

IRS Changes – TEFRA Approvals and Issuer Purchases

TEFRA Approvals – Revenue Procedure 2020-21

On May 4, 2020, the Internal Revenue Service issued Revenue Procedure 2020-21 (<https://www.irs.gov/pub/irs-drop/rp-20-21.pdf>) providing temporary relief for public hearings held by teleconference call. Section 1.147(f)-1(d)(2) requires that public hearings must be held in a location convenient for residents of the approving governmental unit and deeming the capitol or seat of government as a convenient location. Under the Revenue Procedure, the location requirement is deemed to be met for hearings held by teleconference between May 4 and December 31, 2020. The teleconference must be toll-free for residents of the approving jurisdiction. If notice of the public hearing was provided prior to May 11, 2020, a supplemental notice providing the toll free number given at least 48 hours prior to the hearing will meet the requirements of Section 1.147(f)-1(d)(4). In addition, issuers may apply the Revenue Procedure retroactively to public hearings that were held telephonically prior to May 4, 2020 in response to COVID-19.

Issuer Purchase of Its Own Tax-Exempt Bonds – Notice 2020-25

Also on May 4, 2020, the IRS issued Notice 2020-25 (<https://www.irs.gov/pub/irs-drop/n-20-25.pdf>) allowing issuers temporary flexibility to purchase and hold their own tender bonds and commercial paper without triggering a reissuance or retirement of the bonds. Generally, when issuers purchase their own debt, the debt is considered reissued or retired and cannot be resold into the market. Under prior IRS guidance, certain qualified tender bonds and commercial paper could be purchased and held by the issuer for up to 90 days without triggering reissuance or retirement. The Notice extends the allowable holding period to 180 days through the end of calendar year 2020. And, for arbitrage purposes, a qualified hedge will not be terminated if an issuer purchases and holds its hedged bonds for this extended period. The Notice gives issuers more time to refund, resell or refinance purchased and held obligations during this time of economic disruption.

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