§ 1.142–0 Table of contents.
This section lists the captioned paragraphs contained in §§1.142–1 through 1.142–3.

§1.142–1 Exempt facility bonds.

Internal Revenue Service, Treasury

(ii) The bonds for the project (excluding refunding bonds) are issued on or before December 31, 2009.


§ 1.141–16 Effective dates for qualified private activity bond provisions.

(a) Scope. The effective dates of this section apply for purposes of §§1.142–0 through 1.142–2, 1.144–0 through 1.144–2, 1.147–0 through 1.147–2, and 1.150–4.

(b) Effective dates. Except as otherwise provided in this section, the regulations designated in paragraph (a) of this section apply to bonds issued on or after May 16, 1997 (the effective date).

(c) Permissive application. The regulations designated in paragraph (a) of this section may be applied by issuers in whole, but not in part, to bonds outstanding on the effective date. For this purpose, issuers may apply §1.142–2 without regard to paragraph (c)(3) thereof to failures to properly use proceeds that occur on or after April 21, 2003.

(d) Certain remedial actions—(1) General rule. The provisions of §1.142–2(e) apply to failures to properly use proceeds that occur on or after August 13, 2004 and may be applied by issuers to failures to properly use proceeds that occur on or after May 14, 2004, provided that the bonds are subject to §1.142–2.

(2) Special rule for allocations of nonqualified bonds. For purposes of §1.142–2(e)(2), in addition to the allocation methods permitted in §1.142–2(e)(2), an issuer may treat bonds with the longest maturities (determined on a bond-by-bond basis) as the nonqualified bonds, but only with respect to failures to properly use proceeds that occur on or after May 14, 2004, with respect to bonds sold before August 13, 2004.


§ 1.142–1 Exempt facility bonds.

(a) Overview. Interest on a private activity bond is not excludable from gross income under section 103(a) unless the bond is a qualified bond. Under section 141(e)(1)(A), an exempt facility bond issued under section 142 may be a qualified bond.

(b) Scope. Sections 1.142–0 through 1.142–3 apply for purposes of the rules for exempt facility bonds under section 142, except that, with respect to bonds issued under section 142(d) (relating to bonds issued to provide qualified residential rental projects) and section 142(f) (2) and (4) (relating to bonds issued to provide local furnishing of electric energy or gas).

(c) Effective dates. For effective dates of §§1.142–0 through 1.142–2, see §1.141–16.


§ 1.142–2 Remedial actions.

(a) General rule. If less than 95 percent of the net proceeds of an exempt facility bond are actually used to provide an exempt facility, and for no other purpose, the issue will be treated as meeting the use of proceeds requirement of section 142(a) if the issue
meets the condition of paragraph (b) of this section and the issuer takes the remedial action described in paragraph (c) of this section.

(b) Reasonable expectations requirement. The issuer must have reasonably expected on the issue date that 95 percent of the net proceeds of the issue would be used to provide an exempt facility and for no other purpose for the entire term of the bonds (disregarding any redemption provisions). To meet this condition the amount of the issue must have been based on reasonable estimates about the cost of the facility.

(c) Redemption or defeasance—(1) In general. The requirements of this paragraph (c) are met if all of the nonqualified bonds of the issue are redeemed on the earliest call date after the date on which the failure to properly use the proceeds occurs under paragraph (d) of this section. Proceeds of tax-exempt bonds (other than those described in paragraph (d)(1) of this section) must not be used for this purpose. If the bonds are not redeemed within 90 days of the date on which the failure to properly use proceeds occurs, a defeasance escrow must be established for those bonds within 90 days of that date.

(2) Notice of defeasance. The issuer must provide written notice to the Commissioner of the establishment of the defeasance escrow within 90 days of the date the escrow is established.

(3) Special limitation. The establishment of a defeasance escrow does not satisfy the requirements of this paragraph (c) if the period between the issue date and the first call date is more than 10 years.

(4) Special rule for dispositions of personal property. For dispositions of personal property exclusively for cash, the requirements of this paragraph (c) are met if the issuer expends the disposition proceeds within 6 months of the date of the disposition to acquire replacement property for the same qualifying purpose of the issue under section 142.

(5) Definitions. For purposes of paragraph (c)(4) of this section, disposition proceeds means disposition proceeds as defined in §1.141–12(c).

(d) When a failure to properly use proceeds occurs—(1) Proceeds not spent. For net proceeds that are not spent, a failure to properly use proceeds occurs on the earlier of the date on which the issuer reasonably determines that the financed facility will not be completed or the date on which the financed facility is placed in service.

(2) Proceeds spent. For net proceeds that are spent, a failure to properly use proceeds occurs on the date on which an action is taken that causes the bonds not to be used for the qualifying purpose for which the bonds were issued.

(e) Nonqualified bonds—(1) Amount of nonqualified bonds. For purposes of this section, the nonqualified bonds are a portion of the outstanding bonds in an amount that, if the remaining bonds were issued on the date on which the failure to properly use the proceeds occurs, at least 95 percent of the net proceeds of the remaining bonds would be used to provide an exempt facility. If no proceeds have been spent to provide an exempt facility, all of the outstanding bonds are nonqualified bonds.

(2) Allocation of nonqualified bonds. Allocations of nonqualified bonds must be made on a pro rata basis, except that an issuer may treat any bonds of an issue as the nonqualified bonds so long as—

(i) The remaining weighted average maturity of the issue, determined as of the date on which the nonqualified bonds are redeemed or defeased (determination date), and excluding from the determination the nonqualified bonds redeemed or defeased by the issuer to meet the requirements of paragraph (c) of this section, is not greater than

(ii) The remaining weighted average maturity of the issue, determined as of the determination date, but without regard to the redemption or defeasance of any bonds (including the nonqualified bonds) occurring on the determination date.

§ 1.142–3 Refunding Issues. [Reserved]

§ 1.142–4 Use of proceeds to provide a facility.

(a) In general. [Reserved]

(b) Reimbursement allocations. If an expenditure for a facility is paid before