(2) NON-IDB'S, ETC.—A bond is described in this paragraph if such bond is not described in subsection (b)(2) or (*o*)(2)(A) of section 103 of the 1954 Code and was issued (or was issued to refund a bond issued) before August 16, 1986. For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (*o*)(2)(A) shall be made without regard to any exception other than section 103(*o*)(2)(C) of such Code.

''(3) CERTAIN AMENDMENTS TO APPLY.—The following provisions of the 1986 Code shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code and shall apply to refunding bonds described in paragraph (1):

''(A) The requirements of section 147(f) (relating to public approval required for private activity bonds).

''(B) The requirements of section 147(g) (relating to restriction on issuance costs financed by issue).

''(C) The requirements of section 148 (relating to arbitrage), except that section 148(d)(3) shall not apply to proceeds of such bonds to be used to discharge the refunded bonds.

''(D) The requirements of paragraphs (3) and (4) of section 149(d) (relating to advance refundings).

''(E) The requirements of section 149(e) (relating to information reporting).

''(F) The provisions of section 150(b) (relating to changes in use).

''(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds).

Subparagraphs (A) and (E) shall apply only if the refunding bond is issued after December 31, 1986.

''(4) SPECIAL RULE FOR CERTAIN GOVERNMENT BONDS ISSUED AFTER AUGUST 15, 1986.—In the case of any bond described in section 1312(c)(2)—

''(A) paragraph (2) of this subsection shall be applied by substituting 'September 1, 1986' for 'August 16, 1986',

''(B) paragraph (3) shall be applied without regard to subparagraphs (A), (B), and (F), and

''(C) such bond shall not be treated as a private activity bond for purposes of applying the requirements referred to in subparagraphs (C) and (E).

''(5) CERTAIN REFUNDING BONDS SUBJECT TO VOLUME CAP.—Any refunding bond described in paragraph (1) the proceeds of which are used to refund a bond issued as part of an issue 5 percent or more of the net proceeds of which are or will be used to provide an output facility (within the meaning of section 141(b)(4) of the 1986 Code) shall be treated as a private activity bond for purposes of section 146 of the 1986 Code (to the extent of the nongovernmental use of such issue, under rules similar to the rules of section 146(m)(2) of such Code). For purposes of the preceding sentence, use by a 501(c)(3) organization with respect to its activities which do not constitute unrelated trades or businesses (determined by applying section 513(a) of the 1986 Code) shall not be taken into account.

''(c) TREATMENT OF CERTAIN REFUNDINGS OF CERTAIN IDB'S AND 501(c)(3) BONDS.—

''(1) $40,000,000 LIMIT FOR CERTAIN SMALL ISSUE BONDS.—Paragraph (10) of section 144(a) of the 1986 Code shall not apply to any bond (or series of bonds) the proceeds of which are used exclusively to refund a tax-exempt bond to which such paragraph and the corresponding provision of prior law did not apply if—

''(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code.

''(2) $150,000,000 LIMITATION FOR CERTAIN 501(c)(3) BONDS.—Subsection (b) of section 145 of the 1986 Code (relating to $150,000,000 limitation for nonhospital bonds) shall not apply to any bond (or series of bonds) the proceeds of which are used exclusively to refund a tax-exempt bond to which such subsection did not apply if—

''(A)(i) the average maturity of the issue of which the refunding bond is a part does not exceed 120 percent of the average reasonably expected economic life of the facilities being financed with the net proceeds of such issue (determined under section 147(b) of the 1986 Code), or

''(ii) the refunding bond has a maturity date not later than the later of the date which is 17 years after the date on which the qualified bond (as defined in subsection (a)(2)) was issued, and

''(B) the requirements of subparagraphs (B) and (C) of paragraph (1) are met with respect to the refunding bond.

Subsection (b) of section 145 of the 1986 Code shall not apply to the 1st advance refunding after March 14, 1986, of a bond issued before January 1, 1986.

''(3) APPLICATION TO LATER ISSUES.—Any bond to which section 144(a)(10) or 145(b) of the 1986 Code does not apply by reason of this section shall be taken into account in determining whether such section applies to any later issue.

''(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond.

''SEC. 1314. SPECIAL RULES WHICH OVERRIDE OTHER RULES IN THIS SUBTITLE.

''(a) ARBITRAGE RESTRICTION ON INVESTMENTS IN ANNUITIES.—In the case of a bond issued after September 25, 1985, section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to an annuity contract. The preceding sentence shall not apply to the first advance refunding after September 25, 1985, if a bond issued before September 26, 1985.

''(b) TEMPORARY PERIOD FOR ADVANCE REFUNDINGS.—In the case of a bond issued after December 31, 1985, to advance refund a bond, the initial temporary period under section 103(c) of the 1954 Code with respect to the proceeds of the refunding bond shall end not later than 30 days after the date of issue of the refunding bond.

''(c) DETERMINATION OF YIELD.—In the case of a bond issued after December 31, 1985, for purposes of section 103(c) of the 1954 Code, the yield on an issue shall be determined on the basis of the issue price (within the meaning of sections 1273 and 1274 of the 1986 Code).

''(d) ARBITRAGE REBATE REQUIREMENT.—

''(1) IN GENERAL.—Except as otherwise provided in this subsection, in the case of a bond issued after December 31, 1985, section 103 of the 1954 Code shall be treated as including the requirements of section 148(f) of the 1986 Code in order for section 103(a) of the 1954 Code to apply.

''(2) GOVERNMENT BONDS.—In the case of a bond described in section 1312(c)(2) (and not described in paragraph (3) of this subsection), paragraph (1) shall be applied by substituting 'August 31, 1986' for 'December 31, 1985'.

''(3) CERTAIN POOLS.—

''(A) IN GENERAL.—In the case of a bond described in section 1312(c)(2) and issued as part of an issue described in subparagraph (B), (C), (D), or (E), paragraph (1) shall be applied by substituting '3 p.m. E.D.T., July 17, 1986' for 'December 31, 1985'. Such a bond shall not be treated as a private activity bond for purposes of applying section 148(f) of the 1986 Code.

''(B) LOANS TO UNRELATED GOVERNMENTAL UNITS.—An issue is described in this subparagraph if any portion of the proceeds of the issue is to be used to make or finance loans to any governmental unit other than any governmental unit which is subordinate to the issuer and the jurisdiction of which is within—

''(i) the jurisdiction of the issuer, or

''(ii) the jurisdiction of the governmental unit on behalf of which such issuer issued the issue.

''(C) LESS THAN 75 PERCENT OF PROJECTS IDENTIFIED.—An issue is described in this subparagraph if less than 75 percent of the proceeds of the issue is

to be used to make or finance loans to initial borrowers to finance projects identified (with specificity) by the issuer, on or before the date of issuance of the issue, as projects to be financed with the proceeds of the issue.

''(D) LESS THAN 25 PERCENT OF FUNDS COMMITTED TO BE BORROWED.—An issue is described in this subparagraph if, on or before the date of issuance of the issue, commitments have not been entered into by initial borrowers to borrow at least 25 percent of the proceeds of the issue.

''(E) CERTAIN LONG MATURITY ISSUES.—An issue is described in this subparagraph if—

''(i) the maturity date of any bond issued as part of such issue exceeds 30 years, and

''(ii) any principal payment on any loan made or financed by the proceeds of the issue is to be used to make or finance additional loans.

''(F) SPECIAL RULES.—

''(i) EXCEPTION FROM SUBPARAGRAPHS (C) AND (D) WHERE SIMILAR POOLS ISSUED BY ISSUER.—An issue shall not be treated as described in subparagraph (C) or (D) with respect to any issue to make or finance loans to governmental units if—

''(I) the issuer, before 1986, issued 1 or more similar issues to make or finance loans to governmental units, and

''(II) the aggregate face amount of such issues issued during 1986 does not exceed 250 percent of the average of the annual aggregate face amounts of such similar issues issued during 1983, 1984, or 1985.

''(ii) DETERMINATION OF ISSUANCE.—For purposes of subparagraph (A), an issue shall not be treated as issued until—

''(I) the bonds issued as part of such issue are offered to the public (pursuant to final offering materials), and

''(II) at least 25 percent of such bonds is sold to the public.

For purposes of the preceding sentence, the sale of a bond to a securities firm, broker, or other person acting in the capacity of an underwriter or wholesaler shall not be treated as a sale to the public.

''(e) INFORMATION REPORTING.—In the case of a bond issued after December 31, 1986, nothing in section 103(a) of the 1986 Code or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond unless such bond satisfies the requirements of section 149(e) of the 1986 Code. A bond described in section 1312(c)(2) shall not be treated as a private activity bond for purposes of applying such requirements.

''(f) ABUSIVE TRANSACTION LIMITATION ON ADVANCE REFUNDINGS TO APPLY.—In the case of a bond issued after August 31, 1986, nothing in section 103(a) of the 1986 Code or any other provision of law shall be construed to provide an exemption from Federal income tax for interest on any bond if the issue of which such bond is a part is described in paragraph (4) of section 149(d) of the 1986 Code (relating to abusive transactions).

''(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

''(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code).

''(i) SECTION TO OVERRIDE OTHER RULES.—Except as otherwise expressly provided by reference to a provision to which a subsection of this section applies, nothing in any other section of this subtitle shall be construed as exempting any bond from the application of such provision.

''SEC. 1315. TRANSITIONAL RULES RELATING TO VOLUME CAP.

''(a) IN GENERAL.—Except as otherwise provided in this section, section 146(f) of the 1986 Code shall not apply with respect to an issuing authority's volume cap under section 103(n) of the 1954 Code, and no carryforward under such section 103(n) shall be recognized for bonds issued after August 15, 1986.

''(b) CERTAIN BONDS FOR CARRYFORWARD PROJECTS OUTSIDE OF VOLUME CAP.—Bonds issued pursuant to an election under section 103(n)(10) of the 1954 Code (relating to elective carryforward of unused limitation for specified project) made before November 1, 1985, shall not be taken into account under section 146 of the 1986 Code if the carryforward project is a facility to which the amendments made by section 1301 [for classification see section 1311(a) of this note] do not apply by reason of section 1312(a) of this Act.

''(c) VOLUME CAP NOT TO APPLY WITH RESPECT TO CERTAIN FACILITIES AND PURPOSES.—Section 146 of the 1986 Code shall not apply to any bond issued with respect to any facility or purpose described in a paragraph of subsection (d) if—

''(1) such bond would not have been taken into account under section 103(n) of the 1954 Code for calendar year 1986 (determined without regard to any carryforward election) were such bond issued on August 15, 1986, or

''(2) such bond would not have been taken into account under section 103(n) of the 1954 Code for calendar year 1986 (determined with regard to any carryforward election made before January 1, 1986) were such bond issued on August 15, 1986.

The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code.

''(d) FACILITIES AND PURPOSES DESCRIBED.—

''(1) A facility is described in this paragraph if the amendments made by section 201 of this Act [amending sections 46, 167, 168, 178, 179, 280F, 291, 312, 465, 467, 514, 751, 1245, 4162, 6111, and 7701 of this title] (relating to depreciation) do not apply to such facility by reason of section 204(a)(8) of this Act [set out as a note under section 168 of this title] (or, in the case of a facility which is governmentally owned, would not apply to such facility were it owned by a nongovernmental person).

''(2) A facility or purpose is described in this paragraph if the facility or purpose is described in a paragraph of section 1317.

''(3) A facility is described in this paragraph if the facility—

''(A) serves Los Osos, California, and

''(B) would be described in paragraph (1) were it a solid waste disposal facility.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $35,000,000.

''(4) A facility is described in this paragraph if it is a sewage disposal facility with respect to which—

''(A) on September 13, 1985, the State public facilities authority took official action authorizing the issuance of bonds for such facility, and

''(B) on December 30, 1985, there was an executive order of the State Governor granting allocation of the State ceiling under section 103(n) of the 1954 Code in the amount of $250,000,000 to the Industrial Development Board of the Parish of East Baton Rouge, Louisiana.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $98,500,000.

''(5) A facility is described in this paragraph if—

''(A) such facility is a solid waste disposal facility in Charleston, South Carolina, and

''(B) a State political subdivision took formal action on April 1, 1980, to commit development funds for such facility.

For purposes of determining whether a bond issued as part of an issue for a facility described in the preceding sentence is an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code, '90 percent' shall be substituted for '95 percent' in section 142(a) of the 1986 Code.

''The aggregate face amount of bonds to which this paragraph applies shall not exceed $75,000,000.

''(6) A facility is described in this paragraph if—

''(A) such facility is a wastewater treatment facility for which site preparation commenced before September 1985, and

''(B) a parish council approved a service agreement with respect to such facility on December 4, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $120,000,000.

''(e) TREATMENT OF REDEVELOPMENT BONDS.—Any bond to which section 1317(6) of this Act applies shall be treated for purposes of this section as described in subsection (c)(1). The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code).

"SEC. 1316. PROVISIONS RELATING TO CERTAIN ESTABLISHED STATE PROGRAMS.

''(a) CERTAIN LOANS TO VETERANS FOR THE PURCHASE OF LAND.—

''(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code and as having a carryforward purpose described in section 146(f)(5) of such Code, but subsections (a), (b), (c), and (d) of section 147 of such Code shall not apply to such bond.

''(2) BOND DESCRIBED.—A bond is described in this paragraph if—

''(A) such bond is a private activity bond solely by reason of section 141(c) of such Code, 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 to carry out a program established under State law to provide loans to veterans for the purchase of land and which has been in effect in substantially the same form during the 30-year period ending on July 18, 1984, but only if such proceeds are used to make loans or to fund similar obligations—

''(i) in the same manner in which,

''(ii) in the same (or lesser) amount or multiple of acres per participant, and

''(iii) for the same purposes for which,

such program was operated on March 15, 1984.

''(b) RENEWABLE ENERGY PROPERTY.—

''(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code and as having a carryforward purpose described in section 146(f)(5) of such Code.

''(2) BOND DESCRIBED.—A bond is described in this paragraph if paragraph (1) of section 103(b) of the 1954 Code would not (without regard to the amendments made by this title) have applied to such bond by reason of section 243 of the Crude Oil Windfall Profit Tax Act of 1980 [section 243 of Pub. L. 96–223, set out as a note under section 103 of this title] if—

''(A) such section 243 were applied by substituting '95 percent or more of the net proceeds' for 'substantially all of the proceeds' in subsection (a)(1) thereof, and

''(B) subparagraph (E) of subsection (a)(1) thereof referred to section 149(b) of the 1986 Code.

''(c) CERTAIN STATE PROGRAMS.—

''(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code and as having a carryforward purpose described in section 146(f)(5) of such Code.

''(2) BOND DESCRIBED.—A bond is described in this paragraph if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to carry out a program established under sections 280A, 280B, and 280C of the Iowa Code, but only if—

''(A) such program has been in effect in substantially the same form since July 1, 1983, and

''(B) such proceeds are to be used to make loans or fund similar obligations for the same purposes as permitted under such program on July 1, 1986.

''(3) $100,000,000 LIMITATION.—The aggregate face amount of outstanding bonds to which this subsection applies shall not exceed $100,000,000.

''(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a maturity date not later than the date which is 20 years after the date on which the original bond was issued.

''(d) USE BY CERTAIN FEDERAL INSTRUMENTALITIES TREATED AS USE BY GOVERNMENTAL UNITS.—Use by an instrumentality of the United States shall be treated as use by a State or local governmental unit for purposes of section 103, and part IV of subchapter B of chapter 1, of the 1986 Code with respect to a program approved by Congress before August 3, 1972, but only if—

''(1) a portion of such program has been financed by bonds issued before such date, to which section 103(a) of the 1954 Code applied pursuant to a ruling issued by the Commissioner of the Internal Revenue Service, and

''(2) construction of 1 or more facilities comprising a part of such program commenced before such date.

''(e) REFUNDING PERMITTED OF CERTAIN BONDS INVESTED IN FEDERALLY INSURED DEPOSITS.—

''(1) IN GENERAL.—Section 149(b)(2)(B)(ii) of the 1986 Code (and section 103(h)(2)(B)(ii) of the 1954 Code) shall not apply to any bond issued to refund a bond—

''(A) which, when issued, would have been treated as federally guaranteed by reason of being described in clause (ii) of section 103(h)(2)(B) of the 1954 Code if such section had applied to such bond, and

''(B)(i) which was issued before April 15, 1983, or

''(ii) to which such clause did not apply by reason of the except clause in section 631(c)(2) of the Tax Reform Act of 1984 [section 631(c)(2) of Pub. L. 98–369, set out as a note under section 103 of this title].

Section 147(c) of the 1986 Code (and section 103(b)(16) of the 1954 Code) shall not apply to any refunding bond permitted under the preceding sentence if section 103(b)(16) of the 1954 Code did not apply to the refunded bond when issued.

''(2) REQUIREMENTS.—A refunding bond meets the requirements of this paragraph if—

''(A) the refunding bond has a maturity date not later than the maturity date of the refunded bond,

''(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond,

''(C) the weighted average interest rate on the refunding bond is lower than the weighted average interest rate on the refunded bond, and

''(D) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

''(f) CERTAIN HYDROELECTRIC GENERATING PROPERTY.—

''(1) IN GENERAL.—A bond described in paragraph (2) shall be treated as described in section 141(d)(1) of the 1986 Code and as having a carryforward purpose described in section 146(f)(5) of such Code.

''(2) DESCRIPTION.—A bond is described in this paragraph if such bond is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a facility described in section 103(b)(4)(H) of the 1954 Code determined—

''(A) by substituting 'an application for a license' for 'an application' in section 103(b)(8)(E)(ii) of the 1954 Code, and

''(B) by applying the requirements of section 142(b)(2) of the 1986 Code.

''(g) TREATMENT OF BONDS SUBJECT TO TRANSITIONAL RULES UNDER TAX REFORM ACT OF 1984.—

''(1) Subsections (d)(3) and (f) of section 148 of the 1986 Code shall not apply to any bond described in section 624(c)(2) of the Tax Reform Act of 1984 [section 624(c)(2) of Pub. L. 98–369, set out as a note under section 103 of this title].

''(2)(A) There shall not be taken into account under section 146 of the 1986 Code any bond issued to provide a facility described in paragraph (3) of section 631(a) of the Tax Reform Act of 1984 [section 631(a)(3) of Pub. L. 98–369, set out as a note under section 103 of this title] relating to exception for certain bonds for a convention center and resource recovery project.

''(B) If a bond issued as part of an issue substantially all of the proceeds of which are used to provide the convention center to which such paragraph (3) applies, such bond shall be treated as an exempt facility bond as defined in section 142(a) of the 1986 Code.

''(C) If a bond which is issued as part of an issue substantially all of the proceeds of which are used to provide the resource recovery project to which such paragraph (3) applies, such bond shall be treated as an exempt facility bond as defined in section 142(a) of the 1986 Code and section 149(b) of such Code shall not apply.

''(3) The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to bonds issued to finance any property described in section 631(d)(4) of the Tax Reform Act of 1984 [section 631(d)(4) of Pub. L. 98–369, set out as a note under section 103 of this title].

''(4) The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to—

''(A) any bond issued to finance property described in section 631(d)(5) of the Tax Reform Act of 1984 [section 631(d)(5) of Pub. L. 98–369, set out as a note under section 103 of this title],

''(B) any bond described in paragraph (2), (3), (4), (5), (6), or (7) of section 632(a), or section 632(b), of such Act [Pub. L. 98–369, div. A, title VI, § 632, July 18, 1984, 98 Stat. 937], and

''(C) any bond to which section 632(g)(2) of such Act applies.

In the case of bonds to which this paragraph applies, the requirements of sections 148 and 149(d) shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

''(5) The preceding provisions of this subsection shall not apply to any bond issued after December 31, 1988.

''(6) The amendments made by section 1301 [for classification see section 1311(a) of this note] (and the provisions of section 1314) shall not apply to any bond issued to finance property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982 [section 216(b)(3) of Pub. L. 97–248, set out as a note under section 168 of this title].

''(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984 [Pub. L. 98–369, div. A, title VI, § 632(d), July 18, 1984, 98 Stat. 938]—

''(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

''(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

''(C) section 149(b) of the 1986 Code shall not apply.

This paragraph shall not apply to any bond issued after December 31, 1990.

''(8)(A) The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to any bond to which section 629(a)(1) of the Tax Reform Act of 1984 [section 629(a)(1) of Pub. L. 98–369, set out as a note under section 103 of this title] applies, but such bond shall be treated as a private activity bond for purposes of section 146 of the 1986 Code and as having a carryforward purpose described in section 146(f)(5) of such Code.

''(B) Section 629 of the Tax Reform Act of 1984 [section 629 of Pub. L. 98–369, set out as a note under section 103 of this title] is amended—

''(i) in subsection (c)(2), by striking out '$625,000,000' and inserting in lieu thereof '$911,000,000',

''(ii) in subsection (c)(3), by adding at the end thereof the following new subparagraphs:

'''(D) Improvements to existing generating facilities.

'''(E) Transmission lines.

'''(F) Electric generating facilities.', and

''(iii) in subsection (a), by adding at the end thereof the following new sentence: 'The preceding sentence shall be applied by inserting ''and a rural electric cooperative utility'' after ''regulated public utility'' but only if not more than 1 percent of the load of the public power authority is sold to such rural electric cooperative utility.'

''(h) CERTAIN POLLUTION BONDS.—Any bond which is treated as described in section 103(b)(4)(F) of the 1954 Code by reason of section 13209 of the Consolidated Omnibus Budget Reconciliation Act of 1985 [Pub. L. 99–272, title XIII, § 13209, Apr. 7, 1986, 100 Stat. 322] shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code, and section 147(d) of the 1986 Code shall not apply to such bond.

''(i) TRANSITION RULE FOR AGGREGATE LIMIT PER TAXPAYER.—For purposes of section 144(a)(10) of the 1986 Code, tax increment bonds described in section 1869(c)(3) of this Act [set out as a note under section 103 of this title] which are issued before August 16, 1986, shall not be taken into account under subparagraph (B)(ii) thereof.

''(j) EXTENSION OF ADVANCE REFUNDING EXCEPTION FOR QUALIFIED PUBLIC FACILITY.—Paragraph (4) of section 631(c) of the Tax Reform Act of 1984 [section 631(c)(4) of Pub. L. 98–369, set out as a note under section 103 of this title] is amended—

''(1) by striking out 'or the Dade County, Florida, airport' in the last sentence, and

''(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting ''the date which is 1 year after the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988'' [Nov. 10, 1988] for ''December 31, 1984'' and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.'

''(k) EXPANSION OF EXCEPTION FOR RIVER PLACE PROJECT.—Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 [section 1104 of Pub. L. 96–499, formerly set out as a note under section 103A of this title], as added by the Tax Reform Act of 1984, is amended—

''(1) by striking out 'December 31, 1984,' in subsection (p) and inserting in lieu thereof 'December 31, 1984 (other than obligations described in subsection (r)(1)),', and

''(2) by striking out '$55,000,000,' in subsection (r)(1)(B) and inserting in lieu thereof '$110,000,000 of which no more than $55,000,000 shall be outstanding later than November 1, 1987'.

''SEC. 1317. TRANSITIONAL RULES FOR SPECIFIC FACILITIES.

''(1) DOCKS AND WHARVES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which

are to be used to provide any dock or wharf (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for a facility described in section 142(a)(2) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such dock or wharf is described in any of the following subparagraphs:

''(A) A dock or wharf is described in this subparagraph if—

''(i) the issue to finance such dock or wharf was approved by official city action on September 3, 1985, and by voters on November 5, 1985, and

''(ii) such dock or wharf is for a slack water harbor with respect to which a Corps of Engineers grant of approximately $2,000,000 has been made under section 107 of the Rivers and Harbors Act [33 U.S.C. 577].

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $2,500,000.

''(B) A dock or wharf is described in this subparagraph if—

''(i) inducement resolutions were adopted on May 23, 1985, September 18, 1985, and September 24, 1985, for the issuance of the bonds to finance such dock or wharf,

''(ii) a harbor dredging contract with respect thereto was entered into on August 2, 1985, and

''(iii) a construction management and joint venture agreement with respect thereto was entered into on October 1, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $625,000,000.

''(C) A facility is described in this subparagraph if—

''(i) the legislature first authorized on June 29, 1981, the State agency issuing the bond to issue at least $30,000,000 of bonds,

''(ii) the developer of the facility was selected on April 26, 1985, and

''(iii) an inducement resolution for the issuance of such issue was adopted on October 9, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(D) A facility is described in this subparagraph if—

''(i) an inducement resolution was adopted on October 17, 1985, for such issue, and

''(ii) the city council for the city in which the facility is to be located approved on July 30, 1985, an application for an urban development action grant with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $36,500,000. A facility shall be treated as described in this subparagraph if it would be so described if '90 percent' were substituted for '95 percent' in the material preceding subparagraph (A) of this paragraph.

''(2) POLLUTION CONTROL FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide air or water pollution control facilities (within the meaning of section 103(b)(4)(F) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if—

''(i) inducement resolutions with respect to such facility were adopted on September 23, 1974, and on April 5, 1985,

''(ii) a bond resolution for such facility was adopted on September 6, 1985, and

''(iii) the issuance of the bonds to finance such facility was delayed by action of the Securities and Exchange Commission (file number 70–7127).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $120,000,000.

''(B) A facility is described in this subparagraph if—

''(i) there was an inducement resolution for such facility on November 19, 1985, and

''(ii) design and engineering studies for such facility were completed in March of 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

''(C) A facility is described in this subparagraph if—

''(i) a resolution was adopted by the county board of supervisors pertaining to an issuance of bonds with respect to such facility on April 10, 1974, and

''(ii) such facility was placed in service on June 12, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000. For purposes of this subparagraph, a pollution control facility includes a sewage or solid waste disposal facility (within the meaning of section 103(b)(4)(E) of the 1954 Code).

''(D) A facility is described in this subparagraph if—

''(i) the issuance of the bonds for such facility was approved by a State agency on August 22, 1979, and

''(ii) the authority to issue such bonds was scheduled to expire (under terms of the State approval) on August 22, 1989.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $198,000,000.

''(E) A facility is described in this subparagraph if—

''(i) such facility is 1 of 4 such facilities in 4 States with respect to which the Ball Corporation transmitted a letter of intent to purchase such facilities on February 26, 1986, and

''(ii) inducement resolutions were issued on December 30, 1985, January 15, 1986, January 22, 1986, and March 17, 1986 with respect to bond issuance in the 4 respective States.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,000,000.

''(F) A facility is described in this subparagraph if—

''(i) inducement resolutions for bonds with respect to such facility were adopted on September 27, 1977, May 27, 1980, and October 8, 1981, and

''(ii) such facility is located at a geothermal power complex owned and operated by a single investor-owned utility.

For purposes of this subparagraph and section 103 of the 1986 Code, all hydrogen sulfide air and water pollution control equipment, together with functionally related and subordinate equipment and structures, located or to be located at such power complex shall be treated as a single pollution control facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $600,000,000.

''(G) A facility is described in this subparagraph if—

''(i) such facility is an air pollution control facility approved by a State bureau of pollution control on July 10, 1986, and by a State board of economic development on July 17, 1986, and

''(ii) on August 15, 1986, the State bond attorney gave notice to the clerk to initiate validation proceedings with respect to such issue and on August 28, 1986, the validation decree was entered.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $900,000.

''(I) A facility is described in this subparagraph if—

''(i) a private company met with a State air control board on November 14, 1985, to propose construction of a sulften unit, and

''(ii) the sulften unit is being constructed under a letter of intent to construct which was signed on April 8, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $11,000,000.

''(J) A facility is described in this subparagraph if it is part of a 250 megawatt coal-fired electric plant in northeastern Nevada on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(K) A facility is described in this subparagraph if—

''(i) there was an inducement resolution adopted by a State industrial development authority on January 14, 1976, and

''(ii) such facility is named in a resolution of such authority relating to carryforward of the State's

unused 1985 private activity bond limit passed by such industrial development authority on December 18, 1985.

This subparagraph shall apply only to obligations issued at the request of the party pursuant to whose request the January 14, 1976, inducement was given. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(L) A facility is described in this subparagraph if a city council passed an ordinance (ordinance number 4626) agreeing to issue bonds for such project, December 16, 1985. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $45,000,000.

''(3) SPORTS FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide sports facilities (within the meaning of section 103(b)(4)(B) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facilities are described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if it is a stadium—

''(i) which was the subject of a city ordinance passed on September 23, 1985,

''(ii) for which a loan of approximately $4,000,000 for land acquisition was approved on October 28, 1985, by the State Controlling Board, and

''(iii) a stadium operating corporation with respect to which was incorporated on March 20, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(B) A facility is described in this subparagraph if—

''(i) it is a stadium with respect to which a lease agreement for the ground on which the stadium is to be built was entered into between a county and the stadium corporation for such stadium on July 3, 1984,

''(ii) there was a resolution approved on November 14, 1984, by an industrial development authority setting forth the terms under which the bonds to be issued to finance such stadium would be issued, and

''(iii) there was an agreement for consultant and engineering services for such stadium entered into on September 28, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000.

''(C) A facility is described in this subparagraph if—

''(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

''(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84–1470 of the State in which such city is located (and by an agency created thereby), and

''(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph.

''(D) A facility is described in this subparagraph if—

''(i) such facility is a stadium or sports arena for Memphis, Tennessee,

''(ii) there was an inducement resolution adopted on November 12, 1985, for the issuance of bonds to expand or renovate an existing stadium and sports arena and/or to construct a new arena, and

''(iii) the city council for such city adopted a resolution on April 19, 1983, to include funds in the capital budget of the city for such facility or facilities.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

''(E) A facility is described in this subparagraph if such facility is a baseball stadium located in Bergen, Essex, Union, Middlesex, or Hudson County, New Jersey with respect to which governmental action occurred on November 7, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(F) A facility is described in this subparagraph if—

''(i) it is a facility with respect to which—

''(I) an inducement resolution dated December 24, 1985, was adopted by the county industrial development authority,

''(II) a public hearing of the county industrial development authority was held on February 6, 1986, regarding such facility, and

''(III) a contract was entered into by the county, dated February 19, 1986, for engineering services for a highway improvement in connection with such project, or

''(ii) it is a domed football stadium adjacent to Cervantes Convention Center in St. Louis, Missouri, with respect to which a proposal to evaluate market demand, financial operations, and economic impact was dated May 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $175,000,000.

''(G) A project to provide a roof or dome for an existing sports facility is described in this subparagraph if—

''(i) in December 1984 the county sports complex authority filed a carryforward election under section 103(n) of the 1954 Code with respect to such project,

''(ii) in January 1985, the State authorized issuance of $30,000,000 in bonds in the next 3 years for such project, and

''(iii) an 11-member task force was appointed by the county executive in June 1985, to further study the feasibility of the project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

''(H) A sports facility renovation or expansion project is described in this subparagraph if—

''(i) an amendment to the sports team's lease agreement for such facility was entered into on May 23, 1985, and

''(ii) the lease agreement had previously been amended in January 1976, on July 6, 1984, on April 1, 1985, and on May 7, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

''(I) A facility is described in this subparagraph if—

''(i) an appraisal for such facility was completed on March 6, 1985,

''(ii) an inducement resolution was adopted with respect to such facility on June 7, 1985, and

''(iii) a State bond commission granted preliminary approval for such project on September 3, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $3,200,000.

''(J) A sports facility renovation or expansion project is described in this subparagraph if—

''(i) such facility is a domed stadium which commenced operations in 1965,

''(ii) such facility has been the subject of an ongoing construction, expansion, or renovation program of planned improvements,

''(iii) part 1 of such improvements began in 1982 with a preliminary renovation program financed by tax-exempt bonds,

''(iv) part 2 of such program was previously scheduled for a bond election on February 25, 1986, pursuant to a Commissioners Court Order of November 5, 1985, and

''(v) the bond election for improvements to such facility was subsequently postponed on December 10, 1985, in order to provide for more comprehensive construction planning.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(K) A facility is described in this subparagraph if—

''(i) the 1985 State legislature appropriated a maximum sum of $22,500,000 to the State urban development corporation to be made available for such project, and

''(ii) a development and operation agreement was entered into among such corporation, the city, the State budget director, and the county industrial development agency, as of March 1, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $28,000,000.

''(L) A facility is described in this subparagraph if—

''(i) it is to consist of 1 or 2 stadiums appropriate for football games and baseball games with related structures and facilities,

''(ii) governmental action was taken on August 7, 1985, by the county commission, and on December 19, 1985, by the city council, concerning such facility, and

''(iii) such facility is located in a city having a National League baseball team.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(M) A facility is described in this subparagraph if—

''(i) such facility consists of 1 or 2 stadium projects (1 of which may be a stadium renovation or expansion project) with related structures and facilities,

''(ii) a special advisory commission commissioned a study by a national accounting firm with respect to a project for such facility, which study was released in September 1985, and recommended construction of either a new multipurpose or a new baseball-only stadium,

''(iii) a nationally recognized design and architectural firm released a feasibility study with respect to such project in April 1985, and

''(iv) the metropolitan area in which the facility is located is presently the home of an American League baseball team.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(N) A facility is described in this subparagraph if—

''(i) it is to consist of 1 or 2 stadiums appropriate for football games and baseball games with related structures and facilities,

''(ii) the site for such facility was approved by the council of the city in which such facility is to be located on July 9, 1985, and

''(iii) the request for proposals process was authorized by the council of the city in which such facility is to be located on November 5, 1985, and such requests were distributed to potential developers on November 15, 1985, with responses due by February 14, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000.

''(O) A facility is described in this subparagraph if—

''(i) such facility is described in a feasibility study dated September 1985, and

''(ii) resolutions were adopted or other actions taken on February 21, 1985, July 18, 1985, August 8, 1985, October 17, 1985, and November 7, 1985, by the Board of Supervisors of the county in which such facility will be located with respect to such feasibility study, appropriations to obtain land for such facility, and approving the location of such facility in the county.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

''(P) A facility is described in this subparagraph if such facility constructed on a site acquired with the sale of revenue bonds authorized by a city council on December 2, 1985, (Ordinances No. 669 and 670, series 1985). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000.

''(Q) A facility is described in this subparagraph if—

''(i) resolutions were adopted approving a ground lease dated June 27, 1983, by a sports authority (created by a State legislature) with respect to the land on which the facility will be erected,

''(ii) such facility is described in a market study dated June 13, 1983, and

''(iii) such facility was the subject of an Act of the State legislature which was signed on July 1, 1983.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $81,000,000.

''(R) A facility is described in this subparagraph if such facility is a baseball stadium and adjacent parking facilities with respect to which a city made a carryforward election of $52,514,000 on February 25, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

''(S) A facility is described in this subparagraph if—

''(i) such facility is to be used by both a National Hockey League team and a National Basketball Association team,

''(ii) such facility is to be constructed on a platform using air rights over land acquired by a State authority and identified as site B in a report dated May 30, 1984, prepared for a State urban development corporation, and

''(iii) such facility is eligible for real property tax (and power and energy) benefits pursuant to State legislation approved and effective as of July 7, 1982.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $225,000,000.

''(T) A facility is described in this subparagraph if—

''(i) a resolution authorizing the financing of the facility through an issuance of revenue bonds was adopted by the City Commission on August 5, 1986, and

''(ii) the metropolitan area in which the facility is to be located is currently the spring training home of an American league baseball team located during the regular season in a city described in subparagraph (C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(U) A facility is described in this subparagraph if it is a football stadium located in Oakland, California, with respect to which a design was completed by a nationally recognized architectural firm for a stadium seating approximately 72,000, to be located on property adjacent to an existing coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

''(V) A facility is described in this subparagraph if it is a sports arena (and related parking facility) for Grand Rapids, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000.

''(W) A facility is described in this subparagraph if such facility is located adjacent to the Anacostia River in the District of Columbia. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

''(X) A facility is described in this subparagraph if it is a spectator sports facility for the City of San Antonio, Texas. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $125,000,000.

''(Y) A facility is described in this subparagraph if it will be part of, or adjacent to, an existing stadium which has been owned and operated by a State university and if—

''(i) the stadium was the subject of a feasibility report by a certified public accounting firm which is dated December 28, 1984, and

''(ii) a report by an independent research organization was prepared in December 1985 demonstrating support among donors and season ticket holders for the addition of a dome to the stadium.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

''(Z) A facility is described in this subparagraph if—

''(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

''(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000.

''(4) RESIDENTIAL RENTAL PROPERTY.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance a residential rental project within the meaning of section 103(b)(4) of the 1954 Code shall be treated as an exempt facility bond within the meaning of section 142(a)(7) of the 1986 Code if the facility with respect to the bond is issued satisfies all low-income occupancy requirements applicable to such bonds before August 15, 1986, and the bonds are issued pursuant to—

''(A) a contract to purchase such property dated August 12, 1985;

''(B) the county housing authority approved the property and the financing thereof on September 24, 1985, and

''(C) there was an inducement resolution adopted on October 10, 1985, by the county industrial development authority.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $25,400,000.

''(5) AIRPORTS.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide an airport (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for facilities described in section 142(a)(1) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if the facility is described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if such facility is a hotel at an airport facility serving a city described in section 631(a)(3) of the Tax Reform Act of 1984 [section 631(a)(3) of Pub. L. 98–369, set out as a note under section 103 of this title] (relating to certain bonds for a convention center and resource recovery project). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

''(B) A facility is described in this subparagraph if such facility is the primary airport for a city described in paragraph (3)(C). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000,000. Section 148(d)(2) of the 1986 Code shall not apply to any issue to which this subparagraph applies. A facility shall be described in this subparagraph if it would be so described if '90 percent' were substituted for '95 percent' in the material preceding subparagraph (A).

''(C) A facility is described in this subparagraph if such facility is a hotel at Logan airport and such hotel is located on land leased from a State authority under a lease contemplating development of such hotel dated May 1, 1983, or under an amendment, renewal, or extension of such a lease. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

''(D) A facility is described in this subparagraph if such facility is the airport for the County of Sacramento, California. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(6) REDEVELOPMENT PROJECTS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance redevelopment activities as part of a project within a specific designated area shall be treated as a qualified redevelopment bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such project is described in any of the following subparagraphs:

''(A) A project is described in this subparagraph if it was the subject of a city ordinance numbered 82–115 and adopted on December 2, 1982, or numbered 9590 and adopted on April 6, 1983. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,000,000.

''(B) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (3)(C) which was designated as commercially blighted on November 14, 1975, by the city council and the redevelopment plan for which will be approved by the city council before January 31, 1987. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

''(C) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph (3)(C) which was designated as commercially blighted on March 28, 1979, by the city council and the redevelopment plan for which was approved by the city council on June 20, 1984. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

''(D) A project is described in this subparagraph if it is any one of three redevelopment projects in areas in a city described in paragraph (3)(C) designated as blighted by a city council before January 31, 1987 and with respect to which the redevelopment plan is approved by the city council before January 31, 1987. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

''(E) A project is described in this subparagraph if such project is for public improvements (including street reconstruction and improvement of underground utilities) for Great Falls, Montana, with respect to which engineering estimates are due on October 1, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $3,000,000.

''(F) A project is described in this subparagraph if—

''(i) such project is located in an area designated as blighted by the governing body of the city on February 15, 1983 (Resolution No. 4573), and

''(ii) such project is developed pursuant to a redevelopment plan adopted by the governing body of the city on March 1, 1983 (Ordinance No. 15073).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

''(G) A project is described in this subparagraph if—

''(i) such project is located in an area designated by the governing body of the city in 1983,

''(ii) such project is described in a letter dated August 8, 1985, from the developer's legal counsel to the development agency of the city, and

''(iii) such project consists primarily of retail facilities to be built by the developer named in a resolution of the governing body of the city on August 30, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(H) A project is described in this subparagraph if—

''(i) such project is a project for research and development facilities to be used primarily to benefit a State university and related hospital, with respect to which an urban renewal district was created by the city council effective October 11, 1985, and

''(ii) such project was announced by the university and the city in March 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

''(I) A project is described in this subparagraph if such project is a downtown redevelopment project with respect to which—

''(i) an urban development action grant was made, but only if such grant was preliminarily approved on November 3, 1983, and received final approval before June 1, 1984, and

''(ii) the issuer of bonds with respect to such facility adopted a resolution indicating the issuer's intent to adopt such redevelopment project on October 6, 1981, and the issuer adopted an ordinance adopting such redevelopment project on December 13, 1983.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(J) A project is described in this subparagraph if—

''(i) with respect to such project the city council adopted on December 16, 1985, an ordinance directing the urban renewal authority to study blight and produce an urban renewal plan,

''(ii) the blight survey was accepted and approved by the urban renewal authority on March 20, 1986, and

''(iii) the city planning board approved the urban renewal plan on May 7, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(K) A project is described in this subparagraph if—

''(i) the city redevelopment agency approved resolutions authorizing issuance of land acquisition and public improvements bonds with respect to such project on August 8, 1978,

''(ii) such resolutions were later amended in June 1979, and

''(iii) the State Supreme Court upheld a lower court decree validating the bonds on December 11, 1980.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $380,000,000.

''(L) A project is described in this subparagraph if it is a mixed use redevelopment project either—

''(i) in an area (known as the Near South Development Area) with respect to which the planning department of a city described in paragraph 3(C) promulgated a draft development plan dated March 1986, and which was the subject of public hearings held by a subcommittee of the plan commission of such city on May 28, 1986, and June 10, 1986, or

''(ii) in an area located within the boundaries of any 1 or more census tracts which are directly adjacent to a river whose course runs through such city.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(M) A project is described in this subparagraph if it is a redevelopment project for an area in a city described in paragraph 3(C) and such area—

''(i) was the subject of a report released in May 1986, prepared by the National Park Service, and

''(ii) was the subject of a report released January 1986, prepared by a task force appointed by the Mayor of such city.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(N) A project is described in this subparagraph if it is a city-university redevelopment project approved by a city ordinance No. 152–0–84 and the development plan for which was adopted on January 28, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $23,760,000.

''(O) A project is described in this subparagraph if—

''(i) an inducement resolution was passed on March 9, 1984, for issuance of bonds with respect to such project,

''(ii) such resolution was extended by resolutions passed on August 14, 1984, April 2, 1985, August 13, 1985, and July 8, 1986,

''(iii) an urban development action grant was preliminarily approved for part or all of such project on July 3, 1986, and

''(iv) the project is located in a district designated as the Peabody-Gayoso District.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $140,000,000.

''(P) A project is described in this subparagraph if the project is a 1-block area of a central business district containing a YMCA building with respect to which—

''(i) the city council adopted a resolution expressing an intent to issue bonds for the project on September 27, 1985,

''(ii) the city council approved project guidelines for the project on December 20, 1985, and

''(iii) the city council by resolution (adopted on July 30, 1986) directed completion of a development agreement.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $26,000,000.

''(Q) A project is described in this subparagraph if the project is a 2-block area of a central business district designated as blocks E and F with respect to which—

''(i) the city council adopted guidelines and criteria and authorized a request for development proposals on July 22, 1985,

''(ii) the city council adopted a resolution expressing an intent to issue bonds for the project on September 27, 1985, and

''(iii) the city issued requests for development proposals on March 28, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $47,000,000.

''(R) A project is described in this subparagraph if the project is an urban renewal project covering approximately 5.9 acres of land in the Shaw area of the northwest section of the District of Columbia and the 1st portion of such project was the subject of a District of Columbia public hearing on June 2, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(S) A project is described in this subparagraph if such project is a hotel, commercial, and residential project on the east bank of the Grand River in Grand Rapids, Michigan, with respect to which a developer was selected by the city in June 1985 and a planning agreement was executed in August 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $39,000,000.

''(T) A project is described in this subparagraph if such project is the Wurzburg Block Redevelopment Project in Grand Rapids, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(U) A project is described in this subparagraph if such project is consistent with an urban renewal plan adopted or ordered prepared before August 28, 1986, by the city council of the most populous city in a state which entered the Union on February 14, 1859. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $83,000,000.

''(V) A project is described in this subparagraph if such project is consistent with an urban renewal plan which was adopted (or ordered prepared) before August 13, 1985, by an appropriate jurisdiction of a state which entered the Union on February 14, 1859. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $135,000,000 and the limitation on the period during which bonds under this section may be issued shall not apply to such bonds.

''(W) A project is described in this subparagraph if such project is—

''(i) a part of the Kenosha Downtown Redevelopment project, and

''(ii) located in an area bounded—

''(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

''(II) on the north by 48th Street (extended),

''(III) on the west by the present Chicago & Northwestern Railroad tracks, and

''(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000.

''(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986.

''(Z) Any designated area with respect to which a project is described in any subparagraph of this paragraph shall be taken into account in applying section 144(c)(4)(C) of the 1986 Code in determining whether other areas (not so described) may be designated.

''(7) CONVENTION CENTERS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any convention or trade show facility (within the meaning of section 103(b)(4)(C) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if—

''(i) a feasibility consultant and a design consultant were hired on April 3, 1985, with respect to such facility, and

''(ii) a draft feasibility report with respect to such facility was presented on November 3, 1985, to the Mayor of the city in which such facility is to be located.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $190,000,000. For purposes of this subparagraph, not more than $20,000,000 of bonds issued to advance refund existing convention facility bonds sold on May 12, 1978, shall be treated as bonds described in this subparagraph and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated.

''(B) A facility is described in this subparagraph if—

''(i) an application for a State loan for such facility was approved by the city council on March 4, 1985, and

''(ii) the city council of the city in which such facility is to be located approved on March 25, 1985, an application for an urban development action grant.

The aggregate face amount of bonds which this subparagraph applies shall not exceed $10,000,000.

''(C) A facility is described in this subparagraph if—

''(i) on November 1, 1983, a convention development tax took effect and was dedicated to financing such facility,

''(ii) the State supreme court of the State in which the facility is to be located validated such tax on February 8, 1985, and

''(iii) an agreement was entered into on November 14, 1985, between the city and county in which such facility is to be located on the terms of the bonds to be issued with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $66,000,000.

''(D) A facility is described in this subparagraph if—

''(i) it is a convention, trade, or spectator facility,

''(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

''(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies.

''(E) A facility is described in this subparagraph if—

''(i) such facility is meeting rooms for a convention center, and

''(ii) resolutions and ordinances were adopted with respect to such meeting rooms on January 17, 1983, July 11, 1983, December 17, 1984, and September 23, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(F) A facility is described in this subparagraph if it is an international trade center which is part of the 125th Street redevelopment project in New York, New York. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $165,000,000.

''(G) A facility is described in this subparagraph if—

''(i) such facility is located in a city which was the subject of a convention center market analysis or study dated March 1983, and prepared by a nationally recognized accounting firm,

''(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and

''(iii) the size of such facility is not more than 200,000 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $70,000,000.

''(H) A facility is described in this subparagraph if an analysis of operations and recommendations of utilization of such facility was prepared by a certified public accounting firm pursuant to an engagement authorized on March 6, 1984, and presented on June 11, 1984, to officials of the city in which such facility is located. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(I) A facility is described in this subparagraph if—

''(i) voters approved a bond issue to finance the acquisition of the site for such facility on May 4, 1985,

''(ii) title of the property was transferred from the Illinois Center Gulf Railroad to the city on September 30, 1985, and

''(iii) a United States judge rendered a decision regarding the fair market value of the site of such facility on December 30, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $131,000,000.

''(J) A facility is described in this subparagraph if—

''(i) such facility is to be used for an annual aquafestival,

''(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and

''(iii) the city council passed an inducement resolution on June 19, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(K) A facility is described in this subparagraph if—

''(i) voters approved a bond issued to finance a portion of the cost of such facility on December 1, 1984, and

''(ii) such facility was the subject of a market study and financial projections dated March 21, 1986, prepared by a nationally recognized accounting firm.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

''(L) A facility is described in this subparagraph if—

''(i) on July 12, 1984, the city council passed a resolution increasing the local hotel and motel tax to 7 percent to assist in paying for such facility,

''(ii) on October 25, 1984, the city council selected a consulting firm for such facility, and

''(iii) with respect to such facility, the city council appropriated funds for additional work on February 7, 1985, October 3, 1985, and June 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $120,000,000.

''(M) A facility is described in this subparagraph if—

''(i) a board of county commissioners, in an action dated January 21, 1986, supported an application for official approval of the facility, and

''(ii) the State economic development commission adopted a resolution dated February 25, 1986, determining the facility to be an eligible facility pursuant to State law and the rules adopted by the commission.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,500,000.

''(8) SPORTS OR CONVENTION FACILITIES.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide either a sports facility (within the meaning of section 103(b)(4)(B) of the 1954 Code) or a convention facility (within the meaning of section 103(b)(4)(C) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

''(A) A combined convention and arena facility, or any part thereof (whether on the same or different sites), is described in this subparagraph if—

''(i) bonds for the expansion, acquisition, or construction of such combined facility are payable from a tax and are issued under a plan initially approved by the voters of the taxing authority on April 25, 1978, and

''(ii) such bonds were authorized for expanding a convention center, for acquiring an arena site, and for building an arena or any of the foregoing pursuant to a resolution adopted by the governing body of the bond issuer on March 17, 1986, and superseded by a resolution adopted by such governing body on May 27, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $160,000,000.

''(B) A sports or convention facility is described in this subparagraph if—

''(i) on March 4, 1986, county commissioners held public hearings on creation of a county convention facilities authority, and

''(ii) on March 7, 1986, the county commissioners voted to create a county convention facilities authority and to submit to county voters a ½ cent sales and use tax to finance such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(C) A sports or convention facility is described in this subparagraph if—

''(i) a feasibility consultant and a design consultant were hired prior to October 1980 with respect to such facility,

''(ii) a feasibility report dated October 1980 with respect to such facility was presented to a city or county in which such facility is to be located, and

''(iii) on September 7, 1982, a joint city/county resolution appointed a committee which was charged with the task of independently reviewing the studies and present need for the facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(D) A sports or convention facility is described in this subparagraph if—

''(i) such facility is a multipurpose coliseum facility for which, before January 1, 1985, a city, an auditorium district created by the State legislature within which such facility will be located, and a limited partnership executed an enforceable contract,

''(ii) significant governmental action regarding such facility was taken before May 23, 1983, and

''(iii) inducement resolutions were passed for issuance of bonds with respect to such facility on May 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

''(9) PARKING FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a parking facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if—

''(i) there was an inducement resolution on March 9, 1984, for the issuance of bonds with respect to such facility, and

''(ii) such resolution was extended by resolutions passed on August 14, 1984, April 2, 1985, August 13, 1985, and July 8, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

''(B) A facility is described in this subparagraph if—

''(i) such facility is for a university medical school,

''(ii) the last parcel of land necessary for such facility was purchased on February 4, 1985, and

''(iii) the amount of bonds to be issued with respect to such facility was increased by the State legislature of the State in which the facility is to be located as part of its 1983–1984 general appropriations act.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,000,000.

''(C) A facility is described in this subparagraph if—

''(i) the development agreement with respect to the project of which such facility is a part was entered into during May 1984, and

''(ii) an inducement resolution was passed on October 9, 1985, for the issuance of bonds with respect to the facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

''(D) A facility is described in this subparagraph if the city council approved a resolution of intent to issue tax-exempt bonds (Resolution 34083) for such facility on April 30, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000. Solely for purposes of this subparagraph, a heliport constructed as part of such facility shall be deemed to be functionally related and subordinate to such facility.

''(E) A facility is described in this subparagraph if—

''(i) resolutions were adopted by a public joint powers authority relating to such facility on March 6, 1985, May 1, 1985, October 2, 1985, December 4, 1985, and February 5, 1986; and

''(ii) such facility is to be located at an exposition park which includes a coliseum and sports arena.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(F) A facility is described in this subparagraph if—

''(i) it is to be constructed as part of an overall development that is the subject of a development agreement dated October 1, 1983, between a developer and an organization described in section 501(c)(3) of the 1986 Code, and

''(ii) an environmental notification form with respect to the overall development was filed with a State environmental agency on February 28, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(G) A facility is described in this subparagraph if—

''(i) an inducement resolution was passed by the city redevelopment agency on December 3, 1984, and a resolution to carryforward the private activity bond limit was passed by such agency on December 21, 1984, with respect to such facility, and

''(ii) the owner participation agreement with respect to such facility was entered into on July 30, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $18,000,000.

''(H) A facility is described in this subparagraph if—

''(i) an application (dated August 28, 1986) for financial assistance was submitted to the county industrial development agency with respect to such facility, and

''(ii) the inducement resolution for such facility was passed by the industrial development agency on September 10, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

''(I) A facility is described in this subparagraph if—

''(i) it is located in a city the parking needs of which were comprehensively described in a 'Downtown Parking Plan' dated January 1983, and approved by the city's City Plan Commission on June 1, 1983, and

''(ii) obligations with respect to the construction of which are issued on behalf of a State or local governmental unit by a corporation empowered to issue the same which was created by the legislative body of a State by an Act introduced on May 21, 1985, and thereafter passed, which Act became effective without the governor's signature on June 26, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $50,000,000.

''(J) A facility is described in this subparagraph if—

''(i) such facility is located in a city which was the subject of a convention center market analysis or study dated March 1983 and prepared by a nationally recognized accounting firm,

''(ii) such facility is intended for use by, among others, persons attending a convention center located within the same town or city, and

''(iii) such facility's location was approved in December 1985 by a task force created jointly by the governor of the State within which such facility will be located and the mayor of the capital city of such State.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $30,000,000.

''(K) A facility is described in this subparagraph if—

''(i) scale and components for the facility were determined by a city downtown plan adopted October 31, 1984 (resolution number 3882), and

''(ii) the site area for the facility is approximately 51,200 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

''(L) A facility is described in this subparagraph if—

''(i) the property for such facility was offered for development by a city renewal agency on March 19, 1986 (resolution number 920), and

''(ii) the site area for the facility is approximately 25,600 square feet.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

''(M) A facility is described in this subparagraph if such facility was approved by official action of the city council on July 26, 1984 (resolution number 33718), and is for the Moyer Theatre. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

''(N) A facility is described in this subparagraph if it is part of a renovation project involving the Outlet Company building in Providence, Rhode Island. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $6,000,000.

''(10) CERTAIN ADVANCE REFUNDINGS.—

''(A) Section 149(d)(3) of the 1986 Code shall not apply to a bond issued by a State admitted to the Union on November 16, 1907, for the advance refunding of not more than $186,000,000 State turnpike obligations.

''(B) A refunding of the Charleston, West Virginia Town Center Garage Bonds shall not be treated for purposes of part IV of subchapter A of chapter 1 of the 1986 Code as an advance refunding if it would not be so treated if '100' were substituted for '90' in section 149(d)(5) of such Code.

''(11) PRINCIPAL USER PROVISIONS.—

''(A) In the case of a bond issued as part of an issue the proceeds of which are to be used to provide a facility described in subparagraph (B) or (C), the determination of whether such bond is an exempt facility bond shall be made by substituting '90 percent' for '95 percent' in section 142(a) of the 1986 Code.

''(B) A facility is described in this subparagraph if—

''(i) it is a waste-to-energy project for which a contract for the sale of electricity was executed in September 1984, and

''(ii) the design, construction, and operation contract for such project was signed in March 1985 and the order to begin construction was issued on March 31, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $29,100,000.

''(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act [set out as a note under section 103 of this title].

''(12) QUALIFIED SCHOLARSHIP FUNDING BONDS.—Subsections (d)(3) and (f) of section 148 of the 1986 Code shall not apply to any bond or series of bonds the proceeds of which are used exclusively to refund qualified scholarship funding bonds (as defined in section 150 of the 1986 Code) issued before January 1, 1986, if—

''(A) the amount of the refunding bonds does not exceed the aggregate face amount of the refunded bonds,

''(B) the maturity date of such refunding bond is not later than later of—

''(i) the maturity date of the bond to be refunded, or

''(ii) the date which is 15 years after the date on which the refunded bond was issued (or, in the case of a series of refundings, the date on which the original bond was issued),

''(C) the bonds to be refunded were issued by the California Student Loan Finance Corporation, and

''(D) the face amount of the refunding bonds does not exceed $175,000,000.

''(13) RESIDENTIAL RENTAL PROPERTY PROJECTS.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a project for residential rental property which satisfies the requirements of section 103(b)(4)(A) of the 1954 Code shall be treated as an exempt facility bond (for projects described in section 142(a)(7) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if the project is described in any of the following subparagraphs:

''(A) A residential rental property project is described in this subparagraph if—

''(i) a public building development corporation was formed on June 6, 1984, with respect to such project,

''(ii) a partnership of which the corporation is a general partner was formed on June 8, 1984, and

''(iii) the partnership entered into a preliminary agreement with the State public facilities authority effective as of May 4, 1984, with respect to the issuance of the bonds for such project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,200,000.

''(B) A residential rental property project is described in this subparagraph if—

''(i) the Board of Commissioners of the city housing authority officially selected such project's developer on December 19, 1985,

''(ii) the Board of the City Redevelopment Commission agreed on February 13, 1986, to conduct a public hearing with respect to the project on March 6, 1986,

''(iii) an official action resolution for such project was adopted on March 6, 1986, and

''(iv) an allocation of a portion of the State ceiling was made with respect to such project on July 29, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(C) A residential rental property project is described in this subparagraph if—

''(i) the issuance of $1,289,882 of bonds for such project was approved by a State agency on September 11, 1985, and

''(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on September 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,300,000.

''(D) A residential rental property project is described in this subparagraph if—

''(i) the issuance of $7,020,000 of bonds for such project was approved by a State agency on October 10, 1985, and

''(ii) the authority to issue such bonds was scheduled to expire (under the terms of the State approval) on October 9, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,020,000.

''(E) A residential rental property project is described in this subparagraph if—

''(i) it is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

''(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

''(iii) an inducement resolution was adopted for such project on December 14, 1984, and

''(iv) the city council approved on November 6, 1985, an agreement which provides for conveyance to the city of fee title to such project site.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(F) A residential rental property project is described in this subparagraph if—

''(i) such project is to be located in a city urban renewal project area which was established pursuant to an urban renewal plan adopted by the city council on May 17, 1960,

''(ii) the urban renewal plan was revised in 1972 to permit multifamily dwellings in areas of the urban renewal project designated as a central business district,

''(iii) the amended urban renewal plan adopted by the city council on May 19, 1972, also provides for the conversion of any public area site in Block J of the urban renewal project area for the development of residential facilities, and

''(iv) acquisition of all of the parcels comprising the Block J project site was completed by the city on December 28, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $60,000,000.

''(G) A residential rental property project is described in this subparagraph if—

''(i) such project is to be located on a city-owned site which is to become available for residential development upon the relocation of a bus maintenance facility,

''(ii) preliminary design studies for such project site were completed in December 1985, and

''(iii) such project is located in the same State as the projects described in subparagraphs (E) and (F).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

''(H) A residential rental property project is described in this subparagraph if—

''(i) at least 20 percent of the residential units in such project are to be utilized to fulfill the requirements of a unilateral agreement date July 21, 1983, relating to the provision of low- and moderate-income housing,

''(ii) the unilateral agreement was incorporated into ordinance numbers 83–49 and 83–50, adopted by the city council and approved by the mayor on August 24, 1983, and

''(iii) an inducement resolution was adopted for such project on September 25, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $8,000,000.

''(I) A residential rental property project is described in this subparagraph if—

''(i) a letter of understanding was entered into on December 11, 1985, between the city and county housing and community development office and the project developer regarding the conveyance of land for such project, and

''(ii) such project is located in the same State as the projects described in subparagraphs (E), (F), (G), and (H).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed an amount which, together with the amounts allowed under subparagraphs (E), (F), (G), and (H), does not exceed $250,000,000.

''(J) A residential rental property project is described in this subparagraph if it is a multifamily residential development located in Arrowhead Springs, within the county of San Bernardino, California, and a portion of the site of which currently is owned by the Campus Crusade for Christ. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $350,000,000.

''(K) A residential rental property project is described in this subparagraph if—

''(i) it is a new residential development with approximately 309 dwelling units located in census tract No. 3202, and

''(ii) there was an inducement ordinance for such project adopted by a city council on November 20, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $32,000,000.

''(L) A residential rental property project is described in this subparagraph if—

''(i) it is a new residential development with approximately 70 dwelling units located in census tract No. 3901, and

''(ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $4,000,000.

''(M) A residential rental property project is described in this subparagraph if—

''(i) it is a new residential development with approximately 98 dwelling units located in census tract No. 4701, and

''(ii) there was an inducement ordinance for such project adopted by a city council on August 14, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,000,000.

''(N) A project or projects are described in this subparagraph if they are part of the Willow Road residential improvement plan in Menlo Park, California. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $9,000,000.

''(O) A residential rental property project is described in this subparagraph if—

''(i) an inducement resolution for such project was approved on July 18, 1985, by the city council,

''(ii) such project was approved by such council on August 11, 1986, and

''(iii) such project consists of approximately 22 duplexes to be used for housing qualified low and moderate income tenants.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,500,000.

''(P) A residential rental property project is described in this subparagraph if—

''(i) an inducement resolution for such project was approved on April 22, 1986, by the city council,

''(ii) such project was approved by such council on August 11, 1986, and

''(iii) such project consists of a unit apartment complex (having approximately 60 units) to be used for housing qualified low and moderate income tenants.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,625,000.

''(Q) A residential rental property project is described in this subparagraph if—

''(i) a State housing authority granted a notice of official action for the project on May 24, 1985, and

''(ii) a binding agreement was executed for such project with the State housing finance authority on May 14, 1986, and such agreement was accepted by the State housing authority on June 5, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $7,800,000.

''(R) A residential rental property project is described in this subparagraph if such project is either of 2 projects (located in St. Louis, Missouri) which received commitments to provide construction and permanent financing through the issuance of bonds in principal amounts of up to $242,130 and $654,045, on July 16, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $1,000,000.

''(S) A residential rental property project is described in this subparagraph if—

''(i) a local housing authority approved an inducement resolution for such project on January 28, 1985, and

''(ii) a suit relating to such project was dismissed without right of further appeal on April 4, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $13,200,000.

''(T) A residential rental property project is described in this subparagraph if—

''(i) such project is the renovation of a hotel for residents for senior citizens,

''(ii) an inducement resolution for such project was adopted on November 20, 1985, by the State Development Finance Authority, and

''(iii) such project is to be located in the metropolitan area of the city described in paragraph (3)(C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $9,500,000.

''(U) A residential rental property project is described in this subparagraph if—

''(i) such project is the renovation of apartment housing,

''(ii) an inducement resolution for such project was adopted on December 20, 1985, by the State Housing Development Authority, and

''(iii) such project is to be located in the metropolitan area of the city described in paragraph (3)(C).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $12,000,000.

''(V) A residential rental project is described in this subparagraph if it is a renovation and construction project for low-income housing in central Louisville, Kentucky, and local board approval for such project was granted April 22, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000.

''(W) A residential rental project is described in this subparagraph if—

''(i) such project is 1 of 6 residential rental projects having in the aggregate approximately 1,010 units,

''(ii) inducement resolutions for such projects were adopted by the county residential finance authority on November 21, 1985, and

''(iii) a public hearing of the county residential finance authority was held by such authority on December 19, 1985, regarding such projects to be constructed by an in-commonwealth developer.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $62,000,000.

''(X) A residential rental project is described in this subparagraph if—

''(i) an inducement resolution with respect to such project was adopted by the State housing development authority on January 25, 1985, and

''(ii) the issuance of bonds for such project was the subject of a law suit filed on October 25, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $64,000,000.

''(Y) A project or projects are described in this subparagraph if they are financed with bonds issued by the Tulare, California, County Housing Authority. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,000,000.

''(Z) A residential rental project is described in this subparagraph if such project is a multifamily mixed-use housing project located in a city described in paragraph (3)(C), the zoning for which was changed to residential-business planned development on November 26, 1985, and with respect to which both the city on December 4, 1985, and the state housing finance agency on December 20, 1985, adopted inducement resolutions. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $90,000,000.

''(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(BB) A residential rental property project is described in this subparagraph if—

''(i) a contract to purchase such property was dated as of August 9, 1985,

''(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

''(iii) there was a State court final validation of such financing on November 15, 1985, and

''(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000.

''(14) QUALIFIED STUDENT LOANS.—The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to any qualified student loan bonds (as defined in section 144 of the 1986 Code) issued by the Volunteer State Student Assistance Corporation incorporated on February 20, 1985. The aggregate face amount of bonds to which this paragraph applies shall not exceed $130,000,000. In the case of bonds to which this paragraph applies, the requirements of sections 148 and 149(d) of the 1986 Code shall be treated as included in section 103 of the 1954 Code and shall apply to such bonds.

''(15) ANNUITY CONTRACTS.—The treatment of annuity contracts as investment property under section 148(b)(2) of the 1986 Code shall not apply to any bond described in any of the following subparagraphs:

''(A) A bond is described in this subparagraph if such bond is issued by a city located in a noncontiguous State if—

''(i) the authority to acquire such a contract was approved on September 24, 1985, by city ordinance A085–176, and

''(ii) formal bid requests for such contracts were mailed to insurance companies on September 6, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $57,000,000.

''(B) A bond is described in this subparagraph if—

''(i) on or before May 12, 1985, the governing board of the city pension fund authorized an agreement with an underwriter to provide planning and financial guidance for a possible bond issue, and

''(ii) the proceeds of the sale of such bond issue are to be used to purchase an annuity to fund the unfunded liability of the City of Berkeley, California's Safety Members Pension Fund.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $40,000,000.

''(C) A bond is described in this subparagraph if such bond is issued by the South Dakota Building Authority if on September 18, 1985, representatives of such authority and its underwriters met with bond counsel and approved financing the purchase of an annuity contract through the sale and leaseback of State properties. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $175,000,000.

''(D) A bond is described in this subparagraph if—

''(i) such bond is issued by Los Angeles County, and

''(ii) such county, before September 25, 1985, paid or incurred at least $50,000 of costs related to the issuance of such bonds.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $500,000,000.

''(16) SOLID WASTE DISPOSAL FACILITY.—The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to any solid waste disposal facility if—

''(A) construction of such facility was approved by State law I.C. 36–9–31,

''(B) there was an inducement resolution on November 19, 1984, for the bonds with respect to such facility, and

''(C) a carryforward election of unused 1984 volume cap was made for such project on February 25, 1985.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $120,000,000.

''(17) REFUNDING OF BOND ANTICIPATION NOTES.—There shall not be taken into account under section 146 of the 1986 Code any refunding of bond anticipation notes—

''(A) issued in December of 1984 by the Rhode Island Housing and Mortgage Finance Corporation,

''(B) which mature in December of 1986,

''(C) which is not an advance refunding within the meaning of section 149(d)(5) of the 1986 Code (determined by substituting '180 days' for '90 days' therein), and

''(D) the aggregate face amount of the refunding bonds does not exceed $25,500,000.

''(18) CERTAIN AIRPORTS.—The amendments made by section 1301 [for classification see section 1311(a) of this note] shall not apply to a bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any airport (within the meaning of section 103(b)(4)(D) of the 1954 Code) if such airport is a mid-field airport terminal and accompanying facilities at a major air carrier airport which during April 1980 opened a new precision instrument approach runway 10R28L. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $425,000,000.

''(19) MASS COMMUTING FACILITIES.—A bond issued as a part of an issue 95 percent or more of the net proceeds of which are to be used to provide a mass commuting facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond (for facilities described in section 142(a)(3) of the 1986 Code) for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is described in 1 of the following subparagraphs:

''(A) A facility is described in this subparagraph if—

''(i) such facility provides access to an international airport,

''(ii) a corporation was formed in connection with such project in September 1984,

''(iii) the Board of Directors of such corporation authorized the hiring of various firms to conduct a feasibility study with respect to such project in April 1985, and

''(iv) such feasibility study was completed in November 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(B) A facility is described in this subparagraph if—

''(i) enabling legislation with respect to such project was approved by the State legislature in 1979,

''(ii) a 1-percent local sales tax assessment to be dedicated to the financing of such project was approved by the voters on August 13, 1983, and

''(iii) a capital fund with respect to such project was established upon the issuance of $90,000,000 of notes on October 22, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000 and such bonds must be issued before January 1, 1996.

''(C) A facility is described in this subparagraph if—

''(i) bonds issued therefor are issued by or on behalf of an authority organized in 1979 pursuant to enabling legislation originally enacted by the State legislature in 1973, and

''(ii) such facility is part of a system connector described in a resolution adopted by the board of directors of the authority on March 27, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $400,000,000. Notwithstanding the last paragraph of this subsection, this subparagraph shall apply to bonds issued before January 1, 1996.

''(D) A facility is described in this subparagraph if—

''(i) the facility is a fixed guideway project,

''(ii) enabling legislation with respect to the issuing authority was approved by the State legislature in May 1973,

''(iii) on October 28, 1985, a board issued a request for consultants to conduct a feasibility study on mass transit corridor analysis in connection with the facility, and

''(iv) on May 12, 1986, a board approved a further binding contract for expenditures of approximately $1,494,963, to be expended on a facility study.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. Notwithstanding the last paragraph of this subsection, this subparagraph shall apply to bonds issued before January 1, 1996.

''(20) PRIVATE COLLEGES.—Subsections (c)(2) and (f) of section 148 of the 1986 Code shall not apply to any bond which is issued as part of an issue if such bond—

''(A) is issued by a political subdivision pursuant to home rule and interlocal cooperation powers conferred by the constitution and laws of a State to provide funds to finance the costs of the purchase and construction of educational facilities for private colleges and universities, and

''(B) was the subject of a resolution of official action by such political subdivision (Resolution No. 86–1039) adopted by the governing body of such political subdivision on March 18, 1986.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $100,000,000.

''(21) POOLED FINANCING PROGRAMS.—

''(A) Section 147(b) of the 1986 Code shall not apply to any hospital pooled financing program with respect to which—

''(i) a formal presentation was made to a city hospital facilities authority on January 14, 1986, and

''(ii) such authority passed a resolution approving the bond issue in principle on February 5, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $95,000,000.

''(B) Subsections (c)(2) and (f) of section 148 of the 1986 Code shall not apply to bonds for which closing occurred on July 16, 1986, and for which a State municipal league served as administrator for use in a State described in section 103A(g)(5)(C) of the Internal Revenue Code of 1954. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $585,000,000.

''(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 [section 626(b) of Pub. L. 98–369, set out as a note under section 103 of this title] is amended by adding at the end thereof the following new paragraph:

'' '(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

'' '(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

'' '(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

'' '(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.'

''(23) MASS COMMUTING AND PARKING FACILITIES.—A bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide any mass commuting facility or parking facility (within the meaning of section 103(b)(4)(D) of the 1954 Code) shall be treated as an exempt facility bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if such facility is provided in connection with the rehabilitation, renovation, or other improvement to an existing railroad station owned on the date of the enactment of this Act [Oct. 22, 1986] by the National Railroad Passenger Corporation in the Northeast Corridor and which was placed in partial service in 1934 and was placed in the National Register of Historic Places in 1978. The aggregate face amount of bonds to which this paragraph applies shall not exceed $30,000,000.

''(24) TAX-EXEMPT STATUS OF BONDS OF CERTAIN EDUCATIONAL ORGANIZATIONS.—

''(A) IN GENERAL.—For purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code, a qualified educational organization shall be treated as a governmental unit, but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business (determined by applying section 513(a) of such Code to such organization). The last paragraph of this section shall not apply to the treatment under the preceding sentence.

''(B) QUALIFIED EDUCATIONAL ORGANIZATION.—For purposes of subparagraph (A), the term 'qualified educational organization' means a college or university—

''(i) which was reincorporated and renewed with perpetual existence as a corporation by specific act of the legislature of the State within which such college or university is located on March 19, 1913, or

''(ii) which—

''(I) was initially incorporated or created on February 28, 1787, on April 29, 1854, or on May 14, 1888, and

''(II) as an instrumentality of the State, serves as a 'State-related' university by a specific act of the legislature of the State within which such college or university is located.

''(25) TAX-EXEMPT STATUS OF BONDS OF CERTAIN PUBLIC UTILITIES.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a bond shall be treated as a qualified bond for purposes of section 103 of the 1986 Code if such bond is issued after the date of the enactment of this Act [Oct. 22, 1986] with respect to a public utility facility if such facility is—

''(i) located at any non-federally owned dam (or on project waters or adjacent lands) located wholly or partially in 1 or more of 3 counties, 2 of which are contiguous to the third, where the rated capacity of the hydroelectric generating facilities at 5 of such dams on October 18, 1979, was more than 650 megawatts each,

''(ii) located at a dam (or on the project waters or adjacent lands) at which hydroelectric generating facilities were financed with the proceeds of tax-exempt obligations before December 31, 1968,

''(iii) owned and operated by a State, political subdivision of a State, or any agency or instrumentality of any of the foregoing, and

''(iv) located at a dam (or on project waters or adjacent lands) where the general public has access for recreational purposes to such dam or to such project waters or adjacent lands.

''(B) SPECIAL RULES FOR SUBPARAGRAPH (A).—

''(i) BONDS SUBJECT TO CAP.—Section 146 of the 1986 Code shall apply to any bond described in subparagraph (A) which (without regard to subparagraph (A)) is a private activity bond. For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

''(ii) LIMITATION ON AMOUNT OF BONDS TO WHICH SUBPARAGRAPH (A) APPLIES.—The aggregate face amount of bonds to which subparagraph (A) applies shall not exceed $750,000,000, not more than $350,000,000 of which may be issued before January 1, 1992.

''(iii) LIMITATION ON PURPOSES.—Subparagraph (A) shall only apply to bonds issued as part of an issue 95 percent or more of the net proceeds of which are used to provide 1 or more of the following:

''(I) A fish by-pass facility or fisheries enhancement facility.

''(II) A recreational facility or other improvement which is required by Federal licensing terms and conditions or other Federal, State, or local law requirements.

''(III) A project of repair, maintenance, renewal, or replacement, and safety improvement.

''(IV) Any reconstruction, replacement, or improvement, including any safety improvement, which increases, or allows an increase in, the capacity, efficiency, or productivity of the existing generating equipment.

''(26) CONVENTION AND PARKING FACILITIES.—A bond shall not be treated as a private activity bond for purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code if—

''(A) such bond is issued to provide a sports or convention facility described in section 103(b)(4)(B) or (C) of the 1954 Code,

''(B) such bond is not described in section 103(b)(2) or (*o*)(2)(A) of such Code,

''(C) legislation by a State legislature in connection with such facility was enacted on July 19, 1985, and was designated Chapter 375 of the Laws of 1985, and

''(D) legislation by a State legislature in connection with the appropriation of funds to a State public benefit corporation for loans in connection with the construction of such facility was enacted on April 17, 1985, and was designated Chapter 41 of the Laws of 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $35,000,000.

''(27) SMALL ISSUE TERMINATION.—Section 144(a)(12) of the 1986 Code shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide a facility described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if—

''(i) the facility is a hotel and office facility located in a State capital,

''(ii) the economic development corporation of the city in which the facility is located adopted an initial inducement resolution on October 30, 1985, and

''(iii) a feasibility consultant was retained on February 21, 1986, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

''(B) A facility is described in this subparagraph if such facility is financed by bonds issued by a State finance authority which was created in April 1985 by Act 1062 of the State General Assembly, and the Bond Guarantee Act (Act 505 of 1985) allowed such authority to pledge the interest from investment of the State's general fund as a guarantee for bonds issued by such authority. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $75,000,000.

''(C) A facility is described in this subparagraph if such facility is a downtown mall and parking project for Holland, Michigan, with respect to which an initial agreement was formulated with the city in May

1985 and a formal memorandum of understanding was executed on July 2, 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $18,200,000.

''(D) A facility is described in this subparagraph if such facility is a downtown mall and parking ramp project for Traverse City, Michigan, with respect to which a final development agreement was signed in June 1986. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $21,500,000.

''(E) A facility is described in this subparagraph if such facility is the rehabilitation of the Heritage Hotel in Marquette, Michigan. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $5,000,000.

''(F) A facility is described in this subparagraph if it is the Lakeland Center Hotel in Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $10,000,000.

''(G) A facility is described in this subparagraph if it is the Marble Arcade office building renovation project in Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $5,900,000.

''(H) A facility is described in this subparagraph if it is a medical office building in Bradenton, Florida, with respect to which—

''(i) a memorandum of agreement was entered into on October 17, 1985, and

''(ii) the city council held a public hearing and approved issuance of the bonds on November 13, 1985.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $8,500,000.

''(I) A facility is described in this subparagraph if it consists of the rehabilitation of the Andover Town Hall in Andover, Massachusetts. The provisions of section 149(b) of the 1986 Code (relating to federally guaranteed obligations) shall not apply to obligations to finance such project solely as a result of the occupation of a portion of such building by a United States Post Office. For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government.

''(J) A facility is described in this subparagraph if it is the Central Bank Building renovation project in Grand Rapids, Michigan. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $1,000,000.

''(28) CERTAIN PRIVATE LOANS NOT TAKEN INTO ACCOUNT.—For purposes of determining whether any bond is a private activity bond, an amount of loans (but not in excess of $75,000,000) provided from the proceeds of 1 or more issues shall not be taken into account if such loans are provided in furtherance of—

''(A) a city Emergency Conservation Plan as set forth in an ordinance adopted by the city council of such city on February 17, 1983, or

''(B) a resolution adopted by the city council of such city on March 10, 1983, committing such city to a goal of reducing the peak load of such city's electric generation and distribution system by 553 megawatts in 15 years.

''(29) CERTAIN PRIVATE BUSINESS USE NOT TAKEN INTO ACCOUNT.—

''(A) The nonqualified amount of the proceeds of an issue shall not be taken into account under section 141(b)(5) of the 1986 Code or in determining whether a bond described in subparagraph (B) (which is part of such issue) is a private activity bond for purposes of section 103 and part IV of subchapter B of chapter 1 of the 1986 Code.

''(B) A bond is described in this subparagraph if—

''(i) such bond is issued before January 1, 1993, by the State of Connecticut, and

''(ii) such bond is issued pursuant to a resolution of the State Bond Commission adopted before September 26, 1985.

''(C) The nonqualified amount to which this paragraph applies shall not exceed $150,000,000.

''(D) For purposes of this paragraph, the term 'nonqualified amount' has the meaning given such term by section 141(b)(8) of the 1986 Code, except that such term shall include the amount of the proceeds of an issue which is to be used (directly or indirectly) to make or finance loans (other than loans described in section 141(c)(2) of the 1986 Code) to persons other than governmental units.

''(30) VOLUME CAP NOT TO APPLY TO CERTAIN FACILITIES.—For purposes of section 146 of the 1986 Code, any exempt facility bond for the following facility shall not be taken into account: The facility is a facility for the furnishing of water which was authorized under Public Law 90–537 [43 U.S.C. 1501 et seq.] of the United States if—

''(A) construction of such facility began on May 6, 1973, and

''(B) forward funding will be provided for the remainder of the project pursuant to a negotiated agreement between State and local water users and the Secretary of the Interior signed April 15, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $391,000,000.

''(31) CERTAIN HYDROELECTRIC GENERATING PROPERTY.—A bond shall be treated as described in paragraph (2) of section 1316(f) of this Act if—

''(A) such bond would be so described but for the substitution specified in such paragraph,

''(B) on January 7, 1983, an application for a preliminary permit was filed for the project for which such bond is issued and received docket no. 6986, and

''(C) on September 20, 1983, the Federal Energy Regulatory Commission issued an order granting the preliminary permit for the project.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $12,000,000.

''(32) VOLUME CAP.—The State ceiling applicable under section 146 of the 1986 Code for calendar year 1987 for the State which ratified the United States Constitution on May 29, 1790, shall be $150,000,000 higher than the State ceiling otherwise applicable under such section for such year.

''(33) APPLICATION OF $150,000,000 LIMITATION FOR CERTAIN QUALIFIED 501(C)(3) BONDS.—Proceeds of an issue described in any of the following subparagraphs shall not be taken into account under section 145(b) of the 1986 Code.

''(A) Proceeds of an issue are described in this subparagraph if—

''(i) such proceeds are used to provide medical school facilities or medical research and clinical facilities for a university medical center,

''(ii) such proceeds are of—

''(I) a $21,550,000 issue dated August 1, 1980,

''(II) a $84,400,000 issue dated September 1, 1984, and

''(III) a $48,500,000 issue (Series 1985 A and 1985 B) dated on December 1, 1985, and

''(iii) the issuer of all such issues is the same.

''(B) Proceeds of an issue are described in this subparagraph if such proceeds are for use by Yale University and—

''(i) the bonds are issued after August 8, 1986, by the State of Connecticut Health and Educational Facilities Authority, or

''(ii) the bonds are the 1st or 2nd refundings (including advance refundings) of the bonds described in clause (i) or of original bonds issued before August 7, 1986, by such Authority.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000.

''(C) Proceeds of an issue are described in this subparagraph if—

''(i) such issue is issued on behalf of a university established by Charter granted by King George II of

England on October 31, 1754, to accomplish a refunding (including an advance refunding) of bonds issued to finance 1 or more projects, and

''(ii) the application or other request for the issuance of the issue to the appropriate State issuer was made by or on behalf of such university before February 26, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000.

''(D) Proceeds of an issue are described in this subparagraph if—

''(i) such proceeds are to be used for finance construction of a new student recreation center,

''(ii) a contract for the development phase of the project was signed by the university on May 21, 1986, with a private company for 5 percent of the costs of the project, and

''(iii) a committee of the university board of administrators approved the major program elements for the center on August 11, 1986.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $25,000,000.

''(E) Proceeds of an issue are described in this subparagraph if—

''(i) such proceeds are to be used in the construction of new life sciences facilities for a university for medical research and education,

''(ii) the president of the university authorized a faculty/administration planning committee for such facilities on September 17, 1982,

''(iii) the trustees of such university authorized site and architect selection on October 30, 1984, and

''(iv) the university negotiated a $2,600,000 contract with the architect on August 9, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $47,500,000.

''(F) Proceeds of an issue are described in this subparagraph if such proceeds are to be used to renovate undergraduate chemistry and engineering laboratories, and to rehabilitate other basic science facilities, for an institution of higher education in Philadelphia, Pennsylvania, chartered by legislative Acts of the Commonwealth of Pennsylvania, including an Act dated September 30, 1791. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $6,500,000.

''(G) Proceeds of an issue are described in this subparagraph if such proceeds are of bonds which are the first advance refunding of bonds issued during 1985 for the development of a computer network, and construction and renovation or rehabilitation of other facilities, for an institution of higher education described in subparagraph (F). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000.

''(H) Proceeds of an issue are described in this subparagraph if—

''(i) the issue is issued on behalf of a university founded in 1789, and

''(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985[.]

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $200,000,000. Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service.

''(I) Proceeds of an issue are described in this subparagraph if the issue is issued on behalf of a university established on August 6, 1872, for a project approved by the trustees thereof on November 1, 1985. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $100,000,000.

''(J) Proceeds of an issue are described in this subparagraph if—

''(i) the issue is issued on behalf of a university for which the founding grant was signed on November 11, 1885, and

''(ii) such bond is issued for the purpose of providing a Near West Campus Redevelopment Project and a Student Housing Project.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000.

''(J) Proceeds of an issue are described in this subparagraph if—

''(i) they are the proceeds of advance refunding obligations issued on behalf of a university established on April 21, 1831, and

''(ii) the application or other request for the issuance of such obligations was made to the appropriate State issuer before July 12, 1986.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

''(K) Proceeds of an issue are described in this subparagraph if—

''(i) the issue or issues are for the purpose of financing or refinancing costs associated with university facilities including at least 900 units of housing for students, faculty, and staff in up to two buildings and an office building containing up to 245,000 square feet of space, and

''(ii) a bond act authorizing the issuance of such bonds for such project was adopted on July 8, 1986, and such act under Federal law was required to be transmitted to Congress.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $112,000,000.

''(L) Proceeds of an issue are described in this subparagraph if such issue is for Cornell University in an aggregate face amount of not more than $150,000,000.

''(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

''(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

''(O) In the case of any refunding bond—

''(i) to which any subparagraph of this paragraph applies, and

''(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result.

''(34) ARBITRAGE REBATE.—Section 148(f) of the 1986 Code shall not apply to any period before October 1, 1990, with respect to any bond the proceeds of which are to be used to provide a high-speed rail system for the State of Ohio. The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000.

''(35) EXTENSION OF CARRYFORWARD PERIOD.—

''(A) In the case of a carryforward under section 103(n)(10) of the 1954 Code of $170,000,000 of bond limit

for calendar year 1984 for a project described in subparagraph (B), clause (i) of section 103(n)(10)(C) of the 1954 Code shall be applied by substituting '6 calendar years' for '3 calendar years', and such carryforward may be used by any authority designated by the State in which the facility is located.

''(B) A project is described in this subparagraph if—

''(i) such project is a facility for local furnishing of electricity described in section 645 of the Tax Reform Act of 1984 [Pub. L. 98–369, div. A, title VI, § 645, July 18, 1984, 98 Stat. 940], and

''(ii) construction of such facility commenced within the 3-year period following the calendar year in which the carryforward arose.

''(36) POWER PURCHASE BONDS.—A bond issued to finance purchase of power from a power facility at a dam being renovated pursuant to P.L. 98–381 [43 U.S.C. 619 et seq.] shall not be treated as a private activity bond if it would not be such under section 141(b)(1) and (2) of the 1986 Code if 25 percent were substituted for 10 percent and the provisions of section 141(b)(3), (4), and (5) of the 1986 Code did not apply. The aggregate face amount of bonds to which this paragraph applies shall not exceed $400,000,000.

''(37) QUALIFIED MORTGAGE BONDS.—A bond issued as part of either of 2 issues no later than September 8, 1986, shall be treated as a qualified mortgage bond within the meaning of section 141(d)(1)(B) of the 1986 Code if it satisfies the requirements of section 103A of the 1954 Code and if the issues are issued by the two most populous cities in the Tar Heel State. The aggregate face amount of bonds to which this paragraph applies shall not exceed $4,000,000.

''(38) EXEMPT FACILITY BONDS.—A bond shall be treated as an exempt facility bond within the meaning of section 142(a) of the 1986 Code if it is issued to fund residential, office, retail, light industrial, recreational and parking development known as Tobacco Row. Such bond shall be subject to section 146 of the 1986 Code. The aggregate face amount of bonds to which this paragraph applies shall not exceed $100,000,000.

''(39) CERTAIN BONDS TREATED AS QUALIFIED 501(c)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

''(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

''(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

''(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds.

''(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

''(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

''(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies.

''(42) RESIDENTIAL RENTAL PROPERTY.—A bond issued to finance a residential rental project within the meaning of 103(b)(4) of the 1954 Code shall be treated as an exempt facility bond within the meaning of section 142(a)(7) of the 1986 Code if the county housing finance authority adopted an inducement resolution with respect to the project on May 8, 1985, and the project is located in Polk County, Florida. The aggregate face amount of bonds to which this paragraph applies shall not exceed $4,100,000.

''(43) EXTENSION OF ADVANCE REFUNDING FOR CERTAIN FACILITIES.—Paragraph (4) of section 631(c) of the Tax Reform Act of 1984 [section 631(c)(4) of Pub. L. 98–369, set out as a note under section 103 of this title] is amended—

''(A) by striking out the second sentence thereof,

''(B) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not exceeding $100,000,000 issued by the Alabama State Docks Department, the first sentence of this paragraph shall be applied by substituting ''December 31, 1987'' for ''December 31, 1984''.'

''(44) POOL BONDS.—The following amounts of pool bonds are exempt from the arbitrage rebate requirement of section 148(f) of the 1986 Code and the temporary period limitation of section 148(c)(2) of the 1986 Code:

Pool	Maximum Bond Amount
Tennessee Utility Districts Pool	$80,000,000
New Mexico Hospital Equipment Loan Council	$35,000,000
Pennsylvania Local Government Investment Trust Pool	$375,000,000
Indiana Bond Bank Pool	$240,000,000
Hernando County, Florida Bond Pool	$300,000,000
Utah Municipal Finance Cooperative Pool	$262,000,000
North Carolina League of Municipalities Pool	$200,000,000
Kentucky Municipal League Bond Pool	$170,000,000
Kentucky Association of Counties Bond Pool	$200,000,000
Homewood Municipal Bond Pool	$50,000,000
Colorado Association of School Boards Pool	$300,000,000
Tennessee Municipal League Pooled Bonds	$75,000,000
Georgia Municipal Association Pool	$130,000,000

''(45) CERTAIN CARRYFORWARD ELECTIONS.—Notwithstanding any other provision of this title [enacting this section and sections 142 to 150 and 7703 of this title, amending sections 2, 22, 25, 32, 86, 103, 105, 152, 153, 163, 172, 194, 269A, 414, 879, 1016, 1398, 3402, 4701, 4940, 4942, 4988, 6362, 6652, and 7871 of this title, repealing sections 103A, 1391 to 1397, and 6039B of this title, omitting former section 143 of this title, enacting provisions set out as notes under this section and sections 148 and 501 of this title, and amending provisions set out as a note under section 103A of this title]—

''(A) In the case of a metropolitan service district created pursuant to State revised statutes, chapter 268, up to $100,000,000 unused 1985 bond authority may be carried forward to any year until 1989 (regardless of the date on which such carryforward election is made).

''(B) If—

''(i) official action was taken by an industrial development board on September 16, 1985, with respect to the issuance of not more than $98,500,000, of waste water treatment revenue bonds, and

''(ii) an executive order of the governor granted a carryforward of State bond authority for such project on December 30, 1985,

such carryforward election shall be valid for any year through 1988. The aggregate face amount of obliga-

tions to which this subparagraph applies shall not exceed $98,500,000.

''(46) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE HYDROELECTRIC GENERATING FACILITY.—If—

''(A) obligations are issued in an amount not exceeding $5,000,000 to finance the construction of a hydroelectric generating facility located on the North Fork of Cache Creek in Lake County, California, which was the subject of a preliminary resolution of the issuer of the obligations on June 29, 1982, or are issued to refund any of such obligations,

''(B) substantially all of the electrical power generated by such facility is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utility Regulatory Policies Act of 1978 [Pub. L. 95–617, see Short Title note set out under 16 U.S.C. 2601], and

''(C) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the person referred to in subparagraph (B) shall not be treated as a principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the 1954 Code.

''(47) TREATMENT OF CERTAIN OBLIGATIONS TO FINANCE STEAM AND ELECTRIC COGENERATION FACILITY.—If—

''(A) obligations are issued on or before December 31, 1986, in an amount not exceeding $4,400,000 to finance a facility for the generation and transmission of steam and electricity having a maximum electrical capacity of approximately 5.3 megawatts and located within the City of San Jose, California, or are issued to refund any of such obligations,

''(B) substantially all of the electrical power generated by such facility that is not sold to an institution of higher education created by statute of the State of California is to be sold to a nongovernmental person pursuant to a long-term power sales agreement in accordance with the Public Utility Regulatory Policies Act of 1978 [Pub. L. 95–617, see Short Title note set out under 16 U.S.C. 2601], and

''(C) the initially issued obligations are issued on or before December 31, 1986, and any of such refunding obligations are issued on or before December 31, 1996,

then the nongovernmental person referred to in subparagraph (B) shall not be treated as a principal user of such facilities by reason of such sales for purposes of subparagraphs (D) and (E) of section 103(b)(6) of the Internal Revenue Code of 1954.

''(48) TREATMENT OF CERTAIN OBLIGATIONS.—A bond which is not an industrial development bond under section 103(b)(2) of the Internal Revenue Code of 1954 shall not be treated as a private activity bond for purposes of part IV of subchapter B of chapter 1 of the 1986 Code if 95 percent or more of the net proceeds of the issue of which such bond is a part are used to provide facilities described in any of the following subparagraphs:

''(A) A facility is described in this subparagraph if it is a governmentally-owned and operated State fair and exposition center with respect to which—

''(i) the 1985 session of the State legislature authorized revenue bonds to be issued in a maximum amount of $10,000,000, and

''(ii) a market feasibility study dated June 30, 1986, relating to a major capital improvemental program at the facility was prepared for the advisory board of the State fair and exposition center by a certified public accounting firm.

The aggregate face amount of obligations to which this subparagraph applies shall not exceed $10,000,000.

''(B) A facility is described in this subparagraph if it is a convention, trade, or spectator facility which is to be located in the State with respect to which paragraph (6)(U) applies and with respect to which feasibility and preliminary design consultants were hired on May 1, 1985 and October 31, 1985. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $175,000,000.

''(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000.

''(49) TRANSITION RULE FOR REFUNDING CERTAIN HOUSING BONDS.—Sections 146 and 149(d)(2) of the 1986 Code shall not apply to the refunding of any bond issued under section 11(b) of the United States Housing Act of 1937 [42 U.S.C. 1437i(b)] before December 31, 1983, if—

''(A) the bond has an original term to maturity of at least 40 years,

''(B) the maturity date of the refunding bonds does not exceed the maturity date of the refunded bonds,

''(C) the amount of the refunding bonds does not exceed the outstanding amount of the refunded bonds,

''(D) the interest rate on the refunding bonds is lower than the interest rate of the refunded bonds, and

''(E) the refunded bond is required to be redeemed not later than the earliest date on which such bond could be redeemed at par.

''(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section.

''(51) CERTAIN ADDITIONAL PROJECTS.—Section 141(b) of the 1986 Code shall be applied by substituting '25' for '10' each place it appears and by not applying sections 141(b)(3) and 141(c)(1)(B) to bonds substantially all of the proceeds are used for—

''(A) A project is described in this subparagraph if it consists of a capital improvements program for a metropolitan sewer district, with respect to which a proposition was submitted to voters on August 7, 1984. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $60,000,000.

''(B) Facilities described in this subparagraph if it consists of additions, extensions, and improvements to the wastewater system for Lakeland, Florida. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $20,000,000.

''(C) A project is described in this subparagraph if it is the Central Valley Water Reclamation Project in Utah. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $100,000,000.

''(D) A project is described in this subparagraph if it is a project to construct approximately 26 miles of toll expressways, with respect to which any appeal to validation was filed July 11, 1986. The aggregate face amount of obligations to which this subparagraph applies shall not exceed $450,000,000.

''(52) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any bond issued after December 31, 1990.

''SEC. 1318. DEFINITIONS, ETC., RELATING TO EFFECTIVE DATES AND TRANSITIONAL RULES.

''(a) DEFINITIONS.—For purposes of this subtitle—

''(1) 1954 CODE.—The term '1954 Code' means the Internal Revenue Code of 1954 as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986].

''(2) 1986 CODE.—The term '1986 Code' means the Internal Revenue Code of 1986 as amended by this Act [see Tables for classification].

''(3) BOND.—The term 'bond' includes any obligation.

''(4) ADVANCE REFUND.—A bond shall be treated as issued to advance refund another bond if it is issued more than 90 days before the redemption of the refunded bond.

''(5) NET PROCEEDS.—The term 'net proceeds' has the meaning given such term by section 150(a) of the 1986 Code.

''(6) CONTINUED APPLICATION OF THE 1954 CODE.—Nothing in this subtitle shall be construed to exempt any bond from any provision of the 1954 Code by rea-

son of a delay in (or exemption from) the application of any amendment made by subtitle A [sections 1301 to 1303 of Pub. L. 99–514, enacting this section and sections 142 to 150 and 7703 of this title, amending sections 2, 22, 25, 32, 86, 103, 105, 152, 153, 163, 172, 194, 269A, 414, 879, 1016, 1398, 3402, 4701, 4940, 4942, 4988, 6362, 6652, and 7871 of this title, repealing sections 103A, 1391 to 1397, and 6039B of this title, omitting former section 143 of this title, enacting provisions set out as notes under this section and sections 148 and 501 of this title, and amending provisions set out as a note under section 103A of this title].

''(7) TREATMENT AS EXEMPT FACILITY.—Any bond which is treated as an exempt facility bond by section 1316 or 1317 shall not fail to be so treated by reason of subsection (b) of section 142 of the 1986 Code.

''(8) APPLICATION OF FUTURE LEGISLATION TO TRANSITIONED BONDS.—In the case of any bond to which the amendments made by section 1301 [for classification see section 1311(a) of this note] do not apply by reason of a provision of this Act [see Tables for classification], any amendment of the 1986 Code (and any other provision applicable to such Code) included in any law enacted after October 22, 1986, shall be treated as included in section 103 and section 103A (as appropriate) of the 1954 Code with respect to such bond unless—

''(A) such law expressly provides that such amendment (or other provision) shall not apply to such bond, or

''(B) such amendment (or other provision) applies to a provision of the 1986 Code—

''(i) for which there is no corresponding provision in section 103 and section 103A (as appropriate) of the 1954 Code, and

''(ii) which is not otherwise treated as included in such sections 103 and 103A with respect to such bond.

''(b) MINIMUM TAX TREATMENT.—

''(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

''(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

''(B) a private loan bond (as defined in section 103(*o*)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(*o*)(2)(C) of such Code).

''(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

''(A) the amendments made by section 1301 [for classification see section 1311(a) of this note] do not apply to such bond by reason of section 1312 or 1316(g),

''(B) any provision of section 1317 applies to such bond, or

''(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

''(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any bond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

''(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

''(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. No limitation in section 1316(g) or 1317 on the period during which bonds may be issued under such section shall apply to any refunding bond which meets the requirements of this subsection.

''(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond.''

[Section 1013(c)(2)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending section 1313(a)(3)(C) of Pub. L. 99–514, set out above] shall apply to bonds issued after June 30, 1987''.]

[Section 1013(c)(11)(E) of Pub. L. 100–647 provided that: ''A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act [Pub. L. 99–514, set out above] if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph [amending section 1313(c) of Pub. L. 99–514, set out above].'']

[Section 1013(c)(14)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending section 1313 of Pub. L. 99–514, set out above] shall apply with respect to refunding bonds issued after October 16, 1987.'']

[Section 1013(e)(2)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending section 1315(e) of Pub. L. 99–514, set out above] shall apply to bonds issued after June 10, 1987.'']

[Section 1013(f)(1)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending section 1316 of Pub. L. 99–514, set out above] shall apply only with respect to carryforwards of volume cap for years after 1986.'']

[Section 1013(f)(7)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending section 1316(g)(8) of Pub. L. 99–514, set out above] shall apply only with respect to carryforwards of volume cap for years after 1986.'']

REGULATIONS

Section 1301(i) of Pub. L. 99–514 provided that: ''The Secretary of the Treasury or his delegate shall amend the provision in the Federal income tax regulations relating to when use pursuant to certain output contracts is considered to satisfy the private business tests of paragraphs (1) and (2) of section 141(b) of the Internal Revenue Code of 1986 to eliminate the requirement of a 3 percent guaranteed minimum payment.''

APPLICATION OF SECURITY INTEREST TEST TO BOND FINANCING OF HAZARDOUS WASTE CLEAN-UP ACTIVITIES

Section 6179 of Pub. L. 100–647 provided that: ''Before January 1, 1989, the Secretary of the Treasury or his delegate shall issue guidance concerning the application of the private security or payment test under section 141(b)(2) of the Internal Revenue Code of 1986 to tax-exempt bond financing by State and local governments of hazardous waste clean-up activities conducted by such governments where some of the activities occur on privately owned land.''

STATE AND LOCAL GOVERNMENT SERIES MODIFICATIONS

Section 1301(d) of Pub. L. 99–514 provided that: ''Notwithstanding any other provision of law or any regulations promulgated thereunder (including the provisions of 31 CFR part 344) the Secretary of the Treasury shall extend by January 1, 1987, the State and Local Government Series program to provide—

''(1) instruments allowing flexible investment of bond proceeds in a manner eliminating the earning of rebatable arbitrage,

''(2) demand deposits under such program by eliminating advance notice and minimum maturity requirements related to the purchase of bonds,

''(3) operation of such program at no net cost to the Federal Government, and

''(4) deposits for a stated maturity under reasonable advance notice requirements.''

MANAGEMENT CONTRACTS

Section 1301(e) of Pub. L. 99–514 provided that: ''The Secretary of the Treasury or his delegate shall modify the Secretary's advance ruling guidelines relating to when use of property pursuant to a management contract is not considered a trade or business use by a private person for purposes of section 141(a) of the Internal Revenue Code of 1986 to provide that use pursuant to a management contract generally shall not be treated as trade or business use as long as—

''(1) the term of such contract (including renewal options) does not exceed 5 years,

''(2) the exempt owner has the option to cancel such contract at the end of any 3-year period,

''(3) the manager under the contract is not compensated (in whole or in part) on the basis of a share of net profits, and

''(4) at least 50 percent of the annual compensation of the manager under such contract is based on a periodic fixed fee.''

§ 142. Exempt facility bond

(a) General rule

For purposes of this part, the term ''exempt facility bond'' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

(1) airports,

(2) docks and wharves,

(3) mass commuting facilities,

(4) facilities for the furnishing of water,

(5) sewage facilities,

(6) solid waste disposal facilities,

(7) qualified residential rental projects,

(8) facilities for the local furnishing of electric energy or gas,

(9) local district heating or cooling facilities,

(10) qualified hazardous waste facilities,

(11) high-speed intercity rail facilities,

(12) environmental enhancements of hydroelectric generating facilities,

(13) qualified public educational facilities,

(14) qualified green building and sustainable design projects, or

(15) qualified highway or surface freight transfer facilities.

(b) Special exempt facility bond rules

For purposes of subsection (a)—

(1) Certain facilities must be governmentally owned

(A) In general

A facility shall be treated as described in paragraph (1), (2), (3), or (12) of subsection (a) only if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit.

(B) Safe harbor for leases and management contracts

For purposes of subparagraph (A), property leased by a governmental unit shall be treated as owned by such governmental unit if—

(i) the lessee makes an irrevocable election (binding on the lessee and all successors in interest under the lease) not to claim depreciation or an investment credit with respect to such property,

(ii) the lease term (as defined in section 168(i)(3)) is not more than 80 percent of the reasonably expected economic life of the property (as determined under section 147(b)), and

(iii) the lessee has no option to purchase the property other than at fair market value (as of the time such option is exercised).

Rules similar to the rules of the preceding sentence shall apply to management contracts and similar types of operating agreements.

(2) Limitation on office space

An office shall not be treated as described in a paragraph of subsection (a) unless—

(A) the office is located on the premises of a facility described in such a paragraph, and

(B) not more than a de minimis amount of the functions to be performed at such office is not directly related to the day-to-day operations at such facility.

(c) Airports, docks and wharves, mass commuting facilities and high-speed intercity rail facilities

For purposes of subsection (a)—

(1) Storage and training facilities

Storage or training facilities directly related to a facility described in paragraph (1), (2), (3) or (11) of subsection (a) shall be treated as described in the paragraph in which such facility is described.

(2) Exception for certain private facilities

Property shall not be treated as described in paragraph (1), (2), (3) or (11) of subsection (a) if such property is described in any of the following subparagraphs and is to be used for any private business use (as defined in section 141(b)(6)).

(A) Any lodging facility.

(B) Any retail facility (including food and beverage facilities) in excess of a size necessary to serve passengers and employees at the exempt facility.

(C) Any retail facility (other than parking) for passengers or the general public located outside the exempt facility terminal.

(D) Any office building for individuals who are not employees of a governmental unit or of the operating authority for the exempt facility.

(E) Any industrial park or manufacturing facility.

(d) Qualified residential rental project

For purposes of this section—

(1) In general

The term ''qualified residential rental project'' means any project for residential rental property if, at all times during the qualified project period, such project meets the requirements of subparagraph (A) or (B), whichever is elected by the issuer at the time of the issuance of the issue with respect to such project:

(A) 20–50 test

The project meets the requirements of this subparagraph if 20 percent or more of the residential units in such project are occupied by individuals whose income is 50 percent or less of area median gross income.

(B) 40–60 test

The project meets the requirements of this subparagraph if 40 percent or more of the residential units in such project are occupied by individuals whose income is 60 percent or less of area median gross income.

For purposes of this paragraph, any property shall not be treated as failing to be residential rental property merely because part of the building in which such property is located is used for purposes other than residential rental purposes.

(2) Definitions and special rules

For purposes of this subsection—

(A) Qualified project period

The term ''qualified project period'' means the period beginning on the 1st day on which 10 percent of the residential units in the project are occupied and ending on the latest of—

(i) the date which is 15 years after the date on which 50 percent of the residential units in the project are occupied,

(ii) the 1st day on which no tax-exempt private activity bond issued with respect to the project is outstanding, or

(iii) the date on which any assistance provided with respect to the project under section 8 of the United States Housing Act of 1937 terminates.

(B) Income of individuals; area median gross income

(i) In general

The income of individuals and area median gross income shall be determined by the Secretary in a manner consistent with determinations of lower income families and area median gross income under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination). Determinations under the preceding sentence shall include adjustments for family size. Subsections (g) and (h) of section 7872 shall not apply in determining the income of individuals under this subparagraph.

(ii) Special rule relating to basic housing allowances

For purposes of determining income under this subparagraph, payments under section 403 of title 37, United States Code, as a basic pay allowance for housing shall be disregarded with respect to any qualified building.

(iii) Qualified building

For purposes of clause (ii), the term ''qualified building'' means any building located—

(I) in any county in which is located a qualified military installation to which the number of members of the Armed Forces of the United States assigned to units based out of such qualified military installation, as of June 1, 2008, has increased by not less than 20 percent, as compared to such number on December 31, 2005, or

(II) in any county adjacent to a county described in subclause (I).

(iv) Qualified military installation

For purposes of clause (iii), the term ''qualified military installation'' means any military installation or facility the number of members of the Armed Forces of the United States assigned to which, as of June 1, 2008, is not less than 1,000.

(C) Students

Rules similar to the rules of 42(i)(3)(D)[1] shall apply for purposes of this subsection.

(D) Single-room occupancy units

A unit shall not fail to be treated as a residential unit merely because such unit is a single-room occupancy unit (within the meaning of section 42).

(E) Hold harmless for reductions in area median gross income

(i) In general

Any determination of area median gross income under subparagraph (B) with respect to any project for any calendar year after 2008 shall not be less than the area median gross income determined under such subparagraph with respect to such project for the calendar year preceding the calendar year for which such determination is made.

(ii) Special rule for certain census changes

In the case of a HUD hold harmless impacted project, the area median gross income with respect to such project for any calendar year after 2008 (hereafter in this clause referred to as the current calendar year) shall be the greater of the amount determined without regard to this clause or the sum of—

(I) the area median gross income determined under the HUD hold harmless policy with respect to such project for calendar year 2008, plus

(II) any increase in the area median gross income determined under subparagraph (B) (determined without regard to the HUD hold harmless policy and this subparagraph) with respect to such project for the current calendar year over the area median gross income (as so determined) with respect to such project for calendar year 2008.

(iii) HUD hold harmless policy

The term ''HUD hold harmless policy'' means the regulations under which a policy similar to the rules of clause (i) applied to prevent a change in the method of determining area median gross income from resulting in a reduction in the area median

[1] So in original. Probably should be ''section 42(i)(3)(D)''.

gross income determined with respect to certain projects in calendar years 2007 and 2008.

(iv) HUD hold harmless impacted project

The term ''HUD hold harmless impacted project'' means any project with respect to which area median gross income was determined under subparagraph (B) for calendar year 2007 or 2008 if such determination would have been less but for the HUD hold harmless policy.

(3) Current income determinations

For purposes of this subsection—

(A) In general

The determination of whether the income of a resident of a unit in a project exceeds the applicable income limit shall be made at least annually on the basis of the current income of the resident. The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.

(B) Continuing resident's income may increase above the applicable limit

If the income of a resident of a unit in a project did not exceed the applicable income limit upon commencement of such resident's occupancy of such unit (or as of any prior determination under subparagraph (A)), the income of such resident shall be treated as continuing to not exceed the applicable income limit. The preceding sentence shall cease to apply to any resident whose income as of the most recent determination under subparagraph (A) exceeds 140 percent of the applicable income limit if after such determination, but before the next determination, any residential unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable income limit.

(C) Exception for projects with respect to which affordable housing credit is allowed

In the case of a project with respect to which credit is allowed under section 42, the second sentence of subparagraph (B) shall be applied by substituting ''building (within the meaning of section 42)'' for ''project''.

(4) Special rule in case of deep rent skewing

(A) In general

In the case of any project described in subparagraph (B), the 2d sentence of subparagraph (B) of paragraph (3) shall be applied by substituting—

(i) ''170 percent'' for ''140 percent'', and

(ii) ''any low-income unit in the same project is occupied by a new resident whose income exceeds 40 percent of area median gross income'' for ''any residential unit of comparable or smaller size in the same project is occupied by a new resident whose income exceeds the applicable income limit''.

(B) Deep rent skewed project

A project is described in this subparagraph if the owner of the project elects to have this paragraph apply and, at all times during the qualified project period, such project meets the requirements of clauses (i), (ii), and (iii):

(i) The project meets the requirements of this clause if 15 percent or more of the low-income units in the project are occupied by individuals whose income is 40 percent or less of area median gross income.

(ii) The project meets the requirements of this clause if the gross rent with respect to each low-income unit in the project does not exceed 30 percent of the applicable income limit which applies to individuals occupying the unit.

(iii) The project meets the requirements of this clause if the gross rent with respect to each low-income unit in the project does not exceed ½ of the average gross rent with respect to units of comparable size which are not occupied by individuals who meet the applicable income limit.

(C) Definitions applicable to subparagraph (B)

For purposes of subparagraph (B)—

(i) Low-income unit

The term ''low-income unit'' means any unit which is required to be occupied by individuals who meet the applicable income limit.

(ii) Gross rent

The term ''gross rent'' includes—

(I) any payment under section 8 of the United States Housing Act of 1937, and

(II) any utility allowance determined by the Secretary after taking into account such determinations under such section 8.

(5) Applicable income limit

For purposes of paragraphs (3) and (4), the term ''applicable income limit'' means—

(A) the limitation under subparagraph (A) or (B) of paragraph (1) which applies to the project, or

(B) in the case of a unit to which paragraph (4)(B)(i) applies, the limitation which applies to such unit.

(6) Special rule for certain high cost housing area

In the case of a project located in a city having 5 boroughs and a population in excess of 5,000,000, subparagraph (B) of paragraph (1) shall be applied by substituting ''25 percent'' for ''40 percent''.

(7) Certification to Secretary

The operator of any project with respect to which an election was made under this subsection shall submit to the Secretary (at such time and in such manner as the Secretary shall prescribe) an annual certification as to whether such project continues to meet the requirements of this subsection. Any failure to comply with the provisions of the preceding sentence shall not affect the tax-exempt

status of any bond but shall subject the operator to penalty, as provided in section 6652(j).

(e) Facilities for the furnishing of water

For purposes of subsection (a)(4), the term ''facilities for the furnishing of water'' means any facility for the furnishing of water if—

(1) the water is or will be made available to members of the general public (including electric utility, industrial, agricultural, or commercial users), and

(2) either the facility is operated by a governmental unit or the rates for the furnishing or sale of the water have been established or approved by a State or political subdivision thereof, by an agency or instrumentality of the United States, or by a public service or public utility commission or other similar body of any State or political subdivision thereof.

(f) Local furnishing of electric energy or gas

For purposes of subsection (a)(8)—

(1) In general

The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

(A) a city and 1 contiguous county, or

(B) 2 contiguous counties.

(2) Treatment of certain electric energy transmitted outside local area

(A) In general

A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the cost of the facility financed with tax-exempt bonds is not greater than the portion of the cost of the facility which is allocable to the local furnishing of electric energy (determined without regard to this paragraph).

(B) Special rule for existing facilities

In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

(i) an escrow to pay principal of, premium (if any), and interest on the bonds is established within a reasonable period after the date such order becomes final, and

(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed.

(3) Termination of future financing

For purposes of this section, no bond may be issued as part of an issue described in subsection (a)(8) with respect to a facility for the local furnishing of electric energy or gas on or after the date of the enactment of this paragraph unless—

(A) the facility will—

(i) be used by a person who is engaged in the local furnishing of that energy source on January 1, 1997, and

(ii) be used to provide service within the area served by such person on January 1, 1997 (or within a county or city any portion of which is within such area), or

(B) the facility will be used by a successor in interest to such person for the same use and within the same service area as described in subparagraph (A).

(4) Election to terminate tax-exempt bond financing by certain furnishers

(A) In general

In the case of a facility financed with bonds issued before the date of the enactment of this paragraph which would cease to be tax-exempt by reason of the failure to meet the local furnishing requirement of subsection (a)(8) as a result of a service area expansion, such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if the person engaged in such local furnishing by such facility makes an election described in subparagraph (B).

(B) Election

An election is described in this subparagraph if it is an election made in such manner as the Secretary prescribes, and such person (or its predecessor in interest) agrees that—

(i) such election is made with respect to all facilities for the local furnishing of electric energy or gas, or both, by such person,

(ii) no bond exempt from tax under section 103 and described in subsection (a)(8) may be issued on or after the date of the enactment of this paragraph with respect to all such facilities of such person,

(iii) any expansion of the service area—

(I) is not financed with the proceeds of any exempt facility bond described in subsection (a)(8), and

(II) is not treated as a nonqualifying use under the rules of paragraph (2), and

(iv) all outstanding bonds used to finance the facilities for such person are redeemed not later than 6 months after the later of—

(I) the earliest date on which such bonds may be redeemed, or

(II) the date of the election.

(C) Related persons

For purposes of this paragraph, the term ''person'' includes a group of related persons (within the meaning of section 144(a)(3)) which includes such person.

(g) Local district heating or cooling facility

(1) In general

For purposes of subsection (a)(9), the term ''local district heating or cooling facility'' means property used as an integral part of a local district heating or cooling system.

(2) Local district heating or cooling system

(A) In general

For purposes of paragraph (1), the term ''local district heating or cooling system''

means any local system consisting of a pipeline or network (which may be connected to a heating or cooling source) providing hot water, chilled water, or steam to 2 or more users for—

(i) residential, commercial, or industrial heating or cooling, or

(ii) process steam.

(B) Local system

For purposes of this paragraph, a local system includes facilities furnishing heating and cooling to an area consisting of a city and 1 contiguous county.

(h) Qualified hazardous waste facilities

For purposes of subsection (a)(10), the term ''qualified hazardous waste facility'' means any facility for the disposal of hazardous waste by incineration or entombment but only if—

(1) the facility is subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act (as in effect on the date of the enactment of the Tax Reform Act of 1986), and

(2) the portion of such facility which is to be provided by the issue does not exceed the portion of the facility which is to be used by persons other than—

(A) the owner or operator of such facility, and

(B) any related person (within the meaning of section 144(a)(3)) to such owner or operator.

(i) High-speed intercity rail facilities

(1) In general

For purposes of subsection (a)(11), the term ''high-speed intercity rail facilities'' means any facility (not including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are reasonably expected to be capable of attaining a maximum speed in excess of 150 miles per hour between scheduled stops, but only if such facility will be made available to members of the general public as passengers.

(2) Election by nongovernmental owners

A facility shall be treated as described in subsection (a)(11) only if any owner of such facility which is not a governmental unit irrevocably elects not to claim—

(A) any deduction under section 167 or 168, and

(B) any credit under this subtitle,

with respect to the property to be financed by the net proceeds of the issue.

(3) Use of proceeds

A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless any proceeds not used within a 3-year period of the date of the issuance of such bond are used (not later than 6 months after the close of such period) to redeem bonds which are part of such issue.

(j) Environmental enhancements of hydroelectric generating facilities

(1) In general

For purposes of subsection (a)(12), the term ''environmental enhancements of hydroelectric generating facilities'' means property—

(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

(B) which—

(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

(2) Use of proceeds

A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i).

(k) Qualified public educational facilities

(1) In general

For purposes of subsection (a)(13), the term ''qualified public educational facility'' means any school facility which is—

(A) part of a public elementary school or a public secondary school, and

(B) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

(2) Public-private partnership agreement described

A public-private partnership agreement is described in this paragraph if it is an agreement—

(A) under which the corporation agrees—

(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

(3) School facility

For purposes of this subsection, the term ''school facility'' means—

(A) any school building,

(B) any functionally related and subordinate facility and land with respect to such building, including any stadium or other facility primarily used for school events, and

(C) any property, to which section 168 applies (or would apply but for section 179), for use in a facility described in subparagraph (A) or (B).

(4) Public schools

For purposes of this subsection, the terms ''elementary school'' and ''secondary school'' have the meanings given such terms by section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801), as in ef-

fect on the date of the enactment of this subsection.

(5) Annual aggregate face amount of tax-exempt financing

(A) In general

An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of—

(i) $10 multiplied by the State population, or

(ii) $5,000,000.

(B) Allocation rules

(i) In general

Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

(ii) Rules for carryforward of unused limitation

A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).

(*l*) Qualified green building and sustainable design projects

(1) In general

For purposes of subsection (a)(14), the term ''qualified green building and sustainable design project'' means any project which is designated by the Secretary, after consultation with the Administrator of the Environmental Protection Agency, as a qualified green building and sustainable design project and which meets the requirements of clauses (i), (ii), (iii), and (iv) of paragraph (4)(A).

(2) Designations

(A) In general

Within 60 days after the end of the application period described in paragraph (3)(A), the Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall designate qualified green building and sustainable design projects. At least one of the projects designated shall be located in, or within a 10-mile radius of, an empowerment zone as designated pursuant to section 1391, and at least one of the projects designated shall be located in a rural State. No more than one project shall be designated in a State. A project shall not be designated if such project includes a stadium or arena for professional sports exhibitions or games.

(B) Minimum conservation and technology innovation objectives

The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall ensure that, in the aggregate, the projects designated shall—

(i) reduce electric consumption by more than 150 megawatts annually as compared to conventional generation,

(ii) reduce daily sulfur dioxide emissions by at least 10 tons compared to coal generation power,

(iii) expand by 75 percent the domestic solar photovoltaic market in the United States (measured in megawatts) as compared to the expansion of that market from 2001 to 2002, and

(iv) use at least 25 megawatts of fuel cell energy generation.

(3) Limited designations

A project may not be designated under this subsection unless—

(A) the project is nominated by a State or local government within 180 days of the enactment of this subsection, and

(B) such State or local government provides written assurances that the project will satisfy the eligibility criteria described in paragraph (4).

(4) Application

(A) In general

A project may not be designated under this subsection unless the application for such designation includes a project proposal which describes the energy efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the following eligibility criteria:

(i) Green building and sustainable design

At least 75 percent of the square footage of commercial buildings which are part of the project is registered for United States Green Building Council's LEED certification and is reasonably expected (at the time of the designation) to receive such certification. For purposes of determining LEED certification as required under this clause, points shall be credited by using the following:

(I) For wood products, certification under the Sustainable Forestry Initiative Program and the American Tree Farm System.

(II) For renewable wood products, as credited for recycled content otherwise provided under LEED certification.

(III) For composite wood products, certification under standards established by the American National Standards Institute, or such other voluntary standards as published in the Federal Register by the Administrator of the Environmental Protection Agency.

(ii) Brownfield redevelopment

The project includes a brownfield site as defined by section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601), including a site described in subparagraph (D)(ii)(II)(aa) thereof.

(iii) State and local support

The project receives specific State or local government resources which will sup-

port the project in an amount equal to at least $5,000,000. For purposes of the preceding sentence, the term ''resources'' includes tax abatement benefits and contributions in kind.

(iv) Size

The project includes at least one of the following:

(I) At least 1,000,000 square feet of building.

(II) At least 20 acres.

(v) Use of tax benefit

The project proposal includes a description of the net benefit of the tax-exempt financing provided under this subsection which will be allocated for financing of one or more of the following:

(I) The purchase, construction, integration, or other use of energy efficiency, renewable energy, and sustainable design features of the project.

(II) Compliance with certification standards cited under clause (i).

(III) The purchase, remediation, and foundation construction and preparation of the brownfields site.

(vi) Prohibited facilities

An issue shall not be treated as an issue described in subsection (a)(14) if any proceeds of such issue are used to provide any facility the principal business of which is the sale of food or alcoholic beverages for consumption on the premises.

(vii) Employment

The project is projected to provide permanent employment of at least 1,500 full time equivalents (150 full time equivalents in rural States) when completed and construction employment of at least 1,000 full time equivalents (100 full time equivalents in rural States).

The application shall include an independent analysis which describes the project's economic impact, including the amount of projected employment.

(B) Project description

Each application described in subparagraph (A) shall contain for each project a description of—

(i) the amount of electric consumption reduced as compared to conventional construction,

(ii) the amount of sulfur dioxide daily emissions reduced compared to coal generation,

(iii) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts, and

(iv) the amount, in megawatts, of the project's fuel cell energy generation.

(5) Certification of use of tax benefit

No later than 30 days after the completion of the project, each project must certify to the Secretary that the net benefit of the tax-exempt financing was used for the purposes described in paragraph (4).

(6) Definitions

For purposes of this subsection—

(A) Rural State

The term ''rural State'' means any State which has—

(i) a population of less than 4,500,000 according to the 2000 census,

(ii) a population density of less than 150 people per square mile according to the 2000 census, and

(iii) increased in population by less than half the rate of the national increase between the 1990 and 2000 censuses.

(B) Local government

The term ''local government'' has the meaning given such term by section 1393(a)(5).

(C) Net benefit of tax-exempt financing

The term ''net benefit of tax-exempt financing'' means the present value of the interest savings (determined by a calculation established by the Secretary) which result from the tax-exempt status of the bonds.

(7) Aggregate face amount of tax-exempt financing

(A) In general

An issue shall not be treated as an issue described in subsection (a)(14) if the aggregate face amount of bonds issued by the State or local government pursuant thereto for a project (when added to the aggregate face amount of bonds previously so issued for such project) exceeds an amount designated by the Secretary as part of the designation.

(B) Limitation on amount of bonds

The Secretary may not allocate authority to issue qualified green building and sustainable design project bonds in an aggregate face amount exceeding $2,000,000,000.

(8) Termination

Subsection (a)(14) shall not apply with respect to any bond issued after September 30, 2012.

(9) Treatment of current refunding bonds

Paragraphs (7)(B) and (8) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(14) before October 1, 2012, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).

(m) Qualified highway or surface freight transfer facilities

(1) In general

For purposes of subsection (a)(15), the term ''qualified highway or surface freight transfer facilities'' means—

(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection),

(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under title 23, United States Code (as so in effect), or

(C) any facility for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as so in effect).

(2) National limitation on amount of tax-exempt financing for facilities

(A) National limitation

The aggregate amount allocated by the Secretary of Transportation under subparagraph (C) shall not exceed $15,000,000,000.

(B) Enforcement of national limitation

An issue shall not be treated as an issue described in subsection (a)(15) if the aggregate face amount of bonds issued pursuant to such issue for any qualified highway or surface freight transfer facility (when added to the aggregate face amount of bonds previously so issued for such facility) exceeds the amount allocated to such facility under subparagraph (C).

(C) Allocation by Secretary of Transportation

The Secretary of Transportation shall allocate the amount described in subparagraph (A) among qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate.

(3) Expenditure of proceeds

An issue shall not be treated as an issue described in subsection (a)(15) unless at least 95 percent of the net proceeds of the issue is expended for qualified highway or surface freight transfer facilities within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended within such 5-year period, an issue shall be treated as continuing to meet the requirements of this paragraph if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.

(4) Exception for current refunding bonds

Paragraph (2) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(15) if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).

(Added Pub. L. 99–514, title XIII, §1301(b), Oct. 22, 1986, 100 Stat. 2606; amended Pub. L. 100–647, title I, §1013(a)(1), (39), title VI, §6180(a)–(b)(2), Nov. 10, 1988, 102 Stat. 3537, 3544, 3727, 3728; Pub. L. 101–239, title VII, §§7108(e)(3), (n)(1), 7816(s)(1), Dec. 19, 1989, 103 Stat. 2313, 2318, 2423; Pub. L. 102–486, title XIX, §§1919(a), 1921(a), (b)(1), (2), Oct. 24, 1992, 106 Stat. 3025, 3027, 3028; Pub. L. 104–188, title I, §§1608(a), 1704(j)(7), Aug. 20, 1996, 110 Stat. 1840, 1882; Pub. L. 105–206, title VI, §6023(5), July 22, 1998, 112 Stat. 825; Pub. L. 107–16, title IV, §422(a), (b), June 7, 2001, 115 Stat. 65; Pub. L. 108–357, title VII, §701(a), (b), Oct. 22, 2004, 118 Stat. 1536; Pub. L. 109–59, title XI, §11143(a), (b), Aug. 10, 2005, 119 Stat. 1963; Pub. L. 109–222, title II, §209(b)(2), May 17, 2006, 120 Stat. 352; Pub. L. 110–289, div. C, title I, §§3005(a), 3008(a)–(c), 3009(a), 3010(a), July 30, 2008, 122 Stat. 2885–2888; Pub. L. 110–343, div. B, title III, §307(a), (b), Oct. 3, 2008, 122 Stat. 3849; Pub. L. 111–5, div. B, title I, §1504(a), Feb. 17, 2009, 123 Stat. 355.)

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

REFERENCES IN TEXT

Section 8 of the United States Housing Act of 1937, referred to in subsec. (d)(2)(A)(iii), (B)(i), (4)(C)(ii), is classified to section 1437f of Title 42, The Public Health and Welfare.

Sections 211 and 213 of the Federal Power Act, referred to in subsec. (f)(2)(A), are classified to sections 824j and 824*l*, respectively, of Title 16, Conservation.

The date of the enactment of this paragraph, referred to in subsec. (f)(2)(A), is the date of enactment of Pub. L. 102–486, which was approved Oct. 24, 1992.

The date of the enactment of this paragraph, referred to in subsec. (f)(3), (4)(A), (B)(ii), is the date of enactment of Pub. L. 104–188, which was approved Aug. 20, 1996.

The Solid Waste Disposal Act, referred to in subsec. (h)(1), is title II of Pub. L. 89–272, Oct. 20, 1965, 79 Stat. 997, as amended generally by Pub. L. 94–580, §2, Oct. 21, 1976, 90 Stat. 2795. Subtitle C of the Solid Waste Disposal Act is classified generally to subchapter III (§6921 et seq.) of chapter 82 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6901 of Title 42 and Tables.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (h)(1), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

Section 14101 of the Elementary and Secondary Education Act of 1965, referred to in subsec. (k)(4), is section 14101 of Pub. L. 89–10, which was classified to section 8801 of Title 20, Education, prior to repeal by Pub. L. 107–110, title X, §1011(5)(C), Jan. 8, 2002, 115 Stat. 1986.

The date of the enactment of this subsection, referred to in subsec. (k)(4), means the date of enactment of Pub. L. 107–16, which was approved June 7, 2001.

The enactment of this subsection, referred to in subsec. (*l*)(3)(A), probably means the date of enactment of Pub. L. 108–357, which was approved Oct. 22, 2004.

The date of the enactment of this subsection, referred to in subsec. (m)(1)(A), is the date of enactment of Pub. L. 109–59, which was approved Aug. 10, 2005.

PRIOR PROVISIONS

A prior section 142, act Aug. 16, 1954, ch. 736, 68A Stat. 40, enumerated individuals not eligible for standard deduction, prior to repeal by Pub. L. 95–30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133, applicable to taxable years beginning after Dec. 31, 1976.

AMENDMENTS

2009—Subsec. (i)(1). Pub. L. 111–5 substituted ''be capable of attaining a maximum speed in excess of'' for ''operate at speeds in excess of''.

2008—Subsec. (d)(2)(B). Pub. L. 110–289, § 3005(a), designated existing provisions as cl. (i), inserted heading, and added cls. (ii) to (iv).

Subsec. (d)(2)(C). Pub. L. 110–289, § 3008(b), added subpar. (C).

Subsec. (d)(2)(D). Pub. L. 110–289, § 3008(c), added subpar. (D).

Subsec. (d)(2)(E). Pub. L. 110–289, § 3009(a), added subpar. (E).

Subsec. (d)(3)(A). Pub. L. 110–289, § 3010(a), inserted at end ''The preceding sentence shall not apply with respect to any project for any year if during such year no residential unit in the project is occupied by a new resident whose income exceeds the applicable income limit.''

Subsec. (d)(3)(C). Pub. L. 110–289, § 3008(a), added subpar. (C).

Subsec. (*l*)(8). Pub. L. 110–343, § 307(a), substituted ''September 30, 2012'' for ''September 30, 2009''.

Subsec. (*l*)(9). Pub. L. 110–343, § 307(b), substituted ''October 1, 2012'' for ''October 1, 2009''.

2006—Subsec. (d)(2)(B). Pub. L. 109–222 substituted ''Subsections (g) and (h) of section 7872'' for ''Section 7872(g)''.

2005—Subsec. (a)(15). Pub. L. 109–59, § 11143(a), added par. (15).

Subsec. (m). Pub. L. 109–59, § 11143(b), added subsec. (m).

2004—Subsec. (a)(14). Pub. L. 108–357, § 701(a), added par. (14).

Subsec. (*l*). Pub. L. 108–357, § 701(b), added subsec. (*l*).

2001—Subsec. (a)(13). Pub. L. 107–16, §§ 422(a), 901, temporarily added par. (13). See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (k). Pub. L. 107–16, §§ 422(b), 901, temporarily added subsec. (k). See Effective and Termination Dates of 2001 Amendment note below.

1998—Subsec. (f)(3)(A)(ii). Pub. L. 105–206 struck out comma after ''1997''.

1996—Subsec. (b)(1)(A). Pub. L. 104–188, § 1704(j)(7), provided that section 1921(b)(2) of Pub. L. 102–486 shall be applied as if a comma appeared after ''(2)'' in the material proposed to be stricken. See 1992 Amendment note below.

Subsec. (f)(3), (4). Pub. L. 104–188, § 1608(a), added pars. (3) and (4).

1992—Subsec. (a)(12). Pub. L. 102–486, § 1921(a), added par. (12).

Subsec. (b)(1)(A). Pub. L. 102–486, § 1921(b)(2), which directed the substitution of ''(2), (3), or (12)'' for ''(2) or (3)'', was executed by making the substitution for ''(2), or (3)''. See 1996 Amendment note above.

Subsec. (f). Pub. L. 102–486, § 1919(a), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: ''For purposes of subsection (a)(8), the local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

''(1) a city and 1 contiguous county, or

''(2) 2 contiguous counties.''

Subsec. (j). Pub. L. 102–486, § 1921(b)(1), added subsec. (j).

1989—Subsec. (d)(2)(B). Pub. L. 101–239, § 7108(e)(3), inserted at end ''Section 7872(g) shall not apply in determining the income of individuals under this subparagraph.''

Subsec. (d)(4)(B)(iii). Pub. L. 101–239, § 7108(n)(1), substituted ''exceed ½'' for ''exceed ⅓''.

Subsec. (i)(1). Pub. L. 101–239, § 7816(s)(1), inserted heading ''In general''.

1988—Subsec. (a)(11). Pub. L. 100–647, § 6180(a), added par. (11).

Subsec. (b)(1)(B)(ii). Pub. L. 100–647, § 1013(a)(39), inserted ''section'' before ''168(i)(3)''.

Subsec. (c). Pub. L. 100–647, § 6180(b)(2), substituted ''mass commuting facilities and high-speed intercity rail facilities'' for ''and mass commuting facilities'' in heading and substituted ''paragraph (1), (2), (3) or (11) of subsection (a)'' for ''paragraph (1), (2), or (3) of subsection (a)'' in par. (1) and in introductory text of par. (2).

Subsec. (d)(4)(B)(iii). Pub. L. 100–647, § 1013(a)(1), substituted ''average gross rent'' for ''average rent''.

Subsec. (i). Pub. L. 100–647, § 6180(b)(1), added subsec. (i).

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, § 1504(b), Feb. 17, 2009, 123 Stat. 355, provided that: ''The amendment made by this section [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009].''

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–289, div. C, title I, § 3005(b), July 30, 2008, 122 Stat. 2885, provided that: ''The amendments made by this section [amending this section] shall apply to—

''(1) determinations made after the date of the enactment of this Act [July 30, 2008] and before January 1, 2012, in the case of any qualified building (as defined in section 142(d)(2)(B)(iii) of the Internal Revenue Code of 1986)—

''(A) with respect to which housing credit dollar amounts have been allocated on or before the date of the enactment of this Act [July 30, 2008], or

''(B) with respect to buildings placed in service before such date of enactment, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued before such date of enactment, and

''(2) determinations made after the date of enactment of this Act [July 30, 2008], in the case of qualified buildings (as so defined)—

''(A) with respect to which housing credit dollar amounts are allocated after the date of the enactment of this Act [July 30, 2008] and before January 1, 2012, or

''(B) with respect to which buildings placed in service after the date of enactment of this Act [July 30, 2008] and before January 1, 2012, to the extent paragraph (1) of section 42(h) of such Code does not apply to such building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date of enactment and before January 1, 2012.''

Pub. L. 110–289, div. C, title I, § 3008(d), July 30, 2008, 122 Stat. 2887, provided that: ''The amendments made by this section [amending this section] shall apply to determinations of the status of qualified residential rental projects for periods beginning after the date of the enactment of this Act [July 30, 2008], with respect to bonds issued before, on, or after such date.''

Pub. L. 110–289, div. C, title I, § 3009(b), July 30, 2008, 122 Stat. 2888, provided that: ''The amendment made by this section [amending this section] shall apply to determinations of area median gross income for calendar years after 2008.''

Pub. L. 110–289, div. C, title I, § 3010(b), July 30, 2008, 122 Stat. 2888, provided that: ''The amendment made by this section [amending this section] shall apply to years ending after the date of the enactment of this Act [July 30, 2008].''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–222, title II, § 209(c), May 17, 2006, 120 Stat. 352, provided that: ''The amendment made by this sec-

tion [amending this section and section 7872 of this title] shall apply to calendar years beginning after December 31, 2005, with respect to loans made before, on, or after such date.''

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109–59, title XI, §11143(d), Aug. 10, 2005, 119 Stat. 1965, provided that: ''The amendments made by this section [amending this section and section 146 of this title] apply to bonds issued after the date of the enactment of this Act [Aug. 10, 2005].''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VII, §701(e), Oct. 22, 2004, 118 Stat. 1540, provided that: ''The amendments made by this section [amending this section and section 146 of this title] shall apply to bonds issued after December 31, 2004.''

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Pub. L. 107–16, title IV, §422(f), June 7, 2001, 115 Stat. 66, provided that: ''The amendments made by this section [amending this section and sections 146 and 147 of this title] shall apply to bonds issued after December 31, 2001.''

Amendment by Pub. L. 107–16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107–16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1919(b) of Pub. L. 102–486 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to obligations issued before, on, or after the date of the enactment of this Act [Oct. 24, 1992].''

Section 1921(c) of Pub. L. 102–486 provided that: ''The amendments made by this section [amending this section and section 146 of this title] shall apply to bonds issued after the date of the enactment of this Act [Oct. 24, 1992].''

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 7108(e)(3), (n)(1) of Pub. L. 101–239 applicable, except as otherwise provided, to determinations under section 42 of this title with respect to housing credit dollar amounts allocated from State housing credit ceilings for calendar years after 1989, see section 7108(r) of Pub. L. 101–239, set out as a note under section 42 of this title.

Amendment by section 7816(s) of Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(1), (39) 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 6180(c) of Pub. L. 100–647 provided that: ''The amendments made by this section [amending sections 142, 146, and 147 of this title] shall apply to bonds issued after the date of enactment of this Act [Nov. 10, 1988].''

ACCOUNTABILITY

Pub. L. 108–357, title VII, §701(d), Oct. 22, 2004, 118 Stat. 1539, as amended by Pub. L. 110–343, div. B, title III, §307(c), Oct. 3, 2008, 122 Stat. 3849, provided that: ''Each issuer shall maintain, on behalf of each project, an interest bearing reserve account equal to 1 percent of the net proceeds of any bond issued under this section for such project. Not later than 5 years after the date of issuance of the last issue with respect to such project, the Secretary of the Treasury, after consultation with the Administrator of the Environmental Protection Agency, shall determine whether the project financed with such bonds has substantially complied with the terms and conditions described in section 142(*l*)(4) of the Internal Revenue Code of 1986 (as added by this section). If the Secretary, after such consultation, certifies that the project has substantially complied with such terms and conditions and meets the commitments set forth in the application for such project described in section 142(*l*)(4) of such Code, amounts in the reserve account, including all interest, shall be released to the project. If the Secretary determines that the project has not substantially complied with such terms and conditions, amounts in the reserve account, including all interest, shall be paid to the United States Treasury.''

NO INFERENCE WITH RESPECT TO OUTSTANDING BONDS FROM USE OF TERM ''PERSON''

Section 1608(b) of Pub. L. 104–188 provided that: ''The use of the term 'person' in section 142(f)(3) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be construed to affect the tax-exempt status of interest on any bonds issued before the date of the enactment of this Act [Aug. 20, 1996].''

TAX-EXEMPT BONDS FOR SALE OF ALASKA POWER ADMINISTRATION FACILITY

Section 1804 of Pub. L. 104–188 provided that: ''Sections 142(f)(3) (as added by section 1608) and 147(d) of the Internal Revenue Code of 1986 shall not apply in determining whether any private activity bond issued after the date of the enactment of this Act [Aug. 20, 1996] and used to finance the acquisition of the Snettisham hydroelectric project from the Alaska Power Administration is a qualified bond for purposes of such Code.''

§ 143. Mortgage revenue bonds: qualified mortgage bond and qualified veterans' mortgage bond

(a) Qualified mortgage bond

(1) Qualified mortgage bond defined

For purposes of this title, the term ''qualified mortgage bond'' means a bond which is issued as part of a qualified mortgage issue.

(2) Qualified mortgage issue defined

(A) Definition

For purposes of this title, the term ''qualified mortgage issue'' means an issue by a State or political subdivision thereof of 1 or more bonds, but only if—

(i) all proceeds of such issue (exclusive of issuance costs and a reasonably required reserve) are to be used to finance owner-occupied residences,

(ii) such issue meets the requirements of subsections (c), (d), (e), (f), (g), (h), (i), and (m)(7),

(iii) such issue does not meet the private business tests of paragraphs (1) and (2) of section 141(b), and

(iv) except as provided in subparagraph (D)(ii), repayments of principal on financing provided by the issue are used not later than the close of the 1st semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds which are part of such issue.

Clause (iv) shall not apply to amounts received within 10 years after the date of issu-

ance of the issue (or, in the case of refunding bond, the date of issuance of the original bond).

(B) Good faith effort to comply with mortgage eligibility requirements

An issue which fails to meet 1 or more of the requirements of subsections (c), (d), (e), (f), and (i) shall be treated as meeting such requirements if—

(i) the issuer in good faith attempted to meet all such requirements before the mortgages were executed,

(ii) 95 percent or more of the proceeds devoted to owner-financing was devoted to residences with respect to which (at the time the mortgages were executed) all such requirements were met, and

(iii) any failure to meet the requirements of such subsections is corrected within a reasonable period after such failure is first discovered.

(C) Good faith effort to comply with other requirements

An issue which fails to meet 1 or more of the requirements of subsections (g), (h), and (m)(7) shall be treated as meeting such requirements if—

(i) the issuer in good faith attempted to meet all such requirements, and

(ii) any failure to meet such requirements is due to inadvertent error after taking reasonable steps to comply with such requirements.

(D) Proceeds must be used within 42 months of date of issuance

(i) In general

Except as otherwise provided in this subparagraph, an issue shall not meet the requirement of subparagraph (A)(i) unless—

(I) all proceeds of the issue required to be used to finance owner-occupied residences are so used within the 42-month period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 42-month period beginning on the date of issuance of the original bond) or, to the extent not so used within such period, are used within such period to redeem bonds which are part of such issue, and

(II) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the meaning of section 148(f)(6)(A)) after the close of such period.

(ii) Exception

Clause (i) (and clause (iv) of subparagraph (A)) shall not be construed to require amounts of less than $250,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence.

(b) Qualified veterans' mortgage bond defined

For purposes of this part, the term ''qualified veterans' mortgage bond'' means any bond—

(1) which is issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide residences for veterans,

(2) the payment of the principal and interest on which is secured by the general obligation of a State,

(3) which is part of an issue which meets the requirements of subsections (c), (g), (i)(1), and (*l*), and

(4) which is part of an issue which does not meet the private business tests of paragraphs (1) and (2) of section 141(b).

Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(2) shall apply to the requirements specified in paragraph (3) of this subsection.

(c) Residence requirements

(1) For a residence

A residence meets the requirements of this subsection only if—

(A) it is a single-family residence which can reasonably be expected to become the principal residence of the mortgagor within a reasonable time after the financing is provided, and

(B) it is located within the jurisdiction of the authority issuing the bond.

(2) For an issue

An issue meets the requirements of this subsection only if all of the residences for which owner-financing is provided under the issue meet the requirements of paragraph (1).

(d) 3-year requirement

(1) In general

An issue meets the requirements of this subsection only if 95 percent or more of the net proceeds of such issue are used to finance the residences of mortgagors who had no present ownership interest in their principal residences at any time during the 3-year period ending on the date their mortgage is executed.

(2) Exceptions

For purposes of paragraph (1), the proceeds of an issue which are used to provide—

(A) financing with respect to targeted area residences,

(B) qualified home improvement loans and qualified rehabilitation loans,

(C) financing with respect to land described in subsection (i)(1)(C) and the construction of any residence thereon, and

(D) in the case of bonds issued after the date of the enactment of this subparagraph, financing of any residence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subparagraph,

shall be treated as used as described in paragraph (1).

(3) Mortgagor's interest in residence being financed

For purposes of paragraph (1), a mortgagor's interest in the residence with respect to which the financing is being provided shall not be taken into account.

(e) Purchase price requirement

(1) In general

An issue meets the requirements of this subsection only if the acquisition cost of each residence the owner-financing of which is provided under the issue does not exceed 90 percent of the average area purchase price applicable to such residence.

(2) Average area purchase price

For purposes of paragraph (1), the term ''average area purchase price'' means, with respect to any residence, the average purchase price of single family residences (in the statistical area in which the residence is located) which were purchased during the most recent 12-month period for which sufficient statistical information is available. The determination under the preceding sentence shall be made as of the date on which the commitment to provide the financing is made (or, if earlier, the date of the purchase of the residence).

(3) Separate application to new residences and old residences

For purposes of this subsection, the determination of average area purchase price shall be made separately with respect to—

(A) residences which have not been previously occupied, and

(B) residences which have been previously occupied.

(4) Special rule for 2 to 4 family residences

For purposes of this subsection, to the extent provided in regulations, the determination of average area purchase price shall be made separately with respect to 1 family, 2 family, 3 family, and 4 family residences.

(5) Special rule for targeted area residences

In the case of a targeted area residence, paragraph (1) shall be applied by substituting ''110 percent'' for ''90 percent''.

(6) Exception for qualified home improvement loans

Paragraph (1) shall not apply with respect to any qualified home improvement loan.

(f) Income requirements

(1) In general

An issue meets the requirements of this subsection only if all owner-financing provided under the issue is provided for mortgagors whose family income is 115 percent or less of the applicable median family income.

(2) Determination of family income

For purposes of this subsection, the family income of mortgagors, and area median gross income, shall be determined by the Secretary after taking into account the regulations prescribed under section 8 of the United States Housing Act of 1937 (or, if such program is terminated, under such program as in effect immediately before such termination).

(3) Special rule for applying paragraph (1) in the case of targeted area residences

In the case of any financing provided under any issue for targeted area residences—

(A) ⅓ of the amount of such financing may be provided without regard to paragraph (1), and

(B) paragraph (1) shall be treated as satisfied with respect to the remainder of the owner financing if the family income of the mortgagor is 140 percent or less of the applicable median family income.

(4) Applicable median family income

For purposes of this subsection, the term ''applicable median family income'' means, with respect to a residence, whichever of the following is the greater:

(A) the area median gross income for the area in which such residence is located, or

(B) the statewide median gross income for the State in which such residence is located.

(5) Adjustment of income requirement based on relation of high housing costs to income

(A) In general

If the residence (for which financing is provided under the issue) is located in a high housing cost area and the limitation determined under this paragraph is greater than the limitation otherwise applicable under paragraph (1), there shall be substituted for the income limitation in paragraph (1), a limitation equal to the percentage determined under subparagraph (B) of the area median gross income for such area.

(B) Income requirements for residences in high housing cost area

The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not greater than 140 percent) equal to the product of—

(I) 115 percent, and

(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

(C) High housing cost areas

For purposes of this paragraph, the term ''high housing cost area'' means any statistical area for which the housing cost/income ratio is greater than 1.2.

(D) Housing cost/income ratio

For purposes of this paragraph—

(i) In general

The term ''housing cost/income ratio'' means, with respect to any statistical area, the number determined by dividing—

(I) the applicable housing price ratio for such area, by

(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

(ii) Applicable housing price ratio

For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

(iii) New housing price ratio

The new housing price ratio for any area is the ratio which—

(I) the average area purchase price (as defined in subsection (e)(2)) for resi-

dences described in subsection (e)(3)(A) which are located in such area bears to

(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

(iv) Existing housing price ratio

The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B).

(6) Adjustment to income requirements based on family size

In the case of a mortgagor having a family of fewer than 3 individuals, the preceding provisions of this subsection shall be applied by substituting—

(A) ''100 percent'' for ''115 percent'' each place it appears, and

(B) ''120 percent'' for ''140 percent'' each place it appears.

(g) Requirements related to arbitrage

(1) In general

An issue meets the requirements of this subsection only if such issue meets the requirements of paragraph (2) of this subsection and, in the case of an issue described in subsection (b)(1), such issue also meets the requirements of paragraph (3) of this subsection. Such requirements shall be in addition to the requirements of section 148.

(2) Effective rate of mortgage interest cannot exceed bond yield by more than 1.125 percentage points

(A) In general

An issue shall be treated as meeting the requirements of this paragraph only if the excess of—

(i) the effective rate of interest on the mortgages provided under the issue, over

(ii) the yield on the issue,

is not greater than 1.125 percentage points.

(B) Effective rate of mortgage interest

(i) In general

In determining the effective rate of interest on any mortgage for purposes of this paragraph, there shall be taken into account all fees, charges, and other amounts borne by the mortgagor which are attributable to the mortgage or to the bond issue.

(ii) Specification of some of the amounts to be treated as borne by the mortgagor

For purposes of clause (i), the following items (among others) shall be treated as borne by the mortgagor:

(I) all points or similar charges paid by the seller of the property, and

(II) the excess of the amounts received from any person other than the mortgagor by any person in connection with the acquisition of the mortgagor's interest in the property over the usual and reasonable acquisition costs of a person acquiring like property where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

(iii) Specification of some of the amounts to be treated as not borne by the mortgagor

For purposes of clause (i), the following items shall not be taken into account:

(I) any expected rebate of arbitrage profits, and

(II) any application fee, survey fee, credit report fee, insurance charge, or similar amount to the extent such amount does not exceed amounts charged in such area in cases where owner-financing is not provided through the use of qualified mortgage bonds or qualified veterans' mortgage bonds.

Subclause (II) shall not apply to origination fees, points, or similar amounts.

(iv) Prepayment assumptions

In determining the effective rate of interest—

(I) it shall be assumed that the mortgage prepayment rate will be the rate set forth in the most recent applicable mortgage maturity experience table published by the Federal Housing Administration, and

(II) prepayments of principal shall be treated as received on the last day of the month in which the issuer reasonably expects to receive such prepayments.

The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m).

(C) Yield on the issue

For purposes of this subsection, the yield on an issue shall be determined on the basis of—

(i) the issue price (within the meaning of sections 1273 and 1274), and

(ii) an expected maturity for the bonds which is consistent with the assumptions required under subparagraph (B)(iv).

(3) Arbitrage and investment gains to be used to reduce costs of owner-financing

(A) In general

An issue shall be treated as meeting the requirements of this paragraph only if an amount equal to the sum of—

(i) the excess of—

(I) the amount earned on all nonpurpose investments (other than investments attributable to an excess described in this clause), over

(II) the amount which would have been earned if such investments were invested at a rate equal to the yield on the issue, plus

(ii) any income attributable to the excess described in clause (i),

is paid or credited to the mortgagors as rapidly as may be practicable.

(B) Investment gains and losses

For purposes of subparagraph (A), in determining the amount earned on all nonpurpose investments, any gain or loss on the disposition of such investments shall be taken into account.

(C) Reduction where issuer does not use full 1.125 percentage points under paragraph (2)

(i) In general

The amount required to be paid or credited to mortgagors under subparagraph (A) (determined under this paragraph without regard to this subparagraph) shall be reduced by the unused paragraph (2) amount.

(ii) Unused paragraph (2) amount

For purposes of clause (i), the unused paragraph (2) amount is the amount which (if it were treated as an interest payment made by mortgagors) would result in the excess referred to in paragraph (2)(A) being equal to 1.125 percentage points. Such amount shall be fixed and determined as of the yield determination date.

(D) Election to pay United States

Subparagraph (A) shall be satisfied with respect to any issue if the issuer elects before issuing the bonds to pay over to the United States—

(i) not less frequently than once each 5 years after the date of issue, an amount equal to 90 percent of the aggregate amount which would be required to be paid or credited to mortgagors under subparagraph (A) (and not theretofore paid to the United States), and

(ii) not later than 60 days after the redemption of the last bond, 100 percent of such aggregate amount not theretofore paid to the United States.

(E) Simplified accounting

The Secretary shall permit any simplified system of accounting for purposes of this paragraph which the issuer establishes to the satisfaction of the Secretary will assure that the purposes of this paragraph are carried out.

(F) Nonpurpose investment

For purposes of this paragraph, the term ''nonpurpose investment'' has the meaning given such term by section 148(f)(6)(A).

(h) Portion of loans required to be placed in targeted areas

(1) In general

An issue meets the requirements of this subsection only if at least 20 percent of the proceeds of the issue which are devoted to providing owner-financing is made available (with reasonable diligence) for owner-financing of targeted area residences for at least 1 year after the date on which owner-financing is first made available with respect to targeted area residences.

(2) Limitation

Nothing in paragraph (1) shall be treated as requiring the making available of an amount which exceeds 40 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located in targeted areas within the jurisdiction of the issuing authority.

(i) Other requirements

(1) Mortgages must be new mortgages

(A) In general

An issue meets the requirements of this subsection only if no part of the proceeds of such issue is used to acquire or replace existing mortgages.

(B) Exceptions

Under regulations prescribed by the Secretary, the replacement of—

(i) construction period loans,

(ii) bridge loans or similar temporary initial financing, and

(iii) in the case of a qualified rehabilitation, an existing mortgage,

shall not be treated as the acquisition or replacement of an existing mortgage for purposes of subparagraph (A).

(C) Exception for certain contract for deed agreements

(i) In general

In the case of land possessed under a contract for deed by a mortgagor—

(I) whose principal residence (within the meaning of section 121) is located on such land, and

(II) whose family income (as defined in subsection (f)(2)) is not more than 50 percent of applicable median family income (as defined in subsection (f)(4)),

the contract for deed shall not be treated as an existing mortgage for purposes of subparagraph (A).

(ii) Contract for deed defined

For purposes of this subparagraph, the term ''contract for deed'' means a seller-financed contract for the conveyance of land under which—

(I) legal title does not pass to the purchaser until the consideration under the contract is fully paid to the seller, and

(II) the seller's remedy for nonpayment is forfeiture rather than judicial or nonjudicial foreclosure.

(2) Certain requirements must be met where mortgage is assumed

An issue meets the requirements of this subsection only if each mortgage with respect to which owner-financing has been provided under such issue may be assumed only if the requirements of subsections (c), (d), and (e), and the requirements of paragraph (1) or (3)(B) of subsection (f) (whichever applies), are met with respect to such assumption.

(j) Targeted area residences

(1) In general

For purposes of this section, the term ''targeted area residence'' means a residence in an area which is either—

(A) a qualified census tract, or
(B) an area of chronic economic distress.

(2) Qualified census tract

(A) In general

For purposes of paragraph (1), the term ''qualified census tract'' means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income.

(B) Data used

The determination under subparagraph (A) shall be made on the basis of the most recent decennial census for which data are available.

(3) Area of chronic economic distress

(A) In general

For purposes of paragraph (1), the term ''area of chronic economic distress'' means an area of chronic economic distress—

(i) designated by the State as meeting the standards established by the State for purposes of this subsection, and

(ii) the designation of which has been approved by the Secretary and the Secretary of Housing and Urban Development.

(B) Criteria to be used in approving State designations

The criteria used by the Secretary and the Secretary of Housing and Urban Development in evaluating any proposed designation of an area for purposes of this subsection shall be—

(i) the condition of the housing stock, including the age of the housing and the number of abandoned and substandard residential units,

(ii) the need of area residents for owner-financing under this section, as indicated by low per capita income, a high percentage of families in poverty, a high number of welfare recipients, and high unemployment rates,

(iii) the potential for use of owner-financing under this section to improve housing conditions in the area, and

(iv) the existence of a housing assistance plan which provides a displacement program and a public improvements and services program.

(k) Other definitions and special rules

For purposes of this section—

(1) Mortgage

The term ''mortgage'' means any owner-financing.

(2) Statistical area

(A) In general

The term ''statistical area'' means—

(i) a metropolitan statistical area, and

(ii) any county (or the portion thereof) which is not within a metropolitan statistical area.

(B) Metropolitan statistical area

The term ''metropolitan statistical area'' includes the area defined as such by the Secretary of Commerce.

(C) Designation where adequate statistical information not available

For purposes of this paragraph, if there is insufficient recent statistical information with respect to a county (or portion thereof) described in subparagraph (A)(ii), the Secretary may substitute for such county (or portion thereof) another area for which there is sufficient recent statistical information.

(D) Designation where no county

In the case of any portion of a State which is not within a county, subparagraphs (A)(ii) and (C) shall be applied by substituting for ''county'' an area designated by the Secretary which is the equivalent of a county.

(3) Acquisition cost

(A) In general

The term ''acquisition cost'' means the cost of acquiring the residence as a completed residential unit.

(B) Exceptions

The term ''acquisition cost'' does not include—

(i) usual and reasonable settlement or financing costs,

(ii) the value of services performed by the mortgagor or members of his family in completing the residence, and

(iii) the cost of land (other than land described in subsection (i)(1)(C)(i)) which has been owned by the mortgagor for at least 2 years before the date on which construction of the residence begins.

(C) Special rule for qualified rehabilitation loans

In the case of a qualified rehabilitation loan, for purposes of subsection (e), the term ''acquisition cost'' includes the cost of the rehabilitation.

(4) Qualified home improvement loan

The term ''qualified home improvement loan'' means the financing (in an amount which does not exceed $15,000)—

(A) of alterations, repairs, and improvements on or in connection with an existing residence by the owner thereof, but

(B) only of such items as substantially protect or improve the basic livability or energy efficiency of the property.

(5) Qualified rehabilitation loan

(A) In general

The term ''qualified rehabilitation loan'' means any owner-financing provided in connection with—

(i) a qualified rehabilitation, or

(ii) the acquisition of a residence with respect to which there has been a qualified rehabilitation,

but only if the mortgagor to whom such financing is provided is the first resident of the residence after the completion of the rehabilitation.

(B) Qualified rehabilitation

For purposes of subparagraph (A), the term ''qualified rehabilitation'' means any rehabilitation of a building if—

(i) there is a period of at least 20 years between the date on which the building was first used and the date on which the physical work on such rehabilitation begins,

(ii) in the rehabilitation process—

(I) 50 percent or more of the existing external walls of such building are retained in place as external walls,

(II) 75 percent or more of the existing external walls of such building are retained in place as internal or external walls, and

(III) 75 percent or more of the existing internal structural framework of such building is retained in place, and

(iii) the expenditures for such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the residence.

For purposes of clause (iii), the mortgagor's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the mortgagor acquires the residence.

(6) Determinations on actuarial basis

All determinations of yield, effective interest rates, and amounts required to be paid or credited to mortgagors or paid to the United States under subsection (g) shall be made on an actuarial basis taking into account the present value of money.

(7) Single-family and owner-occupied residences include certain residences with 2 to 4 units

Except for purposes of subsection (h)(2), the terms ''single-family'' and ''owner-occupied'', when used with respect to residences, include 2, 3, or 4 family residences—

(A) one unit of which is occupied by the owner of the units, and

(B) which were first occupied at least 5 years before the mortgage is executed.

Subparagraph (B) shall not apply to any 2-family residence if the residence is a targeted area residence and the family income of the mortgagor meets the requirement of subsection (f)(3)(B).

(8) Cooperative housing corporations

(A) In general

In the case of any cooperative housing corporation—

(i) each dwelling unit shall be treated as if it were actually owned by the person entitled to occupy such dwelling unit by reason of his ownership of stock in the corporation, and

(ii) any indebtedness of the corporation allocable to the dwelling unit shall be treated as if it were indebtedness of the shareholder entitled to occupy the dwelling unit.

(B) Adjustment to targeted area requirement

In the case of any issue to provide financing to a cooperative housing corporation with respect to cooperative housing not located in a targeted area, to the extent provided in regulations, such issue may be combined with 1 or more other issues for purposes of determining whether the requirements of subsection (h) are met.

(C) Cooperative housing corporation

The term ''cooperative housing corporation'' has the meaning given to such term by section 216(b)(1).

(9) Treatment of limited equity cooperative housing

(A) Treatment as residential rental property

Except as provided in subparagraph (B), for purposes of this part—

(i) any limited equity cooperative housing shall be treated as residential rental property and not as owner-occupied housing, and

(ii) bonds issued to provide such housing shall be subject to the same requirements and limitations as bonds the proceeds of which are to be used to provide qualified residential rental projects (as defined in section 142(d)).

(B) Bonds subject to qualified mortgage bond termination date

Subparagraph (A) shall not apply to any bond issued after the date specified in subsection (a)(1)(B).

(C) Limited equity cooperative housing

For purposes of this paragraph, the term ''limited equity cooperative housing'' means any dwelling unit which a person is entitled to occupy by reason of his ownership of stock in a qualified cooperative housing corporation.

(D) Qualified cooperative housing corporation

For purposes of this paragraph, the term ''qualified cooperative housing corporation'' means any cooperative housing corporation (as defined in section 216(b)(1)) if—

(i) the consideration paid for stock held by any stockholder entitled to occupy any house or apartment in a building owned or leased by the corporation may not exceed the sum of—

(I) the consideration paid for such stock by the first such stockholder, as adjusted by a cost-of-living adjustment determined by the Secretary,

(II) payments made by any stockholder for improvements to such house or apartment, and

(III) payments (other than amounts taken into account under subclause (I) or (II)) attributable to any stockholder to amortize the principal of the corporation's indebtedness arising from the acquisition or development of real property, including improvements thereof,

(ii) the value of the corporation's assets (reduced by any corporate liabilities), to the extent such value exceeds the combined transfer values of the outstanding corporate stock, shall be used only for public benefit or charitable purposes, or directly to benefit the corporation itself, and shall not be used directly to benefit any stockholder, and

(iii) at the time of issuance of the issue, such corporation makes an election under this paragraph.

(E) Effect of election

If a cooperative housing corporation makes an election under this paragraph, section 216 shall not apply with respect to such corporation (or any successor thereof) during the qualified project period (as defined in section 142(d)(2)).

(F) Corporation must continue to be qualified cooperative

Subparagraph (A)(i) shall not apply to limited equity cooperative housing unless the cooperative housing corporation continues to be a qualified cooperative housing corporation at all times during the qualified project period (as defined in section 142(d)(2)).

(G) Election irrevocable

Any election under this paragraph, once made, shall be irrevocable.

(10) Treatment of resale price control and subsidy lien programs

(A) In general

In the case of a residence which is located in a high housing cost area (as defined in section 143(f)(5)), the interest of a governmental unit in such residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

(B) Qualified program

For purposes of subparagraph (A), the term ''qualified program'' means any governmental program providing mortgage loans (other than 1st mortgage loans) or grants—

(i) which restricts (throughout the 9-year period beginning on the date the financing is provided) the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any tax-exempt private activity bond.

(11) Special rules for residences located in disaster areas

In the case of a residence located in an area determined by the President to warrant assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of the Taxpayer Relief Act of 1997), this section shall be applied with the following modifications to financing provided with respect to such residence within 2 years after the date of the disaster declaration:

(A) Subsection (d) (relating to 3-year requirement) shall not apply.

(B) Subsections (e) and (f) (relating to purchase price requirement and income requirement) shall be applied as if such residence were a targeted area residence.

The preceding sentence shall apply only with respect to bonds issued after May 1, 2008, and before January 1, 2010.

(12)[1] Special rules for subprime refinancings

(A) In general

Notwithstanding the requirements of subsection (i)(1), the proceeds of a qualified mortgage issue may be used to refinance a mortgage on a residence which was originally financed by the mortgagor through a qualified subprime loan.

(B) Special rules

In applying subparagraph (A) to any refinancing—

(i) subsection (a)(2)(D)(i) shall be applied by substituting ''12-month period'' for ''42-month period'' each place it appears,

(ii) subsection (d) (relating to 3-year requirement) shall not apply, and

(iii) subsection (e) (relating to purchase price requirement) shall be applied by using the market value of the residence at the time of refinancing in lieu of the acquisition cost.

(C) Qualified subprime loan

The term ''qualified subprime loan'' means an adjustable rate single-family residential mortgage loan made after December 31, 2001, and before January 1, 2008, that the bond issuer determines would be reasonably likely to cause financial hardship to the borrower if not refinanced.

(D) Termination

This paragraph shall not apply to any bonds issued after December 31, 2010.

(12)[1] Special rules for residences destroyed in federally declared disasters

(A) Principal residence destroyed

At the election of the taxpayer, if the principal residence (within the meaning of section 121) of such taxpayer is—

(i) rendered unsafe for use as a residence by reason of a federally declared disaster occurring before January 1, 2010, or

(ii) demolished or relocated by reason of an order of the government of a State or political subdivision thereof on account of a federally declared disaster occurring before such date,

then, for the 2-year period beginning on the date of the disaster declaration, subsection (d)(1) shall not apply with respect to such taxpayer and subsection (e) shall be applied by substituting ''110'' for ''90'' in paragraph (1) thereof.

(B) Principal residence damaged

(i) In general

At the election of the taxpayer, if the principal residence (within the meaning of

[1] So in original. Two pars. (12) have been enacted.

section 121) of such taxpayer was damaged as the result of a federally declared disaster occurring before January 1, 2010, any owner-financing provided in connection with the repair or reconstruction of such residence shall be treated as a qualified rehabilitation loan.

(ii) Limitation

The aggregate owner-financing to which clause (i) applies shall not exceed the lesser of—

(I) the cost of such repair or reconstruction, or

(II) $150,000.

(C) Federally declared disaster

For purposes of this paragraph, the term ''federally declared disaster'' has the meaning given such term by section 165(h)(3)(C)(i).

(D) Election; denial of double benefit

(i) Election

An election under this paragraph may not be revoked except with the consent of the Secretary.

(ii) Denial of double benefit

If a taxpayer elects the application of this paragraph, paragraph (11) shall not apply with respect to the purchase or financing of any residence by such taxpayer.

(*l*) Additional requirements for qualified veterans' mortgage bonds

An issue meets the requirements of this subsection only if it meets the requirements of paragraphs (1), (2), and (3).

(1) Veterans to whom financing may be provided

An issue meets the requirements of this paragraph only if each mortgagor to whom financing is provided under the issue is a qualified veteran.

(2) Requirement that State program be in effect before June 22, 1984

An issue meets the requirements of this paragraph only if it is a general obligation of a State which issued qualified veterans' mortgage bonds before June 22, 1984.

(3) Volume limitation

(A) In general

An issue meets the requirements of this paragraph only if the aggregate amount of bonds issued pursuant thereto (when added to the aggregate amount of qualified veterans' mortgage bonds previously issued by the State during the calendar year) does not exceed the State veterans limit for such calendar year.

(B) State veterans limit

(i) In general

In the case of any State to which clause (ii) does not apply, the State veterans limit for any calendar year is the amount equal to—

(I) the aggregate amount of qualified veterans bonds issued by such State during the period beginning on January 1, 1979, and ending on June 22, 1984 (not including the amount of any qualified veterans bond issued by such State during the calendar year (or portion thereof) in such period for which the amount of such bonds so issued was the lowest), divided by

(II) the number (not to exceed 5) of calendar years after 1979 and before 1985 during which the State issued qualified veterans bonds (determined by only taking into account bonds issued on or before June 22, 1984).

(ii) Alaska, Oregon, and Wisconsin

In the case of the following States, the State veterans limit for any calendar year is the amount equal to—

(I) $100,000,000 for the State of Alaska,

(II) $100,000,000 for the State of Oregon, and

(III) $100,000,000 for the State of Wisconsin.

(iii) Phasein

In the case of calendar years beginning before 2010, clause (ii) shall be applied by substituting for each of the dollar amounts therein an amount equal to the applicable percentage of such dollar amount. For purposes of the preceding sentence, the applicable percentage shall be determined in accordance with the following table:

For Calendar Year:	Applicable percentage is:
2006	20 percent
2007	40 percent
2008	60 percent
2009	80 percent.

(C) Treatment of refunding issues

(i) In general

For purposes of subparagraph (A), the term ''qualified veterans' mortgage bond'' shall not include any bond issued to refund another bond but only if the maturity date of the refunding bond is not later than the later of—

(I) the maturity date of the bond to be refunded, or

(II) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

The preceding sentence shall apply only to the extent that the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

(ii) Exception for advance refunding

Clause (i) shall not apply to any bond issued to advance refund another bond.

(4) Qualified veteran

For purposes of this subsection, the term ''qualified veteran'' means any veteran who—

(A) served on active duty, and

(B) applied for the financing before the date 25 years after the last date on which such veteran left active service.

(5) Special rule for certain short-term bonds

In the case of any bond—

(A) which has a term of 1 year or less,

(B) which is authorized to be issued under O.R.S. 407.435 (as in effect on the date of the enactment of this subsection), to provide financing for property taxes, and

(C) which is redeemed at the end of such term,

the amount taken into account under this subsection with respect to such bond shall be 1/15 of its principal amount.

(m) Recapture of portion of Federal subsidy from use of qualified mortgage bonds and mortgage credit certificates

(1) In general

If, during the taxable year, any taxpayer disposes of an interest in a residence with respect to which there is or was any federally-subsidized indebtedness for the payment of which the taxpayer was liable in whole or part, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by the lesser of—

(A) the recapture amount with respect to such indebtedness, or

(B) 50 percent of the gain (if any) on the disposition of such interest.

(2) Exceptions

Paragraph (1) shall not apply to—

(A) any disposition by reason of death, and

(B) any disposition which is more than 9 years after the testing date.

(3) Federally-subsidized indebtedness

For purposes of this subsection—

(A) In general

The term ''federally-subsidized indebtedness'' means any indebtedness if—

(i) financing for the indebtedness was provided in whole or part from the proceeds of any tax-exempt qualified mortgage bond, or

(ii) any credit was allowed under section 25 (relating to interest on certain home mortgages) to the taxpayer for interest paid or incurred on such indebtedness.

(B) Exception for home improvement loans

Such term shall not include any indebtedness to the extent such indebtedness is federally-subsidized indebtedness solely by reason of being a qualified home improvement loan (as defined in subsection (k)(4)).

(4) Recapture amount

For purposes of this subsection—

(A) In general

The recapture amount with respect to any indebtedness is the amount equal to the product of—

(i) the federally-subsidized amount with respect to the indebtedness,

(ii) the holding period percentage, and

(iii) the income percentage.

(B) Federally-subsidized amount

The federally-subsidized amount with respect to any indebtedness is the amount equal to 6.25 percent of the highest principal amount of the indebtedness for which the taxpayer was liable.

(C) Holding period percentage

(i) In general

The term ''holding period percentage'' means the percentage determined in accordance with the following table:

If the disposition occurs during a year after the testing date which is:	The holding period percentage is:
The 1st such year	20
The 2d such year	40
The 3d such year	60
The 4th such year	80
The 5th such year	100
The 6th such year	80
The 7th such year	60
The 8th such year	40
The 9th such year	20.

(ii) Retirements of indebtedness

If the federally-subsidized indebtedness is completely repaid during any year of the 4-year period beginning on the testing date, the holding period percentage for succeeding years shall be determined by reducing ratably to zero over the succeeding 5 years the holding period percentage which would have been determined under this subparagraph had the taxpayer disposed of his interest in the residence on the date of the repayment.

(D) Testing date

The term ''testing date'' means the earliest date on which all of the following requirements are met:

(i) The indebtedness is federally-subsidized indebtedness.

(ii) The taxpayer is liable in whole or part for payment of the indebtedness.

(E) Income percentage

The term ''income percentage'' means the percentage (but not greater than 100 percent) which—

(i) the excess of—

(I) the modified adjusted gross income of the taxpayer for the taxable year in which the disposition occurs, over

(II) the adjusted qualifying income for such taxable year, bears to

(ii) $5,000.

The percentage determined under the preceding sentence shall be rounded to the nearest whole percentage point (or, if it includes a half of a percentage point, shall be increased to the nearest whole percentage point).

(5) Adjusted qualifying income; modified adjusted gross income

(A) Adjusted qualifying income

For purposes of paragraph (4), the term ''adjusted qualifying income'' means the product of—

(i) the highest family income which (as of the date the financing was provided) would have met the requirements of sub-

section (f) with respect to the residents, and

(ii) 1.05 to the nth power where ''n'' equals the number of full years during the period beginning on the date the financing was provided and ending on the date of the disposition.

For purposes of clause (i), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.

(B) Modified adjusted gross income

For purposes of paragraph (4), the term ''modified adjusted gross income'' means adjusted gross income—

(i) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is excluded from gross income under section 103, and

(ii) decreased by the amount of gain (if any) included in gross income of the taxpayer by reason of the disposition to which this subsection applies.

(6) Special rules relating to limitation on recapture amount based on gain realized

(A) In general

For purposes of paragraph (1), gain shall be taken into account whether or not recognized, and the adjusted basis of the taxpayer's interest in the residence shall be determined without regard to sections 1033(b) and 1034(e) (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) for purposes of determining gain.

(B) Dispositions other than sales, exchanges, and involuntary conversions

In the case of a disposition other than a sale, exchange, or involuntary conversion, gain shall be determined as if the interest had been sold for its fair market value.

(C) Involuntary conversions resulting from casualties

In the case of property which (as a result of its destruction in whole or in part by fire, storm, or other casualty) is compulsorily or involuntarily converted, paragraph (1) shall not apply to such conversion if the taxpayer purchases (during the period specified in section 1033(a)(2)(B)) property for use as his principal residence on the site of the converted property. For purposes of subparagraph (A), the adjusted basis of the taxpayer in the residence shall not be adjusted for any gain or loss on a conversion to which this subparagraph applies.

(7) Issuer to inform mortgagor of federally-subsidized amount and family income limits

The issuer of the issue which provided the federally-subsidized indebtedness to the mortgagor shall—

(A) at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection, and

(B) not later than 90 days after the date such indebtedness is provided, provide a written statement to the mortgagor specifying—

(i) the federally-subsidized amount with respect to such indebtedness, and

(ii) the adjusted qualifying income (as defined in paragraph (5)) for each category of family size for each year of the 9-year period beginning on the date the financing was provided.

(8) Special rules

(A) No basis adjustment

No adjustment shall be made to the basis of any property for the increase in tax under this subsection.

(B) Special rule where 2 or more persons hold interests in residence

Except as provided in subparagraph (C) and in regulations prescribed by the Secretary, if 2 or more persons hold interests in any residence and are jointly liable for the federally-subsidized indebtedness, the recapture amount shall be determined separately with respect to their respective interests in the residence.

(C) Transfers to spouses and former spouses

Paragraph (1) shall not apply to any transfer on which no gain or loss is recognized under section 1041. In any such case, the transferee shall be treated under this subsection in the same manner as the transferor would have been treated had such transfer not occurred.

(D) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations dealing with dispositions of partial interests in a residence.

(Added Pub. L. 99–514, title XIII, §1301(b), Oct. 22, 1986, 100 Stat. 2610; amended Pub. L. 100–647, title I, §1013(a)(2), (3), title IV, §4005(a)(1), (b)–(d)(1), (e)–(g)(2), (6), Nov. 10, 1988, 102 Stat. 3537, 3645–3651; Pub. L. 101–239, title VII, §7104(a), Dec. 19, 1989, 103 Stat. 2305; Pub. L. 101–508, title XI, §11408(a), (c), Nov. 5, 1990, 104 Stat. 1388–477; Pub. L. 102–227, title I, §108(a), Dec. 11, 1991, 105 Stat. 1688; Pub. L. 103–66, title XIII, §13141(a), (c)–(e), Aug. 10, 1993, 107 Stat. 436, 437; Pub. L. 104–188, title I, §§1702(d)(2), 1703(n)(3), Aug. 20, 1996, 110 Stat. 1870, 1877; Pub. L. 105–34, title III, §312(d)(1), (3), title IX, §914, Aug. 5, 1997, 111 Stat. 839, 840, 878; Pub. L. 109–222, title II, §203(a)(1), (b)(1), May 17, 2006, 120 Stat. 348, 349; Pub. L. 109–432, div. A, title IV, §§411(a), 416(a), Dec. 20, 2006, 120 Stat. 2963, 2965; Pub. L. 110–245, title I, §103(a)–(c), June 17, 2008, 122 Stat. 1625; Pub. L. 110–289, div. C, title I, §§3021(b)(1), 3026(a), July 30, 2008, 122 Stat. 2893, 2897; Pub. L. 110–343, div. C, title VII, §709(a), Oct. 3, 2008, 122 Stat. 3925.)

REFERENCES IN TEXT

The date of the enactment of this subparagraph, referred to in subsec. (d)(2)(D), is the date of enactment of Pub. L. 109–432, which was approved Dec. 20, 2006.

Section 8 of the United States Housing Act of 1937, referred to in subsec. (f)(2), is classified to section 1437f of Title 42, The Public Health and Welfare.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (k)(11), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as in effect on the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997. The Act is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The date of the enactment of this subsection, referred to in subsec. (*l*)(5)(B), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

Section 1034(e) (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997), referred to in subsec. (m)(6)(A), means section 1034(e) of this title as in effect on the day before the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997. Section 1034 was repealed by Pub. L. 105–34, title III, § 312(b), Aug. 5, 1997, 111 Stat. 839.

PRIOR PROVISIONS

A prior section 143, acts Aug. 16, 1954, ch. 736, 68A Stat. 41; Dec. 30, 1969, Pub. L. 91–172, title VIII, § 802(b), 83 Stat. 677; Oct. 4, 1976, Pub. L. 94–455, title XIX, § 1901(a)(22), 90 Stat. 1767; May 23, 1977, Pub. L. 95–30, title I, § 101(d)(4), 91 Stat. 133; July 18, 1984, Pub. L. 98–369, div. A, title IV, § 423(c)(1), 98 Stat. 800, related to determination of marital status, prior to the general revision of this part by Pub. L. 99–514. See section 7703 of this title.

Provisions similar to this section were contained in section 103A of this title prior to repeal by Pub. L. 99–514.

AMENDMENTS

2008—Subsec. (d)(2)(D). Pub. L. 110–245, § 103(a), struck out ''and before January 1, 2008'' after ''enactment of this subparagraph''.

Subsec. (k)(11). Pub. L. 110–289, § 3026(a), substituted ''May 1, 2008'' for ''December 31, 1996'' and ''January 1, 2010'' for ''January 1, 1999'' in concluding provisions.

Subsec. (k)(12). Pub. L. 110–343 added par. (12) relating to special rules for residences destroyed in federally declared disasters.

Pub. L. 110–289, § 3021(b)(1), added par. (12) relating to special rules for subprime refinancings.

Subsec. (*l*)(3)(B)(ii). Pub. L. 110–245, § 103(b), substituted ''$100,000,000'' for ''$25,000,000'' wherever appearing.

Subsec. (*l*)(4). Pub. L. 110–245, § 103(c), reenacted heading without change and amended text generally. Prior to amendment, par. (4) defined ''qualified veteran'' differently with respect to different States.

2006—Subsec. (d)(2)(D). Pub. L. 109–432, § 416(a), added subpar. (D).

Subsec. (*l*)(3)(B). Pub. L. 109–222, § 203(b)(1), reenacted heading without change, substituted introductory provisions of cl. (i) for ''A State veterans limit for any calendar year is the amount equal to—'' and inserted heading, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, of cl. (i) and adjusted margins, and added cls. (ii) to (iv).

Subsec. (*l*)(3)(B)(iv). Pub. L. 109–432, § 411(a), struck out heading and text of cl. (iv). Text read as follows: ''The State veterans limit for the States specified in clause (ii) for any calendar year after 2010 is zero.''

Subsec. (*l*)(4). Pub. L. 109–222, § 203(a)(1), amended par. (4) generally. Prior to amendment, par. (4) defined the term ''qualified veteran''.

1997—Subsec. (i)(1)(C)(i)(I). Pub. L. 105–34, § 312(d)(1), substituted ''section 121'' for ''section 1034''.

Subsec. (k)(11). Pub. L. 105–34, § 914, added par. (11).

Subsec. (m)(6)(A). Pub. L. 105–34, § 312(d)(3), inserted ''(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)'' after ''1034(e)''.

1996—Subsec. (d)(2)(C). Pub. L. 104–188, § 1703(n)(3), substituted ''thereon,'' for ''thereon.''.

Subsec. (m)(4)(C)(ii). Pub. L. 104–188, § 1702(d)(2), substituted ''any year of the 4-year period'' for ''any month of the 10-year period'', ''succeeding years'' for ''succeeding months'', and ''to zero over the succeeding 5 years'' for ''over the remainder of such period (or, if lesser, over 5 years)''.

1993—Subsec. (a)(1). Pub. L. 103–66, § 13141(a), amended heading and text of par. (1) generally. Prior to amendment, text read as follows:

''(A) IN GENERAL.—For purposes of this title, the term 'qualified mortgage bond' means a bond which is issued as part of a qualified mortgage issue.

''(B) TERMINATION ON JUNE 30, 1992.—No bond issued after June 30, 1992, may be treated as a qualified mortgage bond.''

Subsec. (d)(2)(C). Pub. L. 103–66, § 13141(d)(1), added subpar. (C).

Subsec. (i)(1)(C). Pub. L. 103–66, § 13141(d)(2), added subpar. (C).

Subsec. (k)(3)(B)(iii). Pub. L. 103–66, § 13141(d)(3), inserted ''(other than land described in subsection (i)(1)(C)(i))'' after ''cost of land''.

Subsec. (k)(7). Pub. L. 103–66, § 13141(e), inserted at end ''Subparagraph (B) shall not apply to any 2-family residence if the residence is a targeted area residence and the family income of the mortgagor meets the requirement of subsection (f)(3)(B).''

Subsec. (k)(10). Pub. L. 103–66, § 13141(c), added par. (10).

1991—Subsec. (a)(1)(B). Pub. L. 102–227 substituted ''June 30, 1992'' for ''December 31, 1991'' in heading and text.

1990—Subsec. (a)(1)(B). Pub. L. 101–508, § 11408(a), substituted ''December 31, 1991'' for ''September 30, 1990'' in heading and text.

Subsec. (m)(1). Pub. L. 101–508, § 11408(c)(3)(A), substituted ''increased by the lesser of—'' and subpars. (A) and (B) for ''increased by the recapture amount with respect to such indebtedness.''

Subsec. (m)(2)(B). Pub. L. 101–508, § 11408(c)(1)(C), substituted ''9 years'' for ''10 years''.

Subsec. (m)(4)(A)(iii). Pub. L. 101–508, § 11408(c)(2)(A), added cl. (iii).

Subsec. (m)(4)(C)(i). Pub. L. 101–508, § 11408(c)(1)(A), substituted heading for one which read: ''Dispositions during 1st 5 years'' and amended text generally. Prior to amendment, text read as follows: ''If the disposition of the taxpayer's interest in the residence occurs during the 5-year period beginning on the testing date, the holding period percentage is the percentage determined by dividing the number of full months during which the requirements of subparagraph (D) were met by 60.''

Subsec. (m)(4)(C)(ii), (iii). Pub. L. 101–508, § 11408(c)(1)(B), redesignated cl. (iii) as (ii) and struck out former cl. (ii) ''Dispositions during 2d 5 years'' which read as follows: ''If the disposition of the taxpayer's interest in the residence occurs during the 5-year period following the 5-year period described in clause (i), the holding period percentage is the percentage determined by dividing—

''(I) the excess of 120 over the number of full months during which such requirements were met by

''(II) 60.''

Subsec. (m)(4)(E). Pub. L. 101–508, § 11408(c)(2)(B), added subpar. (E).

Subsec. (m)(5). Pub. L. 101–508, § 11408(c)(2)(C)(i), added heading and struck out former heading which read: ''Reduction of recapture amount if taxpayer meets certain income limitations''.

Subsec. (m)(5)(A). Pub. L. 101–508, § 11408(c)(2)(C)(i), added subpar. (A) and struck out former subpar. (A) ''In general'' which read as follows: ''The recapture amount which would (but for this paragraph) apply with respect to any disposition during a taxable year shall be reduced (but not below zero) by 2 percent of such amount for each $100 by which adjusted qualifying income exceeds the modified adjusted gross income of the taxpayer for such year.''

Subsec. (m)(5)(B), (C). Pub. L. 101–508, § 11408(c)(2)(C), redesignated subpar. (C) as (B), substituted ''paragraph (4)'' for ''this paragraph'' in introductory provisions, and struck out former subpar. (B) ''Adjusted qualifying

income'' which read as follows: ''For purposes of this paragraph, the term 'adjusted qualifying income' means the amount equal to the sum of—

''(i) $5,000, plus

''(ii) the product of—

''(I) the highest family income which (as of the date the financing was provided) would have met the requirement of subsection (f) with respect to the residence, and

''(II) the percentage equal to the sum of 100 percent plus 5 percent for each full year during the period beginning on such date and ending on the date of the disposition.

For purposes of clause (ii)(I), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.''

Subsec. (m)(6). Pub. L. 101–508, §11408(c)(3)(B)(i), substituted ''Special rules relating to limitation'' for ''Limitation'' in heading.

Subsec. (m)(6)(A). Pub. L. 101–508, §11408(c)(3)(B)(ii), (iii), struck out at beginning ''In no event shall the recapture amount of the taxpayer with respect to any indebtedness exceed 50 percent of the gain (if any) on the disposition of the taxpayer's interest in the residence.'' and substituted ''paragraph (1)'' for ''the preceding sentence''.

Subsec. (m)(7)(B)(ii). Pub. L. 101–508, §11408(c)(3)(C), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''the amounts described in paragraph (5)(B)(ii) for each category of family size for each year of the 10-year period beginning on the date the financing was provided.''

1989—Subsec. (a)(1)(B). Pub. L. 101–239 substituted ''September 30, 1990'' for ''December 31, 1989'' in heading and in text.

1988—Subsec. (a)(1)(B). Pub. L. 100–647, §4005(a)(1), substituted ''1989'' for ''1988'' in heading and in text.

Subsec. (a)(2)(A). Pub. L. 100–647, §4005(f), inserted sentence at end relating to application of cl. (iv).

Subsec. (a)(2)(A)(ii). Pub. L. 100–647, §4005(g)(1), substituted ''(i), and (m)(7)'' for ''and (i)''.

Subsec. (a)(2)(A)(iii). Pub. L. 100–647, §1013(a)(2), substituted ''such issue does not meet'' for ''no bond which is part of such issue meets''.

Subsec. (a)(2)(A)(iv). Pub. L. 100–647, §4005(f), added cl. (iv).

Subsec. (a)(2)(C). Pub. L. 100–647, §4005(g)(2)(B), substituted '', (h), and (m)(7)'' for ''and (h)'' in introductory text.

Subsec. (a)(2)(D). Pub. L. 100–647, §4005(e), added subpar. (D).

Subsec. (b)(4). Pub. L. 100–647, §1013(a)(3), inserted ''is part of an issue which'' after ''which''.

Subsec. (f)(5). Pub. L. 100–647, §4005(b), added par. (5).

Subsec. (f)(6). Pub. L. 100–647, §4005(c), added par. (6).

Subsec. (g)(1). Pub. L. 100–647, §4005(d)(1), substituted ''paragraph (2) of this subsection and, in the case of an issue described in subsection (b)(1), such issue also meets the requirements of paragraph (3) of this subsection'' for ''paragraphs (2) and (3) of this subsection'' and struck out ''(other than subsection (f) thereof)'' before period at end.

Subsec. (g)(2)(B)(iv). Pub. L. 100–647, §4005(g)(6), inserted at end ''The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m).''

Subsec. (m). Pub. L. 100–647, §4005(g)(1), added subsec. (m).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–343, div. C, title VII, §709(b), Oct. 3, 2008, 122 Stat. 3926, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to disasters occurring after December 31, 2007.''

Pub. L. 110–289, div. C, title I, §3021(c), July 30, 2008, 122 Stat. 2893, provided that: ''The amendments made by this section [amending this section and section 146 of this title] shall apply to bonds issued after the date of the enactment of this Act [July 30, 2008].''

Pub. L. 110–289, div. C, title I, §3026(b), July 30, 2008, 122 Stat. 2897, provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after May 1, 2008.''

Pub. L. 110–245, title I, §103(d), June 17, 2008, 122 Stat. 1626, provided that: ''The amendments made by this section [amending this section] shall apply to bonds issued after December 31, 2007.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–432, div. A, title IV, §411(b), Dec. 20, 2006, 120 Stat. 2963, provided that: ''The amendment made by this section [amending this section] shall take effect as if included in section 203 [probably means 203(b)] of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109–222].''

Pub. L. 109–432, div. A, title IV, §416(b), Dec. 20, 2006, 120 Stat. 2965, 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 [Dec. 20, 2006].''

Pub. L. 109–222, title II, §203(a)(2), May 17, 2006, 120 Stat. 349, provided that: ''The amendments made by this subsection [amending this section] shall apply to bonds issued on or after the date of the enactment of this Act [May 17, 2006].''

Pub. L. 109–222, title II, §203(b)(2), May 17, 2006, 120 Stat. 350, provided that: ''The amendments made by this subsection [amending this section] shall apply to allocations of State volume limit after April 5, 2006.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(1), (3) of Pub. L. 105–34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105–34, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1702(d)(2) of Pub. L. 104–188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101–508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104–188, set out as a note under section 38 of this title.

Amendment by section 1703(n)(3) of Pub. L. 104–188 effective as if included in the provision of the Revenue Reconciliation Act of 1993, Pub. L. 103–66, §§13001–13444, to which such amendment relates, see section 1703(*o*) of Pub. L. 104–188, set out as a note under section 39 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13141(f)(1) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after June 30, 1992.''

Section 13141(f)(3) of Pub. L. 103–66 provided that: ''The amendments made by subsections (c) and (e) [amending this section] shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of enactment of this Act [Aug. 10, 1993].''

Section 13141(f)(4) of Pub. L. 103–66 provided that: ''The amendments made by subsection (d) [amending this section] shall apply to loans originated and credit certificates provided after the date of the enactment of this Act [Aug. 10, 1993].''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 108(c)(1) of Pub. L. 102–227 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after December 31, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11408(d) of Pub. L. 101–508 provided that:

''(1) BONDS.—The amendment made by subsection (a) [amending this section] shall apply to bonds issued after September 30, 1990.

''(2) CERTIFICATES.—The amendment made by subsection (b) [amending section 25 of this title] shall apply to elections for periods after September 30, 1990.

''(3) SIMPLIFICATION.—The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendments made by section 4005 of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(2), (3) 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 4005(h) of Pub. L. 100–647 provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section and sections 25, 26, 148, 6045, and 6654 of this title] shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

''(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989—

''(A) the amendments made by subsections (b) and (c) [amending this section] shall apply to financing provided after the date of issuance of the refunding issue, and

''(B) the amendment made by subsection (f) [amending this section] shall apply to payments (including on loans made before such date of issuance) received on or after such date of issuance.

''(3) SUBSECTION (g).—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (g) [amending this section and sections 25, 26, 6045, and 6654 of this title] shall apply to financing provided, and mortgage credit certificates issued, after December 31, 1990.

''(B) EXCEPTION.—The amendments made by subsection (g) shall not apply to financing provided pursuant to a binding contract (entered into before June 23, 1988) with a homebuilder, lender, or mortgagor if the bonds (the proceeds of which are used to provide such financing) are issued—

''(i) before June 23, 1988, or

''(ii) before August 1, 1988, pursuant to a written application (made before July 1, 1988) for State bond volume authority.''

TRANSITION RULE

Pub. L. 110–245, title I, § 103(e), June 17, 2008, 122 Stat. 1626, provided that: ''In the case of any bond issued after December 31, 2007, and before the date of the enactment of this Act [June 17, 2008], subparagraph (B) of section 143(*l*)(4) of the Internal Revenue Code of 1986, as amended by this section, shall be applied by substituting '30 years' for '25 years'.''

TERMINATION DATE FOR OBLIGATIONS TREATED AS QUALIFIED MORTGAGE BONDS UNDER FORMER SECTION 103A

Section 1013(a)(27) of Pub. L. 100–647 provided that: ''The date contained in [former] section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act [Oct. 22, 1986], for purposes of any bond issued to refund a bond to which such [section] 103A(c)(1) applies.''

STUDY OF RECAPTURE PROVISIONS

Section 4005(i) of Pub. L. 100–647 provided that: ''The Comptroller General of the United States shall conduct a study of section 143(m) of the 1986 Code (as added by this section) and of alternatives to accomplish the purposes of such section. A report of such study shall be submitted not later than July 1, 1990, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.''

§ 144. Qualified small issue bond; qualified student loan bond; qualified redevelopment bond

(a) Qualified small issue bond

(1) In general

For purposes of this part, the term ''qualified small issue bond'' means any bond issued as part of an issue the aggregate authorized face amount of which is $1,000,000 or less and 95 percent or more of the net proceeds of which are to be used—

(A) for the acquisition, construction, reconstruction, or improvement of land or property of a character subject to the allowance for depreciation, or

(B) to redeem part or all of a prior issue which was issued for purposes described in subparagraph (A) or this subparagraph.

(2) Certain prior issues taken into account

If—

(A) the proceeds of 2 or more issues of bonds (whether or not the issuer of each such issue is the same) are or will be used primarily with respect to facilities located in the same incorporated municipality or located in the same county (but not in any incorporated municipality),

(B) the principal user of such facilities is or will be the same person or 2 or more related persons, and

(C) but for this paragraph, paragraph (1) (or the corresponding provision of prior law) would apply to each such issue,

then, for purposes of paragraph (1), in determining the aggregate face amount of any later issue there shall be taken into account the aggregate face amount of tax-exempt bonds issued under all prior such issues and outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(3) Related persons

For purposes of this subsection, a person is a related person to another person if—

(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

(B) such persons are members of the same controlled group of corporations (as defined in section 1563(a), except that ''more than 50 percent'' shall be substituted for ''at least 80 percent'' each place it appears therein).

(4) $10,000,000 limit in certain cases

(A) In general

At the election of the issuer with respect to any issue, this subsection shall be applied—

(i) by substituting ''$10,000,000'' for ''$1,000,000'' in paragraph (1), and

(ii) in determining the aggregate face amount of such issue, by taking into ac-

count not only the amount described in paragraph (2), but also the aggregate amount of capital expenditures with respect to facilities described in subparagraph (B) paid or incurred during the 6-year period beginning 3 years before the date of such issue and ending 3 years after such date (and financed otherwise than out of the proceeds of outstanding tax-exempt issues to which paragraph (1) (or the corresponding provision of prior law) applied), as if the aggregate amount of such capital expenditures constituted the face amount of a prior outstanding issue described in paragraph (2).

(B) Facilities taken into account

For purposes of subparagraph (A)(ii), the facilities described in this subparagraph are facilities—

(i) located in the same incorporated municipality or located in the same county (but not in any incorporated municipality), and

(ii) the principal user of which is or will be the same person or 2 or more related persons.

For purposes of clause (i), the determination of whether or not facilities are located in the same governmental unit shall be made as of the date of issue of the issue in question.

(C) Certain capital expenditures not taken into account

For purposes of subparagraph (A)(ii), any capital expenditure—

(i) to replace property destroyed or damaged by fire, storm, or other casualty, to the extent of the fair market value of the property replaced,

(ii) required by a change made after the date of issue of the issue in question in a Federal or State law or local ordinance of general application or required by a change made after such date in rules and regulations of general application issued under such a law or ordinance,

(iii) required by circumstances which could not be reasonably foreseen on such date of issue or arising out of a mistake of law or fact (but the aggregate amount of expenditures not taken into account under this clause with respect to any issue shall not exceed $1,000,000), or

(iv) described in clause (i) or (ii) of section 41(b)(2)(A) for which a deduction was allowed under section 174(a),

shall not be taken into account.

(D) Limitation on loss of tax exemption

In applying subparagraph (A)(ii) with respect to capital expenditures made after the date of any issue, no bond issued as a part of such issue shall cease to be treated as a qualified small issue bond by reason of any such expenditure for any period before the date on which such expenditure is paid or incurred.

(E) Certain refinancing issues

In the case of any issue described in paragraph (1)(B), an election may be made under subparagraph (A) of this paragraph only if all of the prior issues being redeemed are issues to which paragraph (1) (or the corresponding provision of prior law) applied. In applying subparagraph (A)(ii) with respect to such a refinancing issue, capital expenditures shall be taken into account only for purposes of determining whether the prior issues being redeemed qualified (and would have continued to qualify) under paragraph (1) (or the corresponding provision of prior law).

(F) Aggregate amount of capital expenditures where there is urban development action grant

In the case of any issue 95 percent or more of the net proceeds of which are to be used to provide facilities with respect to which an urban development action grant has been made under section 119 of the Housing and Community Development Act of 1974, capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii). This subparagraph shall not apply to bonds issued after December 31, 2006.

(G) Additional capital expenditures not taken into account

With respect to bonds issued after December 31, 2006, in addition to any capital expenditure described in subparagraph (C), capital expenditures of not to exceed $10,000,000 shall not be taken into account for purposes of applying subparagraph (A)(ii).

(5) Issues for residential purposes

This subsection shall not apply to any bond issued as part of an issue 5 percent or more of the net proceeds of which are to be used directly or indirectly to provide residential real property for family units.

(6) Limitations on treatment of bonds as part of the same issue

(A) In general

For purposes of this subsection, separate lots of bonds which (but for this subparagraph) would be treated as part of the same issue shall be treated as separate issues unless the proceeds of such lots are to be used with respect to 2 or more facilities—

(i) which are located in more than 1 State, or

(ii) which have, or will have, as the same principal user the same person or related persons.

(B) Franchises

For purposes of subparagraph (A), a person (other than a governmental unit) shall be considered a principal user of a facility if such person (or a group of related persons which includes such person)—

(i) guarantees, arranges, participates in, or assists with the issuance (or pays any portion of the cost of issuance) of any bond the proceeds of which are to be used to finance or refinance such facility, and

(ii) provides any property, or any franchise, trademark, or trade name (within

the meaning of section 1253), which is to be used in connection with such facility.

(7) Subsection not to apply if bonds issued with certain other tax-exempt bonds

This subsection shall not apply to any bond issued as part of an issue (other than an issue to which paragraph (4) applies) if the interest on any other bond which is part of such issue is excluded from gross income under any provision of law other than this subsection.

(8) Restrictions on financing certain facilities

This subsection shall not apply to an issue if—

(A) more than 25 percent of the net proceeds of the issue are to be used to provide a facility the primary purpose of which is one of the following: retail food and beverage services, automobile sales or service, or the provision of recreation or entertainment; or

(B) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including any handball or racquetball court), hot tub facility, suntan facility, or racetrack.

(9) Aggregation of issues with respect to single project

For purposes of this subsection, 2 or more issues part or all of the net proceeds of which are to be used with respect to a single building, an enclosed shopping mall, or a strip of offices, stores, or warehouses using substantial common facilities shall be treated as 1 issue (and any person who is a principal user with respect to any of such issues shall be treated as a principal user with respect to the aggregated issue).

(10) Aggregate limit per taxpayer

(A) In general

This subsection shall not apply to any issue if the aggregate authorized face amount of such issue allocated to any test-period beneficiary (when increased by the outstanding tax-exempt facility-related bonds of such beneficiary) exceeds $40,000,000.

(B) Outstanding tax-exempt facility-related bonds

(i) In general

For purposes of applying subparagraph (A) with respect to any issue, the outstanding tax-exempt facility-related bonds of any person who is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in clause (ii)—

(I) which are allocated to such beneficiary, and

(II) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(ii) Bonds taken into account

For purposes of clause (i), the bonds referred to in this clause are—

(I) exempt facility bonds, qualified small issue bonds, and qualified redevelopment bonds, and

(II) industrial development bonds (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) to which section 141(a) does not apply.

(C) Allocation of face amount of issue

(i) In general

Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary of a facility financed by the proceeds of such issue (other than an owner of such facility) is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility used by such beneficiary bears to the entire facility.

(ii) Owners

Except as otherwise provided in regulations, the portion of the face amount of an issue allocated to any test-period beneficiary who is an owner of a facility financed by the proceeds of such issue is an amount which bears the same relationship to the entire face amount of such issue as the portion of such facility owned by such beneficiary bears to the entire facility.

(D) Test-period beneficiary

For purposes of this paragraph, except as provided in regulations, the term ''test-period beneficiary'' means any person who is an owner or a principal user of facilities being financed by the issue at any time during the 3-year period beginning on the later of—

(i) the date such facilities were placed in service, or

(ii) the date of issue.

(E) Treatment of related persons

For purposes of this paragraph, all persons who are related (within the meaning of paragraph (3)) to each other shall be treated as 1 person.

(11) Limitation on acquisition of depreciable farm property

(A) In general

This subsection shall not apply to any issue if more than $250,000 of the net proceeds of such issue are to be used to provide depreciable farm property with respect to which the principal user is or will be the same person or 2 or more related persons.

(B) Depreciable farm property

For purposes of this paragraph, the term ''depreciable farm property'' means property of a character subject to the allowance for depreciation which is to be used in a trade or business of farming.

(C) Prior issues taken into account

In determining the amount of proceeds of an issue to be used as described in subpara-

graph (A), there shall be taken into account the aggregate amount of each prior issue to which paragraph (1) (or the corresponding provisions of prior law) applied which were or will be so used.

(12) Termination dates

(A) In general

This subsection shall not apply to—

(i) any bond (other than a bond described in clause (ii)) issued after December 31, 1986, or

(ii) any bond (or series of bonds) issued to refund a bond issued on or before such date unless—

(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(II) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(III) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A).

(B) Bonds issued to finance manufacturing facilities and farm property

Subparagraph (A) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

(i) any manufacturing facility, or

(ii) any land or property in accordance with section 147(c)(2).

(C) Manufacturing facility

For purposes of this paragraph—

(i) In general

The term ''manufacturing facility'' means any facility which is used in the manufacturing or production of tangible personal property (including the processing resulting in a change in the condition of such property). A rule similar to the rule of section 142(b)(2) shall apply for purposes of the preceding sentence.

(ii) Certain facilities included

Such term includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this clause) if—

(I) such facilities are located on the same site as the manufacturing facility, and

(II) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.

(iii) Special rules for bonds issued in 2009 and 2010

In the case of any issue made after the date of enactment of this clause and before January 1, 2011, clause (ii) shall not apply and the net proceeds from a bond shall be considered to be used to provide a manufacturing facility if such proceeds are used to provide—

(I) a facility which is used in the creation or production of intangible property which is described in section 197(d)(1)(C)(iii), or

(II) a facility which is functionally related and subordinate to a manufacturing facility (determined without regard to this subclause) if such facility is located on the same site as the manufacturing facility.

(b) Qualified student loan bond

For purposes of this part—

(1) In general

The term ''qualified student loan bond'' means any bond issued as part of an issue the applicable percentage or more of the net proceeds of which are to be used directly or indirectly to make or finance student loans under—

(A) a program of general application to which the Higher Education Act of 1965 applies if—

(i) limitations are imposed under the program on—

(I) the maximum amount of loans outstanding to any student, and

(II) the maximum rate of interest payable on any loan,

(ii) the loans are directly or indirectly guaranteed by the Federal Government,

(iii) the financing of loans under the program is not limited by Federal law to the proceeds of tax-exempt bonds, and

(iv) special allowance payments under section 438 of the Higher Education Act of 1965—

(I) are authorized to be paid with respect to loans made under the program, or

(II) would be authorized to be made with respect to loans under the program if such loans were not financed with the proceeds of tax-exempt bonds, or

(B) a program of general application approved by the State if no loan under such program exceeds the difference between the total cost of attendance and other forms of student assistance (not including loans pursuant to section 428B(a)(1) of the Higher Education Act of 1965 (relating to parent loans) or subpart I[1] of part C of title VII of the Public Health Service Act (relating to student assistance)) for which the student borrower may be eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as

[1] See References in Text note below.

governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a)).

(2) Applicable percentage

For purposes of paragraph (1), the term ''applicable percentage'' means—

(A) 90 percent in the case of the program described in paragraph (1)(A), and

(B) 95 percent in the case of the program described in paragraph (1)(B).

(3) Student borrowers must be residents of issuing State, etc.

A student loan shall be treated as being made or financed under a program described in paragraph (1) with respect to an issue only if the student is—

(A) a resident of the State from which the volume cap under section 146 for such loan was derived, or

(B) enrolled at an educational institution located in such State.

(4) Discrimination on basis of school location not permitted

A program shall not be treated as described in paragraph (1)(A) if such program discriminates on the basis of the location (in the United States) of the educational institution in which the student is enrolled.

(c) Qualified redevelopment bond

For purposes of this part—

(1) In general

The term ''qualified redevelopment bond'' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used for 1 or more redevelopment purposes in any designated blighted area.

(2) Additional requirements

A bond shall not be treated as a qualified redevelopment bond unless—

(A) the issue described in paragraph (1) is issued pursuant to—

(i) a State law which authorizes the issuance of such bonds for redevelopment purposes in blighted areas, and

(ii) a redevelopment plan which is adopted before such issuance by the governing body described in paragraph (4)(A) with respect to the designated blighted area,

(B)(i) the payment of the principal and interest on such issue is primarily secured by taxes of general applicability imposed by a general purpose governmental unit, or

(ii) any increase in real property tax revenues (attributable to increases in assessed value) by reason of the carrying out of such purposes in such area is reserved exclusively for debt service on such issue (and similar issues) to the extent such increase does not exceed such debt service,

(C) each interest in real property located in such area—

(i) which is acquired by a governmental unit with the proceeds of the issue, and

(ii) which is transferred to a person other than a governmental unit,

is transferred for fair market value,

(D) the financed area with respect to such issue meets the no additional charge requirements of paragraph (5), and

(E) the use of the proceeds of the issue meets the requirements of paragraph (6).

(3) Redevelopment purposes

For purposes of paragraph (1)—

(A) In general

The term ''redevelopment purposes'' means, with respect to any designated blighted area—

(i) the acquisition (by a governmental unit having the power to exercise eminent domain) of real property located in such area,

(ii) the clearing and preparation for redevelopment of land in such area which was acquired by such governmental unit,

(iii) the rehabilitation of real property located in such area which was acquired by such governmental unit, and

(iv) the relocation of occupants of such real property.

(B) New construction not permitted

The term ''redevelopment purposes'' does not include the construction (other than the rehabilitation) of any property or the enlargement of an existing building.

(4) Designated blighted area

For purposes of this subsection—

(A) In general

The term ''designated blighted area'' means any blighted area designated by the governing body of a local general purpose governmental unit in the jurisdiction of which such area is located.

(B) Blighted area

The term ''blighted area'' means any area which the governing body described in subparagraph (A) determines to be a blighted area on the basis of the substantial presence of factors such as excessive vacant land on which structures were previously located, abandoned or vacant buildings, substandard structures, vacancies, and delinquencies in payment of real property taxes.

(C) Designated areas may not exceed 20 percent of total assessed value of real property in government's jurisdiction

(i) In general

An area may be designated by a governmental unit as a blighted area only if the designation percentage with respect to such area, when added to the designation percentages of all other designated blighted areas within the jurisdiction of such governmental unit, does not exceed 20 percent.

(ii) Designation percentage

For purposes of this subparagraph, the term ''designation percentage'' means, with respect to any area, the percentage (determined at the time such area is designated) which the assessed value of real property located in such area is of the

total assessed value of all real property located within the jurisdiction of the governmental unit which designated such area.

(iii) Exception where bonds not outstanding

The designation percentage of a previously designated blighted area shall not be taken into account under clause (i) if no qualified redevelopment bond (or similar bond) is or will be outstanding with respect to such area.

(D) Minimum designated area

(i) In general

Except as provided in clause (ii), an area shall not be treated as a designated blighted area for purposes of this subsection unless such area is contiguous and compact and its area equals or exceeds 100 acres.

(ii) 10-acre minimum in certain cases

Clause (i) shall be applied by substituting ''10 acres'' for ''100 acres'' if not more than 25 percent of the financed area is to be provided (pursuant to the issue and all other such issues) to 1 person. For purposes of the preceding sentence, all related persons (as defined in subsection (a)(3)) shall be treated as 1 person. For purposes of this clause, an area provided to a developer on a short-term interim basis shall not be treated as provided to such developer.

(5) No additional charge requirements

The financed area with respect to any issue meets the requirements of this paragraph if, while any bond which is part of such issue is outstanding—

(A) no owner or user of property located in the financed area is subject to a charge or fee which similarly situated owners or users of comparable property located outside such area are not subject, and

(B) the assessment method or rate of real property taxes with respect to property located in the financed area does not differ from the assessment method or rate of real property taxes with respect to comparable property located outside such area.

For purposes of the preceding sentence, the term ''comparable property'' means property which is of the same type as the property to which it is being compared and which is located within the jurisdiction of the designating governmental unit.

(6) Use of proceeds requirements

The use of the proceeds of an issue meets the requirements of this paragraph if—

(A) not more than 25 percent of the net proceeds of such issue are to be used to provide (including the provision of land for) facilities described in subsection (a)(8) or section 147(e), and

(B) no portion of the proceeds of such issue is to be used to provide (including the provision of land for) any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(7) Financed area

For purposes of this subsection, the term ''financed area'' means, with respect to any issue, the portion of the designated blighted area with respect to which the proceeds of such issue are to be used.

(8) Restriction on acquisition of land not to apply

Section 147(c) (other than paragraphs (1)(B) and (2) thereof) shall not apply to any qualified redevelopment bond.

(Added Pub. L. 99–514, title XIII, §1301(b), Oct. 22, 1986, 100 Stat. 2621; amended Pub. L. 100–647, title I, §1013(a)(4)(A), (B)(i), (ii), (C), (5), title VI, §6176(a), Nov. 10, 1988, 102 Stat. 3537, 3538, 3726; Pub. L. 101–239, title VII, §7105, Dec. 19, 1989, 103 Stat. 2306; Pub. L. 101–508, title XI, §11409(a), Nov. 5, 1990, 104 Stat. 1388–478; Pub. L. 102–227, title I, §109(a), Dec. 11, 1991, 105 Stat. 1688; Pub. L. 103–66, title XIII, §13122(a), Aug. 10, 1993, 107 Stat. 432; Pub. L. 108–357, title III, §340, Oct. 22, 2004, 118 Stat. 1485; Pub. L. 109–222, title II, §208, May 17, 2006, 120 Stat. 351; Pub. L. 111–5, div. B, title I, §1301(a), Feb. 17, 2009, 123 Stat. 344.)

REFERENCES IN TEXT

Section 119 of the Housing and Community Development Act of 1974, referred to in subsec. (a)(4)(F), is classified to section 5318 of Title 42, The Public Health and Welfare.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (a)(10)(B)(ii)(II), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

The date of enactment of this clause, referred to in subsec. (a)(12)(C)(iii), is the date of enactment of Pub. L. 111–5, which was approved Feb. 17, 2009.

The Higher Education Act of 1965, referred to in subsec. (b)(1), is Pub. L. 89–329, Nov. 8, 1965, 79 Stat. 1219, which is classified generally to chapter 28 (§1001 et seq.) of Title 20, Education, and part C (§2751 et seq.) of subchapter I of chapter 34 of Title 42, The Public Health and Welfare. Section 428B(a) of that Act as enacted in the general amendment of part B of title IV of that Act by Pub. L. 99–498, title IV, §402(a), Oct. 17, 1986, 100 Stat. 1386, which is classified to section 1078–2 of Title 20, does not contain a par. (1). Section 438 of that Act is classified to section 1087–1 of Title 20. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 20 and Tables.

The Public Health Service Act, referred to in subsec. (b)(1)(B), is act July 1, 1944, ch. 373, 58 Stat. 682. Subpart I of part C of title VII of the Act was classified generally to subpart I (§294 et seq.) of part C of subchapter V of chapter 6A of Title 42, The Public Health and Welfare, prior to the general revision of subchapter V of chapter 6A by Pub. L. 102–408, title I, §102, Oct. 13, 1992, 106 Stat. 1994. See subpart I (§292 et seq.) of part A of revised subchapter V of chapter 6A of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

PRIOR PROVISIONS

A prior section 144, acts Aug. 16, 1954, ch. 736, 68A Stat. 41; Feb. 26, 1964, Pub. L. 88–272, title I, §112(c), title II, §232(c), 78 Stat. 24, 110; Dec. 10, 1971, Pub. L. 92–178, title II, §206, title III, §301(c), 85 Stat. 511, 520; Oct. 4, 1976, Pub. L. 94–455, title V, §501(b)(3)–(5), title XIX, §1906(b)(13)(A), 90 Stat. 1558, 1559, 1834, related to

method for electing to take standard deduction, prior to repeal by Pub. L. 95–30, title I, §101(d)(1), May 23, 1977, 91 Stat. 133, applicable to taxable years beginning after Dec. 31, 1976.

AMENDMENTS

2009—Subsec. (a)(12)(C). Pub. L. 111–5 substituted dash for comma after ''For purposes of this paragraph'', designated remainder of first sentence and second sentence of existing provisions as cl. (i) and inserted heading, substituted ''The term'' for ''the term'', added cls. (ii) and (iii), and struck out former last sentence which read as follows: ''For purposes of the 1st sentence of this subparagraph, the term 'manufacturing facility' includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this sentence) if—

''(i) such facilities are located on the same site as the manufacturing facility, and

''(ii) not more than 25 percent of the net proceeds of the issue are used to provide such facilities.''

2006—Subsec. (a)(4)(F), (G). Pub. L. 109–222 substituted ''December 31, 2006'' for ''September 30, 2009''.

2004—Subsec. (a)(4)(F). Pub. L. 108–357, §340(b), inserted at end ''This subparagraph shall not apply to bonds issued after September 30, 2009.''

Subsec. (a)(4)(G). Pub. L. 108–357, §340(a), added subpar. (G).

1993—Subsec. (a)(12)(B). Pub. L. 103–66 amended heading and text of subpar. (B) generally. Prior to amendment, text read as follows: ''In the case of any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to provide—

''(i) any manufacturing facility, or

''(ii) any land or property in accordance with section 147(c)(2),

subparagraph (A) shall be applied by substituting 'June 30, 1992' for 'December 31, 1986'.''

1991—Subsec. (a)(12)(B). Pub. L. 102–227 substituted ''June 30, 1992'' for ''December 31, 1991''.

1990—Subsec. (a)(12)(B). Pub. L. 101–508 substituted ''December 31, 1991'' for ''September 30, 1990''.

1989—Subsec. (a)(12)(B). Pub. L. 101–239 substituted ''by substituting 'September 30, 1990' for 'December 31, 1986' '' for ''by substituting '1989' for '1986' ''.

1988—Subsec. (a)(12)(A). Pub. L. 100–647, §1013(a)(4)(B)(ii), inserted sentence at end that for purposes of cl. (ii)(I), average maturity be determined in accordance with section 147(b)(2)(A).

Subsec. (a)(12)(A)(ii). Pub. L. 100–647, §1013(a)(4)(A), inserted ''(or series of bonds)'' before ''issued to refund'' in introductory text.

Subsec. (a)(12)(A)(ii)(I). Pub. L. 100–647, §1013(a)(4)(B)(i), amended subcl. (I) generally. Prior to amendment, subcl. (I) read as follows: ''the refunding bond has a maturity date not later than the maturity date of the refunded bond,''.

Subsec. (a)(12)(A)(ii)(III), (IV). Pub. L. 100–647, §1013(a)(4)(C), redesignated subcl. (IV) as (III) and struck out former subcl. (III) which provided that this subsection apply when the interest rate on the refunding bond is lower than the interest rate on the refunded bond.

Subsec. (a)(12)(C). Pub. L. 100–647, §6176(a), inserted sentence at end defining ''manufacturing facility''.

Subsec. (b)(1). Pub. L. 100–647, §1013(a)(5), in subpar. (B) struck out ''to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply'' after ''by the State'', substituted ''of the Higher Education Act of 1965'' for ''of such Act'', amended last sentence generally, and inserted a new flush sentence at end of par. (1). Prior to amendment, last sentence of subpar. (B) read as follows: ''A bond issued as part of an issue shall be treated as a qualified student loan bond only if no bond which is part of such issue meets the private business tests of paragraphs (1) and (2) of section 141(b).''

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111–5, div. B, title I, §1301(b), Feb. 17, 2009, 123 Stat. 345, provided that: ''The amendments made by this section [amending this section] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009].''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13122(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after June 30, 1992.''

EFFECTIVE DATE OF 1991 AMENDMENT

Section 109(b) of Pub. L. 102–227 provided that: ''The amendment made by this section [amending this section] shall apply to bonds issued after December 31, 1991.''

EFFECTIVE DATE OF 1990 AMENDMENT

Section 11409(b) of Pub. L. 101–508 provided that: ''The amendment made by this section [amending this section] shall apply to bonds issued after September 30, 1990.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(4)(A), (B)(i), (ii), (C), (5) 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 6176(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 the date of the enactment of this Act [Nov. 10, 1988].

''(2) REFUNDINGS.—The amendment made by subsection (a) shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued on or before the date of the enactment of this Act if—

''(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

''(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.''

APPLICATION OF SUBSECTION (a)(12)(A)(ii)(I) TO REFUNDING BONDS ISSUED BEFORE JULY 1, 1987

Section 1013(a)(4)(B)(iii) of Pub. L. 100–647 provided that: ''A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph [amending this section].''

TERMINATION DATE FOR EXEMPTION FOR CERTAIN SMALL ISSUES UNDER SECTION 103(b)(6)

Section 1013(c)(12)(B) of Pub. L. 100–647 provided that: ''The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act [Oct. 22, 1986], for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies.''

§ 145. Qualified 501(c)(3) bond

(a) In general

For purposes of this part, except as otherwise provided in this section, the term ''qualified 501(c)(3) bond'' means any private activity bond issued as part of an issue if—

(1) all property which is to be provided by the net proceeds of the issue is to be owned by

a 501(c)(3) organization or a governmental unit, and

(2) such bond would not be a private activity bond if—

(A) 501(c)(3) organizations were treated as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a), and

(B) paragraphs (1) and (2) of section 141(b) were applied by substituting ''5 percent'' for ''10 percent'' each place it appears and by substituting ''net proceeds'' for ''proceeds'' each place it appears.

(b) $150,000,000 limitation on bonds other than hospital bonds

(1) In general

A bond (other than a qualified hospital bond) shall not be treated as a qualified 501(c)(3) bond if the aggregate authorized face amount of the issue (of which such bond is a part) allocated to any 501(c)(3) organization which is a test-period beneficiary (when increased by the outstanding tax-exempt nonhospital bonds of such organization) exceeds $150,000,000.

(2) Outstanding tax-exempt nonhospital bonds

(A) In general

For purposes of applying paragraph (1) with respect to any issue, the outstanding tax-exempt nonhospital bonds of any organization which is a test-period beneficiary with respect to such issue is the aggregate amount of tax-exempt bonds referred to in subparagraph (B)—

(i) which are allocated to such organization, and

(ii) which are outstanding at the time of such later issue (not including as outstanding any bond which is to be redeemed (other than in an advance refunding) from the net proceeds of the later issue).

(B) Bonds taken into account

For purposes of subparagraph (A), the bonds referred to in this subparagraph are—

(i) any qualified 501(c)(3) bond other than a qualified hospital bond, and

(ii) any bond to which section 141(a) does not apply if—

(I) such bond would have been an industrial development bond (as defined in section 103(b)(2), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) if 501(c)(3) organizations were not exempt persons, and

(II) such bond was not described in paragraph (4), (5), or (6) of such section 103(b) (as in effect on the date such bond was issued).

(C) Only nonhospital portion of bonds taken into account

(i) In general

A bond shall be taken into account under subparagraph (B) only to the extent that the proceeds of the issue of which such bond is a part are not used with respect to a hospital.

(ii) Special rule

If 90 percent or more of the net proceeds of an issue are used with respect to a hospital, no bond which is part of such issue shall be taken into account under subparagraph (B)(ii).

(3) Aggregation rule

For purposes of this subsection, 2 or more organizations under common management or control shall be treated as 1 organization.

(4) Allocation of face amount of issue; test-period beneficiary

Rules similar to the rules of subparagraphs (C), (D), and (E) of section 144(a)(10) shall apply for purposes of this subsection.

(5) Termination of limitation

This subsection shall not apply with respect to bonds issued after the date of the enactment of this paragraph as part of an issue 95 percent or more of the net proceeds of which are to be used to finance capital expenditures incurred after such date.

(c) Qualified hospital bond

For purposes of this section, the term ''qualified hospital bond'' means any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used with respect to a hospital.

(d) Restrictions on bonds used to provide residential rental housing for family units

(1) In general

Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

(2) Exception for bonds used to provide qualified residential rental projects

Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

(B) qualified residential rental projects (as defined in section 142(d)), or

(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property.

(3) Certain property treated as new property

Solely for purposes of determining under paragraph (2)(A) whether the 1st use of property is pursuant to tax-exempt financing—

(A) In general

If—

(i) the 1st use of property is pursuant to taxable financing,

(ii) there was a reasonable expectation (at the time such taxable financing was provided) that such financing would be replaced by tax-exempt financing, and

(iii) the taxable financing is in fact so replaced within a reasonable period after the taxable financing was provided,

then the 1st use of such property shall be treated as being pursuant to the tax-exempt financing.

(B) Special rule where no operating State or local program for tax-exempt financing

If, at the time of the 1st use of property, there was no operating State or local program for tax-exempt financing of the property, the 1st use of the property shall be treated as pursuant to the 1st tax-exempt financing of the property.

(C) Definitions

For purposes of this paragraph—

(i) Tax-exempt financing

The term ''tax-exempt financing'' means financing provided by tax-exempt bonds.

(ii) Taxable financing

The term ''taxable financing'' means financing which is not tax-exempt financing.

(4) Substantial rehabilitation

(A) In general

Except as provided in subparagraph (B), rules similar to the rules of section 47(c)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

(B) Exception

For purposes of subparagraph (A), clause (ii) of section 47(c)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 47(c)(1)(C)(i) where appropriate due to circumstances not within the control of the owner.

(e) Election out

This section shall not apply to an issue if—

(1) the issuer elects not to have this section apply to such issue, and

(2) such issue is an issue of exempt facility bonds, or qualified redevelopment bonds, to which section 146 applies.

(Added Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2629; amended Pub. L. 100–647, title I, § 1013(a)(6)–(8), title V, § 5053(a), Nov. 10, 1988, 102 Stat. 3538, 3677; Pub. L. 101–239, title VII, § 7815(f), Dec. 19, 1989, 103 Stat. 2419; Pub. L. 101–508, title XI, § 11813(b)(7), Nov. 5, 1990, 104 Stat. 1388–551; Pub. L. 105–34, title II, § 222, Aug. 5, 1997, 111 Stat. 818.)

REFERENCES IN TEXT

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (b)(2)(B)(ii)(I), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

The date of the enactment of this paragraph, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 105–34, which was approved Aug. 5, 1997.

PRIOR PROVISIONS

A prior section 145, act Aug. 16, 1954, ch. 736, 68A Stat. 42, made a cross reference to section 36 of this title, prior to repeal by Pub. L. 95–30, title I, § 101(d)(1), May 23, 1977, 91 Stat. 133, applicable to taxable years beginning after Dec. 31, 1976.

AMENDMENTS

1997—Subsec. (b)(5). Pub. L. 105–34 added par. (5).

1990—Subsec. (d)(4). Pub. L. 101–508 substituted ''section 47(c)(1)(C)'' for ''section 48(g)(1)(C)'' wherever appearing and ''section 47(c)(1)(C)(i)'' for ''section 48(g)(1)(C)(i)''.

1989—Subsec. (d)(3), (4). Pub. L. 101–239 added par. (3) and redesignated former par. (3) as (4).

1988—Subsec. (b)(2)(B)(ii)(I). Pub. L. 100–647, § 1013(a)(6), substituted ''section 103(b)(2)'' for ''section 103(b)''.

Subsec. (b)(2)(C)(i). Pub. L. 100–647, § 1013(a)(7), substituted ''subparagraph (B)'' for ''subparagraph (B)(ii)''.

Subsec. (b)(4). Pub. L. 100–647, § 1013(a)(8), substituted ''subparagraphs (C), (D), and (E)'' for ''subparagraphs (C) and (D)''.

Subsecs. (d), (e). Pub. L. 100–647, § 5053(a), added subsec. (d) and redesignated former subsec. (d) as (e).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101–508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(6)–(8) 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 5053(c) of Pub. L. 100–647 provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and section 148 of this title] shall apply to obligations issued after October 21, 1988.

''(2) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENT.—

''(A) The amendments made by this section shall not apply to bonds (other than refunding bonds) with respect to a facility—

''(i)(I) the original use of which begins with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before July 14, 1988, and was completed on or after such date, or

''(II) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before July 14, 1988, and some of such expenditures are incurred on or after such date, and

''(ii) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before July 14, 1988.

For purposes of the preceding sentence, the term 'significant expenditures' means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

''(B) Subparagraph (A) shall not apply to any bond issued after December 31, 1989, and shall not apply unless it is reasonably expected (at the time of issuance of the bond) that the facility will be placed in service before January 1, 1990.

''(3) REFUNDINGS.—The amendments made by this section shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before July 15, 1988, if—

''(A) the average maturity date of the issue of which the refunding bond is a part is not later than

the average maturity date of the bonds to be refunded by such issue,

''(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

''(C) the proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.''

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

§ 146. Volume cap

(a) General rule

A private activity bond issued as part of an issue meets the requirements of this section if the aggregate face amount of the private activity bonds issued pursuant to such issue, when added to the aggregate face amount of tax-exempt private activity bonds previously issued by the issuing authority during the calendar year, does not exceed such authority's volume cap for such calendar year.

(b) Volume cap for State agencies

For purposes of this section—

(1) In general

The volume cap for any agency of the State authorized to issue tax-exempt private activity bonds for any calendar year shall be 50 percent of the State ceiling for such calendar year.

(2) Special rule where State has more than 1 agency

If more than 1 agency of the State is authorized to issue tax-exempt private activity bonds, all such agencies shall be treated as a single agency.

(c) Volume cap for other issuers

For purposes of this section—

(1) In general

The volume cap for any issuing authority (other than a State agency) for any calendar year shall be an amount which bears the same ratio to 50 percent of the State ceiling for such calendar year as—

(A) the population of the jurisdiction of such issuing authority, bears to

(B) the population of the entire State.

(2) Overlapping jurisdictions

For purposes of paragraph (1)(A), if an area is within the jurisdiction of 2 or more governmental units, such area shall be treated as only within the jurisdiction of the unit having jurisdiction over the smallest geographical area unless such unit agrees to surrender all or part of such jurisdiction for such calendar year to the unit with overlapping jurisdiction which has the next smallest geographical area.

(d) State ceiling

For purposes of this section—

(1) In general

The State ceiling applicable to any State for any calendar year shall be the greater of—

(A) an amount equal to $75 ($62.50 in the case of calendar year 2001) multiplied by the State population, or

(B) $225,000,000 ($187,500,000 in the case of calendar year 2001).

(2) Cost-of-living adjustment

In the case of a calendar year after 2002, each of the dollar amounts contained in paragraph (1) shall be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ''calendar year 2001'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5 ($5,000 in the case of the dollar amount in paragraph (1)(B)), such increase shall be rounded to the nearest multiple thereof.

(3) Special rule for States with constitutional home rule cities

For purposes of this section—

(A) In general

The volume cap for any constitutional home rule city for any calendar year shall be determined under paragraph (1) of subsection (c) by substituting ''100 percent'' for ''50 percent''.

(B) Coordination with other allocations

In the case of any State which contains 1 or more constitutional home rule cities, for purposes of applying subsections (b) and (c) with respect to issuing authorities in such State other than constitutional home rule cities, the State ceiling for any calendar year shall be reduced by the aggregate volume caps determined for such year for all constitutional home rule cities in such State.

(C) Constitutional home rule city

For purposes of this section, the term ''constitutional home rule city'' means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(4) Special rule for possessions with populations of less than the population of the least populous State

(A) In general

If the population of any possession of the United States for any calendar year is less than the population of the least populous State (other than a possession) for such calendar year, the limitation under paragraph (1)(A) shall not be less than the amount determined under subparagraph (B) for such calendar year.

(B) Limitation

The limitation determined under this subparagraph, with respect to a possession, for any calendar year is an amount equal to the product of—

(i) the fraction—

(I) the numerator of which is the amount applicable under paragraph (1)(B) for such calendar year, and

(II) the denominator of which is the State population of the least populous State (other than a possession) for such calendar year, and

(ii) the population of such possession for such calendar year.

(5) Increase and set aside for housing bonds for 2008

(A) Increase for 2008

In the case of calendar year 2008, the State ceiling for each State shall be increased by an amount equal to $11,000,000,000 multiplied by a fraction—

(i) the numerator of which is the State ceiling applicable to the State for calendar year 2008, determined without regard to this paragraph, and

(ii) the denominator of which is the sum of the State ceilings determined under clause (i) for all States.

(B) Set aside

(i) In general

Any amount of the State ceiling for any State which is attributable to an increase under this paragraph shall be allocated solely for one or more qualified housing issues.

(ii) Qualified housing issue

For purposes of this paragraph, the term ''qualified housing issue'' means—

(I) an issue described in section 142(a)(7) (relating to qualified residential rental projects), or

(II) a qualified mortgage issue (determined by substituting ''12-month period'' for ''42-month period'' each place it appears in section 143(a)(2)(D)(i)).

(e) State may provide for different allocation

For purposes of this section—

(1) In general

Except as provided in paragraph (3), a State may, by law provide a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue tax-exempt private activity bonds.

(2) Interim authority for Governor

(A) In general

Except as otherwise provided in paragraph (3), the Governor of any State may proclaim a different formula for allocating the State ceiling among the governmental units (or other authorities) in such State having authority to issue private activity bonds.

(B) Termination of authority

The authority provided in subparagraph (A) shall not apply to bonds issued after the earlier of—

(i) the last day of the 1st calendar year after 1986 during which the legislature of the State met in regular session, or

(ii) the effective date of any State legislation with respect to the allocation of the State ceiling.

(3) State may not alter allocation to constitutional home rule cities

Except as otherwise provided in a State constitutional amendment (or law changing the home rule provision adopted in the manner provided by the State constitution), the authority provided in this subsection shall not apply to that portion of the State ceiling which is allocated to any constitutional home rule city in the State unless such city agrees to such different allocation.

(f) Elective carryforward of unused limitation for specified purpose

(1) In general

If—

(A) an issuing authority's volume cap for any calendar year after 1985, exceeds

(B) the aggregate amount of tax-exempt private activity bonds issued during such calendar year by such authority,

such authority may elect to treat all (or any portion) of such excess as a carryforward for 1 or more carryforward purposes.

(2) Election must identify purpose

In any election under paragraph (1), the issuing authority shall—

(A) identify the purpose for which the carryforward is elected, and

(B) specify the portion of the excess described in paragraph (1) which is to be a carryforward for each such purpose.

(3) Use of carryforward

(A) In general

If any issuing authority elects a carryforward under paragraph (1) with respect to any carryforward purpose, any private activity bonds issued by such authority with respect to such purpose during the 3 calendar years following the calendar year in which the carryforward arose shall not be taken into account under subsection (a) to the extent the amount of such bonds does not exceed the amount of the carryforward elected for such purpose.

(B) Order in which carryforward used

Carryforwards elected with respect to any purpose shall be used in the order of the calendar years in which they arose.

(4) Election

Any election under this paragraph (and any identification or specification contained therein), once made, shall be irrevocable.

(5) Carryforward purpose

The term ''carryforward purpose'' means—

(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),

(B) the purpose of issuing qualified mortgage bonds or mortgage credit certificates,

(C) the purpose of issuing qualified student loan bonds, and

(D) the purpose of issuing qualified redevelopment bonds.

(6) Special rules for increased volume cap under subsection (d)(5)

No amount which is attributable to the increase under subsection (d)(5) may be used—

(A) for any issue other than a qualified housing issue (as defined in subsection (d)(5)), or

(B) to issue any bond after calendar year 2010.

(g) Exception for certain bonds

Only for purposes of this section, the term ''private activity bond'' shall not include—

(1) any qualified veterans' mortgage bond,

(2) any qualified 501(c)(3) bond,

(3) any exempt facility bond issued as part of an issue described in paragraph (1), (2), (12), (13), (14), or (15) of section 142(a), and

(4) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities).

Paragraph (4) shall be applied without regard to ''75 percent of'' if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit (within the meaning of section 142(b)(1)).

(h) Exception for government-owned solid waste disposal facilities

(1) In general

Only for purposes of this section, the term ''private activity bond'' shall not include any exempt facility bond described in section 142(a)(6) which is issued as part of an issue if all of the property to be financed by the net proceeds of such issue is to be owned by a governmental unit.

(2) Safe harbor for determination of government ownership

In determining ownership for purposes of paragraph (1), section 142(b)(1)(B) shall apply, except that a lease term shall be treated as satisfying clause (ii) thereof if it is not more than 20 years.

(i) Treatment of refunding issues

For purposes of the volume cap imposed by this section—

(1) In general

The term ''private activity bond'' shall not include any bond which is issued to refund another bond to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond.

(2) Special rules for student loan bonds

In the case of any qualified student loan bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 17 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(3) Special rules for qualified mortgage bonds

In the case of any qualified mortgage bond, paragraph (1) shall apply only if the maturity date of the refunding bond is not later than the later of—

(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or

(B) the date 32 years after the date on which the refunded bond was issued (or in the case of a series of refundings, the date on which the original bond was issued).

(4) Average maturity

For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A).

(5) Exception for advance refunding

This subsection shall not apply to any bond issued to advance refund another bond.

(6) Treatment of certain residential rental project bonds as refunding bonds irrespective of obligor

(A) In general

If, during the 6-month period beginning on the date of a repayment of a loan financed by an issue 95 percent or more of the net proceeds of which are used to provide projects described in section 142(d), such repayment is used to provide a new loan for any project so described, any bond which is issued to refinance such issue shall be treated as a refunding issue to the extent the principal amount of such refunding issue does not exceed the principal amount of the bonds refunded.

(B) Limitations

Subparagraph (A) shall apply to only one refunding of the original issue and only if—

(i) the refunding issue is issued not later than 4 years after the date on which the original issue was issued,

(ii) the latest maturity date of any bond of the refunding issue is not later than 34 years after the date on which the refunded bond was issued, and

(iii) the refunding issue is approved in accordance with section 147(f) before the issuance of the refunding issue.

(j) Population

For purposes of this section, determinations of the population of any State (or issuing authority) shall be made with respect to any calendar year on the basis of the most recent census estimate of the resident population of such State (or issuing authority) released by the Bureau of Census before the beginning of such calendar year.

(k) Facility must be located within State

(1) In general

Except as provided in paragraphs (2) and (3), no portion of the State ceiling applicable to any State for any calendar year may be used with respect to financing for a facility located outside such State.

(2) Exception for certain facilities where State will get proportionate share of benefits

Paragraph (1) shall not apply to any exempt facility bond described in paragraph (4), (5), (6), or (10) of section 142(a) if the issuer establishes that the State's share of the use of the facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility.

(3) Treatment of governmental bonds to which volume cap allocated

Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

(A) for an output facility, or

(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility.

(*l*) Issuer of qualified scholarship funding bonds

In the case of a qualified scholarship funding bond, such bond shall be treated for purposes of this section as issued by a State or local issuing authority (whichever is appropriate).

(m) Treatment of amounts allocated to private activity portion of government use bonds

(1) In general

The volume cap of an issuer shall be reduced by the amount allocated by the issuer to an issue under section 141(b)(5).

(2) Advance refundings

Except as otherwise provided by the Secretary, any advance refunding of any part of an issue to which an amount was allocated under section 141(b)(5) (or would have been allocated if such section applied to such issue) shall be taken into account under this section to the extent of the amount of the volume cap which was (or would have been) so allocated.

(n) Reduction for mortgage credit certificates, etc.

The volume cap of any issuing authority for any calendar year shall be reduced by the sum of—

(1) the amount of qualified mortgage bonds which such authority elects not to issue under section 25(c)(2)(A)(ii) during such year, plus

(2) the amount of any reduction in such ceiling under section 25(f) applicable to such authority for such year.

(Added Pub. L. 99–514, title XIII, § 1301(b), Oct. 22, 1986, 100 Stat. 2630; amended Pub. L. 100–203, title X, § 10631(b), Dec. 22, 1987, 101 Stat. 1330–455; Pub. L. 100–647, title I, § 1013(a)(9), (10), (28), (40), title VI, § 6180(b)(3), Nov. 10, 1988, 102 Stat. 3538, 3543, 3544, 3728; Pub. L. 101–239, title VII, § 7816(s)(2), Dec. 19, 1989, 103 Stat. 2423; Pub. L. 102–486, title XIX, § 1921(b)(3), Oct. 24, 1992, 106 Stat. 3028; Pub. L. 103–66, title XIII, § 13121(a), Aug. 10, 1993, 107 Stat. 432; Pub. L. 105–277, div. J, title II, § 2021(a), Oct. 21, 1998, 112 Stat. 2681–903; Pub. L. 106–554, § 1(a)(7) [title I, § 161(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A–624; Pub. L. 107–16, title IV, § 422(c), June 7, 2001, 115 Stat. 66; Pub. L. 108–357, title VII, § 701(c), Oct. 22, 2004, 118 Stat. 1539; Pub. L. 109–59, title XI, § 11143(c), Aug. 10, 2005, 119 Stat. 1965; Pub. L. 110–289, div. C, title I, §§ 3007(a), 3021(a), July 30, 2008, 122 Stat. 2886, 2892.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

AMENDMENTS

2008—Subsec. (d)(5). Pub. L. 110–289, § 3021(a)(1), added par. (5).

Subsec. (f)(6). Pub. L. 110–289, § 3021(a)(2), added par. (6).

Subsec. (i)(6). Pub. L. 110–289, § 3007(a), added par. (6).

2005—Subsec. (g)(3). Pub. L. 109–59 substituted ''(14), or (15) of section 142(a), and'' for ''or (14) of section 142(a) (relating to airports, docks and wharves, environmental enhancements of hydroelectric generating facilities, qualified public educational facilities, and qualified green building and sustainable design projects), and''.

2004—Subsec. (g)(3). Pub. L. 108–357 substituted ''(13), or (14)'' for ''or (13)'' and ''qualified public educational facilities, and qualified green building and sustainable design projects'' for ''and qualified public educational facilities''.

2001—Subsec. (g)(3). Pub. L. 107–16, §§ 422(c), 901, temporarily substituted ''(12), or (13)'' for ''or (12)'' and ''environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities'' for ''and environmental enhancements of hydroelectric generating facilities''. See Effective and Termination Dates of 2001 Amendment note below.

2000—Subsec. (d)(1), (2). Pub. L. 106–554 amended pars. (1) and (2) generally. Prior to amendment, pars. (1) and (2) provided for State ceilings based on the per capita limits and aggregate limits set out in an included table.

1998—Subsec. (d)(1). Pub. L. 105–277 added par. (1) and struck out heading and text of former par. (1). Text read as follows: ''The State ceiling applicable to any State for any calendar year shall be the greater of—

''(A) an amount equal to $75 multiplied by the State population, or

''(B) $250,000,000.

Subparagraph (B) shall not apply to any possession of the United States.''

Subsec. (d)(2). Pub. L. 105–277 added par. (2) and struck out heading and text of former par. (2). Text read as follows: ''In the case of calendar years after 1987, paragraph (1) shall be applied by substituting—

''(A) '$50' for '$75', and

''(B) '$150,000,000' for '$250,000,000'.''

1993—Subsec. (g). Pub. L. 103–66, which directed the amendment of par. (4) by adding at the end thereof the following flush sentence: ''Paragraph (4) shall be applied without regard to '75 percent of' if all of the property to be financed by the net proceeds of the issue is to be owned by a governmental unit (within the meaning of section 142(b)(1)).'', was executed by inserting the sentence at the end of subsec. (g), to reflect the probable intent of Congress.

1992—Subsec. (g)(3). Pub. L. 102–486 substituted '', (2), or (12)'' for ''or (2)'' and '', docks and wharves, and environmental enhancements of hydroelectric generating facilities'' for ''and docks and wharves''.

1989—Subsec. (g)(3), (4). Pub. L. 101–239 redesignated par. (3), relating to exempt facility bonds issued as part of an issue described in par. (11) of section 142(a), as (4).

1988—Subsec. (d)(4)(B). Pub. L. 100–647, §1013(a)(40), substituted ''respect to a'' for ''respect a''.

Subsec. (f)(5)(A). Pub. L. 100–647, §1013(a)(9), amended subpar. (A) generally, as in effect before amendment by Pub. L. 100–203. Before amendment by Pub. L. 100–203, subpar. (A) read as follows: ''the purpose of issuing bonds referred to in one of the clauses of section 141(d)(1)(A),''.

Subsec. (g)(3). Pub. L. 100–647, §6180(b)(3), added par. (3) relating to exempt facility bonds issued as part of an issue described in par. (11) of section 142(a).

Subsec. (i)(2)(A). Pub. L. 100–647, §1013(a)(28)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the maturity date of the bond to be refunded, or''.

Subsec. (i)(3)(A). Pub. L. 100–647, §1013(a)(28)(B), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''the maturity date of the bond to be refunded, or''.

Subsec. (i)(4), (5). Pub. L. 100–647, §1013(a)(28)(C), added par. (4) and redesignated former par. (4) as (5).

Subsec. (k)(1). Pub. L. 100–647, §1013(a)(10)(A), substituted ''paragraphs (2) and (3)'' for ''paragraph (2)''.

Subsec. (k)(3). Pub. L. 100–647, §1013(a)(10)(B), added par. (3).

1987—Subsec. (f)(5)(A). Pub. L. 100–203 amended subpar. (A) generally, as amended by Pub. L. 100–647, §1013(a)(9), restating it without change. See 1988 Amendment note above.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 3007(a) of Pub. L. 110–289 applicable to repayments of loans received after July 30, 2008, see section 3007(c) of Pub. L. 110–289, set out as a note under section 42 of this title.

Amendment by section 3021(a) of Pub. L. 110–289 applicable to bonds issued after July 30, 2008, see section 3021(c) of Pub. L. 110–289, set out as a note under section 143 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109–59 applicable to bonds issued after Aug. 10, 2005, see section 11143(d) of Pub. L. 109–59, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–357 applicable to bonds issued after Dec. 31, 2004, see section 701(e) of Pub. L. 108–357, set out as a note under section 142 of this title.

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to bonds issued after Dec. 31, 2001, see section 422(f) of Pub. L. 107–16, set out as a note under section 142 of this title.

Amendment by Pub. L. 107–16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107–16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–554, §1(a)(7) [title I, §161(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–624, provided that: ''The amendment made by this section [amending this section] shall apply to calendar years after 2000.''

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–277, div. J, title II, §2021(b), Oct. 21, 1998, 112 Stat. 2681–903, provided that: ''The amendment made by this section [amending this section] shall apply to calendar years after 1998.''

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13121(b) of Pub. L. 103–66 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to bonds issued after December 31, 1993.''

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–486 applicable to bonds issued after Oct. 24, 1992, see section 1921(c) of Pub. L. 102–486, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1013(a)(9), (10), (28), (40) 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.

Amendment by section 6180(b)(3) of Pub. L. 100–647 applicable to bonds issued after Nov. 10, 1988, see section 6180(c) of Pub. L. 100–647, set out as a note under section 142 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–203 applicable, with certain exceptions, to bonds issued after Oct. 13, 1987 (other than bonds issued to refund bonds issued on or before such date), see section 10631(c) of Pub. L. 100–203, set out as a note under section 141 of this title.

§ 147. Other requirements applicable to certain private activity bonds

(a) Substantial user requirement

(1) In general

Except as provided in subsection (h), a private activity bond shall not be a qualified bond for any period during which it is held by a person who is a substantial user of the facilities or by a related person of such a substantial user.

(2) Related person

For purposes of paragraph (1), the following shall be treated as related persons—

(A) 2 or more persons if the relationship between such persons would result in a disallowance of losses under section 267 or 707(b),

(B) 2 or more persons which are members of the same controlled group of corporations (as defined in section 1563(a), except that ''more than 50 percent'' shall be substituted for ''at least 80 percent'' each place it appears therein),

(C) a partnership and each of its partners (and their spouses and minor children), and

(D) an S corporation and each of its shareholders (and their spouses and minor children).

(b) Maturity may not exceed 120 percent of economic life

(1) General rule

Except as provided in subsection (h), a private activity bond shall not be a qualified bond if it is issued as part of an issue and—

(A) the average maturity of the bonds issued as part of such issue, exceeds

(B) 120 percent of the average reasonably expected economic life of the facilities being financed with the net proceeds of such issue.

(2) Determination of averages

For purposes of paragraph (1)—

(A) the average maturity of any issue shall be determined by taking into account the respective issue prices of the bonds issued as part of such issue, and

(B) the average reasonably expected economic life of the facilities being financed with any issue shall be determined by taking into account the respective cost of such facilities.

(3) Special rules

(A) Determination of economic life

For purposes of this subsection, the reasonably expected economic life of any facility shall be determined as of the later of—

(i) the date on which the bonds are issued, or

(ii) the date on which the facility is placed in service (or expected to be placed in service).

(B) Treatment of land

(i) Land not taken into account

Except as provided in clause (ii), land shall not be taken into account under paragraph (1)(B).

(ii) Issues where 25 percent or more of proceeds used to finance land

If 25 percent or more of the net proceeds of any issue is to be used to finance land, such land shall be taken into account under paragraph (1)(B) and shall be treated as having an economic life of 30 years.

(4) Special rule for pooled financing of 501(c)(3) organization

(A) In general

At the election of the issuer, a qualified 501(c)(3) bond shall be treated as meeting the requirements of paragraph (1) if such bond meets the requirements of subparagraph (B).

(B) Requirements

A qualified 501(c)(3) bond meets the requirements of this subparagraph if—

(i) 95 percent or more of the net proceeds of the issue of which such bond is a part are to be used to make or finance loans to 2 or more 501(c)(3) organizations or governmental units for acquisition of property to be used by such organizations,

(ii) each loan described in clause (i) satisfies the requirements of paragraph (1) (determined by treating each loan as a separate issue),

(iii) before such bond is issued, a demand survey was conducted which shows a demand for financing greater than an amount equal to 120 percent of the lendable proceeds of such issue, and

(iv) 95 percent or more of the net proceeds of such issue are to be loaned to 501(c)(3) organizations or governmental units within 1 year of issuance and, to the extent there are any unspent proceeds after such 1-year period, bonds issued as part of such issue are to be redeemed as soon as possible thereafter (and in no event later than 18 months after issuance).

A bond shall not meet the requirements of this subparagraph if the maturity date of any bond issued as part of such issue is more than 30 years after the date on which the bond was issued (or, in the case of a refunding or series of refundings, the date on which the original bond was issued).

(5) Special rule for certain FHA insured loans

Paragraph (1) shall not apply to any bond issued as part of an issue 95 percent or more of the net proceeds of which are to be used to finance mortgage loans insured under FHA 242 or under a similar Federal Housing Administration program (as in effect on the date of the enactment of the Tax Reform Act of 1986) where the loan term approved by such Administration plus the maximum maturity of debentures which could be issued by such Administration in satisfaction of its obligations exceeds the term permitted under paragraph (1).

(c) Limitation on use for land acquisition

(1) In general

Except as provided in subsection (h), a private activity bond shall not be a qualified bond if—

(A) it is issued as part of an issue and 25 percent or more of the net proceeds of such issue are to be used (directly or indirectly) for the acquisition of land (or an interest therein), or

(B) any portion of the proceeds of such issue is to be used (directly or indirectly) for the acquisition of land (or an interest therein) to be used for farming purposes.

(2) Exception for first-time farmers

(A) In general

If the requirements of subparagraph (B) are met with respect to any land, paragraph (1) shall not apply to such land, and subsection (d) shall not apply to property to be used thereon for farming purposes, but only to the extent of expenditures (financed with the proceeds of the issue) not in excess of $450,000.

(B) Acquisition by first-time farmers

The requirements of this subparagraph are met with respect to any land if—

(i) such land is to be used for farming purposes, and

(ii) such land is to be acquired by an individual who is a first-time farmer, who will be the principal user of such land, and who will materially and substantially participate on the farm of which such land is a part in the operation of such farm.

(C) First-time farmer

For purposes of this paragraph—

(i) In general

The term ''first-time farmer'' means any individual if such individual—

(I) has not at any time had any direct or indirect ownership interest in substantial farmland in the operation of which such individual materially participated, and

(II) has not received financing under this paragraph in an amount which,

when added to the financing to be provided under this paragraph, exceeds the amount in effect under subparagraph (A).

(ii) Aggregation rules

Any ownership or material participation, or financing received, by an individual's spouse or minor child shall be treated as ownership and material participation, or financing received, by the individual.

(iii) Insolvent farmer

For purposes of clause (i), farmland which was previously owned by the individual and was disposed of while such individual was insolvent shall be disregarded if section 108 applied to indebtedness with respect to such farmland.

(D) Farm

For purposes of this paragraph, the term ''farm'' has the meaning given such term by section 6420(c)(2).

(E) Substantial farmland

For purposes of this paragraph, the term ''substantial farmland'' means any parcel of land unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.

(F) Used equipment limitation

For purposes of this paragraph, in no event may the amount of financing provided by reason of this paragraph to a first-time farmer for personal property—

(i) of a character subject to the allowance for depreciation,

(ii) the original use of which does not begin with such farmer, and

(iii) which is to be used for farming purposes,

exceed $62,500. A rule similar to the rule of subparagraph (C)(ii) shall apply for purposes of the preceding sentence.

(G) Acquisition from related person

For purposes of this paragraph and section 144(a), the acquisition by a first-time farmer of land or personal property from a related person (within the meaning of section 144(a)(3)) shall not be treated as an acquisition from a related person, if—

(i) the acquisition price is for the fair market value of such land or property, and

(ii) subsequent to such acquisition, the related person does not have a financial interest in the farming operation with respect to which the bond proceeds are to be used.

(H) Adjustments for inflation

In the case of any calendar year after 2008, the dollar amount in subparagraph (A) shall be increased by an amount equal to—

(i) such dollar amount, multiplied by

(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year, determined by substituting ''calendar year 2007'' for ''calendar year 1992'' in subparagraph (B) thereof.

If any amount as increased under the preceding sentence is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

(3) Exception for certain land acquired for environmental purposes, etc.

Any land acquired by a governmental unit (or issuing authority) in connection with an airport, mass commuting facility, high-speed intercity rail facility, dock, or wharf shall not be taken into account under paragraph (1) if—

(A) such land is acquired for noise abatement or wetland preservation, or for future use as an airport, mass commuting facility, high-speed intercity rail facility, dock, or wharf, and

(B) there is not other significant use of such land.

(d) Acquisition of existing property not permitted

(1) In general

Except as provided in subsection (h), a private activity bond shall not be a qualified bond if issued as part of an issue and any portion of the net proceeds of such issue is to be used for the acquisition of any property (or an interest therein) unless the 1st use of such property is pursuant to such acquisition.

(2) Exception for certain rehabilitations

Paragraph (1) shall not apply with respect to any building (and the equipment therefor) if—

(A) the rehabilitation expenditures with respect to such building, equal or exceed

(B) 15 percent of the portion of the cost of acquiring such building (and equipment) financed with the net proceeds of the issue.

A rule similar to the rule of the preceding sentence shall apply in the case of structures other than a building except that subparagraph (B) shall be applied by substituting ''100 percent'' for ''15 percent''.

(3) Rehabilitation expenditures

For purposes of this subsection—

(A) In general

Except as provided in this paragraph, the term ''rehabilitation expenditures'' means any amount properly chargeable to capital account which is incurred by the person acquiring the building for property (or additions or improvements to property) in connection with the rehabilitation of a building. In the case of an integrated operation contained in a building before its acquisition, such term includes rehabilitating existing equipment in such building or replacing it with equipment having substantially the same function. For purposes of this subparagraph, any amount incurred by a successor to the person acquiring the building or by the seller under a sales contract with such person shall be treated as incurred by such person.

(B) Certain expenditures not included

The term ''rehabilitation expenditures'' does not include any expenditure described in section 47(c)(2)(B).

(C) Period during which expenditures must be incurred

The term ''rehabilitation expenditures'' shall not include any amount which is in-

curred after the date 2 years after the later of—

(i) the date on which the building was acquired, or

(ii) the date on which the bond was issued.

(4) Special rule for certain projects

In the case of a project involving 2 or more buildings, this subsection shall be applied on a project basis.

(e) No portion of bonds may be issued for skyboxes, airplanes, gambling establishments, etc.

A private activity bond shall not be a qualified bond if issued as part of an issue and any portion of the proceeds of such issue is to be used to provide any airplane, skybox or other private luxury box, health club facility, facility primarily used for gambling, or store the principal business of which is the sale of alcoholic beverages for consumption off premises.

(f) Public approval required for private activity bonds

(1) In general

A private activity bond shall not be a qualified bond unless such bond satisfies the requirements of paragraph (2).

(2) Public approval requirement

(A) In general

A bond shall satisfy the requirements of this paragraph if such bond is issued as a part of an issue which has been approved by—

(i) the governmental unit—

(I) which issued such bond, or

(II) on behalf of which such bond was issued, and

(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the net proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area within such State in which such facility is located, only 1 such unit need approve such issue).

(B) Approval by a governmental unit

For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

(ii) by voter referendum of such governmental unit.

(C) Special rules for approval of facility

If there has been public approval under subparagraph (A) of the plan for financing a facility, such approval shall constitute approval under subparagraph (A) for any issue—

(i) which is issued pursuant to such plan within 3 years after the date of the 1st issue pursuant to the approval, and

(ii) all or substantially all of the proceeds of which are to be used to finance such facility or to refund previous financing under such plan.

(D) Refunding bonds

No approval under subparagraph (A) shall be necessary with respect to any bond which is issued to refund (other than to advance refund) a bond approved under subparagraph (A) (or treated as approved under subparagraph (C)) unless the average maturity date of the issue of which the refunding bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A).

(E) Applicable elected representative

For purposes of this paragraph—

(i) In general

The term ''applicable elected representative'' means with respect to any governmental unit—

(I) an elected legislative body of such unit, or

(II) the chief elected executive officer, the chief elected State legal officer of the executive branch, or any other elected official of such unit designated for purposes of this paragraph by such chief elected executive officer or by State law.

If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term.

(ii) No applicable elected representative

If (but for this clause) a governmental unit has no applicable elected representative, the applicable elected representative for purposes of clause (i) shall be the applicable elected representative of the governmental unit—

(I) which is the next higher governmental unit with such a representative, and

(II) from which the authority of the governmental unit with no such representative is derived.

(3) Special rule for approval of airports or high-speed intercity rail facilities

If—

(A) the proceeds of an issue are to be used to finance a facility or facilities located at an airport or high-speed intercity rail facilities, and

(B) the governmental unit issuing such bonds is the owner or operator of such airport or high-speed intercity rail facilities,

such governmental unit shall be deemed to be the only governmental unit having jurisdiction over such airport or high-speed intercity rail facilities for purposes of this subsection.

(4) Special rules for scholarship funding bond issues and volunteer fire department bond issues

(A) Scholarship funding bonds

In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

(B) Volunteer fire department bonds

In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

(g) Restriction on issuance costs financed by issue

(1) In general

A private activity bond shall not be a qualified bond if the issuance costs financed by the issue (of which such bond is a part) exceed 2 percent of the proceeds of the issue.

(2) Special rule for small mortgage revenue bond issues

In the case of an issue of qualified mortgage bonds or qualified veterans' mortgage bonds, paragraph (1) shall be applied by substituting ''3.5 percent'' for ''2 percent'' if the proceeds of the issue do not exceed $20,000,000.

(h) Certain rules not to apply to certain bonds

(1) Mortgage revenue bonds and qualified student loan bonds

Subsections (a), (b), (c), and (d) shall not apply to any qualified mortgage bond, qualified veterans' mortgage bond, or qualified student loan bond.

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

Subsections (a), (c), and (d) shall not apply to any qualified 501(c)(3) bond and subsection (e) shall be applied as if it did not contain ''health club facility'' with respect to such a bond.

(3) Exempt facility bonds for qualified public-private schools

Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).

(Added Pub. L. 99–514, title XIII, §1301(b), Oct. 22, 1986, 100 Stat. 2635; amended Pub. L. 100–647, title I, §1013(a)(11)–(13)(B), (29), (36), title VI, §6180(b)(4), (5), Nov. 10, 1988, 102 Stat. 3539, 3543, 3544, 3728; Pub. L. 101–239, title VII, §7816(s)(3), Dec. 19, 1989, 103 Stat. 2423; Pub. L. 101–508, title XI, §11813(b)(8), Nov. 5, 1990, 104 Stat. 1388–552; Pub. L. 104–188, title I, §1117(a), (b), Aug. 20, 1996, 110 Stat. 1764; Pub. L. 107–16, title IV, §422(d), (e), June 7, 2001, 115 Stat. 66; Pub. L. 110–234, title XV, §15341(a)–(d), May 22, 2008, 122 Stat. 1517; Pub. L. 110–246, §4(a), title XV, §15341(a)–(d), June 18, 2008, 122 Stat. 1664, 2279.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENT OF SECTION

For termination of amendment by section 901 of Pub. L. 107–16, see Effective and Termination Dates of 2001 Amendment note below.

REFERENCES IN TEXT

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (b)(5), is the date of enactment of Pub. L. 99–514, which was approved Oct. 22, 1986.

CODIFICATION

Pub. L. 110–234 and Pub. L. 110–246 made identical amendments to this section. The amendments by Pub. L. 110–234 were repealed by section 4(a) of Pub. L. 110–246.

AMENDMENTS

2008—Subsec. (c)(2)(A). Pub. L. 110–246, §15341(a), substituted ''$450,000'' for ''$250,000''.

Subsec. (c)(2)(C)(i)(II). Pub. L. 110–246, §15341(d), substituted ''the amount in effect under subparagraph (A)'' for ''$250,000''.

Subsec. (c)(2)(E). Pub. L. 110–246, §15341(c), substituted ''unless such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located.'' for ''unless—

''(i) such parcel is smaller than 30 percent of the median size of a farm in the county in which such parcel is located, and

''(ii) the fair market value of the land does not at any time while held by the individual exceed $125,000.''

Subsec. (c)(2)(H). Pub. L. 110–246, §15341(b), added subpar. (H).

2001—Subsec. (h). Pub. L. 107–16, §§422(e), 901, temporarily substituted ''certain bonds'' for ''mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds'' in heading. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (h)(3). Pub. L. 107–16, §§422(d), 901, temporarily added par. (3). See Effective and Termination Dates of 2001 Amendment note below.

1996—Subsec. (c)(2)(E)(i). Pub. L. 104–188, §1117(b), substituted ''30 percent'' for ''15 percent''.

Subsec. (c)(2)(G). Pub. L. 104–188, §1117(a), added subpar. (G).

1990—Subsec. (d)(3)(B). Pub. L. 101–508 substituted ''section 47(c)(2)(B)'' for ''section 48(g)(2)(B)''.

1989—Subsec. (c)(3). Pub. L. 101–239 inserted a comma after ''mass commuting facility'' in introductory provisions and in subpar. (A).

1988—Subsec. (c)(3). Pub. L. 100–647, §6180(b)(4), inserted ''high-speed intercity rail facility'' after ''mass commuting facility'' in introductory text and in subpar. (A).

Subsec. (e). Pub. L. 100–647, §1013(a)(11), struck out ''treated as'' after ''shall not be''.

Subsec. (f)(2)(D). Pub. L. 100–647, §1013(a)(29), substituted ''the average maturity date of the issue of which the refunding bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with

subsection (b)(2)(A)'' for ''the maturity date of such bond is later than the maturity date of the bond to be refunded''.

Subsec. (f)(2)(E)(i). Pub. L. 100–647, §1013(a)(36), inserted sentence at end relating to treatment of an individual appointed to fill a vacancy in the office of an elected official.

Subsec. (f)(3). Pub. L. 100–647, §6180(b)(5), inserted ''or high-speed intercity rail facilities'' after ''airports'' in heading and after ''airport'' in subpars. (A) and (B) and in last sentence.

Subsec. (f)(4). Pub. L. 100–647, §1013(a)(12), added par. (4).

Subsec. (g)(1). Pub. L. 100–647, §1013(a)(13)(A), substituted ''proceeds'' for ''aggregate face amount''.

Subsec. (g)(2). Pub. L. 100–647, §1013(a)(13)(B), substituted ''proceeds'' for ''aggregate authorized face amount'' and ''do'' for ''does''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110–234, title XV, §15341(e), May 22, 2008, 122 Stat. 1517, and Pub. L. 110–246, §4(a), title XV, §15341(e), June 18, 2008, 122 Stat. 1664, 2279, 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 [June 18, 2008].''

[Pub. L. 110–234 and Pub. L. 110–246 enacted identical provisions. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246, set out as a note under section 8701 of Title 7, Agriculture.]

EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107–16 applicable to bonds issued after Dec. 31, 2001, see section 422(f) of Pub. L. 107–16, set out as a note under section 142 of this title.

Amendment by Pub. L. 107–16 inapplicable to taxable, plan, or limitation years beginning after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 901 of Pub. L. 107–16, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1117(c) of Pub. L. 104–188 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 [Aug. 20, 1996].''

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101–508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100–647, to which such amendment relates, see section 7817 of Pub. L. 101–239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1013(a)(13)(C) of Pub. L. 100–647 provided that: ''The amendments made by this paragraph [amending this section] shall apply to bonds issued after June 30, 1987.''

Amendment by section 1013(a)(11), (12), (29), (36) 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.

Amendment by section 6180(b)(4), (5) of Pub. L. 100–647 applicable to bonds issued after Nov. 10, 1988, see section 6180(c) of Pub. L. 100–647, set out as a note under section 142 of this title.

EFFECTIVE DATE

Subsec. (f) 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.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

SUBPART B—REQUIREMENTS APPLICABLE TO ALL STATE AND LOCAL BONDS

Sec.
148. Arbitrage.
149. Bonds must be registered to be tax exempt; other requirements.

§ 148. Arbitrage

(a) Arbitrage bond defined

For purposes of section 103, the term ''arbitrage bond'' means any bond issued as part of an issue any portion of the proceeds of which are reasonably expected (at the time of issuance of the bond) to be used directly or indirectly—

(1) to acquire higher yielding investments, or

(2) to replace funds which were used directly or indirectly to acquire higher yielding investments.

For purposes of this subsection, a bond shall be treated as an arbitrage bond if the issuer intentionally uses any portion of the proceeds of the issue of which such bond is a part in a manner described in paragraph (1) or (2).

(b) Higher yielding investments

For purposes of this section—

(1) In general

The term ''higher yielding investments'' means any investment property which produces a yield over the term of the issue which is materially higher than the yield on the issue.

(2) Investment property

The term ''investment property'' means—

(A) any security (within the meaning of section 165(g)(2)(A) or (B)),

(B) any obligation,

(C) any annuity contract,

(D) any investment-type property, or

(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not lo-