

Under the Act, all funds (other than money market funds),<sup>170</sup> whether open-end or closed-end, must calculate their NAVs by using the market values of their portfolio securities when market quotations for those securities are “readily available.”<sup>171</sup> When market quotations for a fund’s portfolio securities or other assets are not readily available, the fund must calculate its NAV by using the fair value of those securities or assets, as determined in good faith by the fund’s board of directors.<sup>172</sup>

There is no single methodology for determining the fair value of a security or other asset because fair value depends upon the facts and circumstances of each situation.<sup>173</sup> As a general principle, however, the fair value of a security or other asset held by a fund would be the amount that the fund might reasonably expect to receive for the security or other asset upon its current sale.<sup>174</sup> When determining the fair value of a security or other asset held by a fund, all indications of value that are available must be taken into account.<sup>175</sup>

#### *B. Application of the Valuation Requirements to a Fund’s Use of Derivatives*

For many derivatives that are securities, such as exchange-traded options, market quotations typically are readily available. As a result, a fund generally must use market values to value such derivatives. For many other derivatives, however, market quotations are not readily available, and a fund that holds such derivatives is required to value those derivatives at their fair values as determined by the fund’s board of directors.

Valuation of some derivatives may present special challenges for funds. Some derivatives may have customized

terms, including contractual restrictions on their transferability. Some derivatives also may restrict a fund’s ability to close out the contract or to enter into an offsetting transaction. For some derivatives, there may be no quotations available from independent sources, and for some derivatives the fund’s counterparty may be the only available source of pricing information.

#### *C. Request for Comment*

The Commission requests comment on funds’ valuation of derivatives, including the following questions:

- How do funds determine the fair values of derivatives that they hold? To what extent do valuation determinations depend upon the type of derivative, reference asset, trading venue, and other factors?

- How do funds, when fair valuing derivatives, assess the accuracy and reliability of pricing information that is obtained from their counterparties or from other sources?

- How do funds take into account, when valuing derivatives, contractual restrictions on transferability, and restrictions on their ability to close out the transactions or to enter into offsetting transactions?

- Some derivatives held by funds may have negative values due to, among other things, changes in the value of the reference assets underlying the derivatives. Do funds calculate the values of such derivatives in the same manner as they value derivatives that have positive values? If not, why not?

- Should the Commission issue guidance on the fair valuation of derivatives under the Investment Company Act? If so, what issues should be addressed by that guidance?

- Are there special considerations that need to be taken into consideration for smaller funds? How might taking such considerations into account impact investor protection?

#### **VII. General Request for Comment**

In addition to the specific issues highlighted for comment, the Commission invites members of the public to address any other matters that they believe are relevant to the use of derivatives by funds.

Dated: August 31, 2011.

By the Commission.

**Elizabeth M. Murphy,**  
*Secretary.*

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 1**

[TD 9546]

RIN 1545–BD04

#### **Definition of Solid Waste Disposal Facilities for Tax-Exempt Bond Purposes; Correction**

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

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains corrections to final regulations (TD 9546) that were published in the **Federal Register** on Friday, August 19, 2011, on the definition of solid waste disposal facilities for purposes of the rules applicable to tax-exempt bonds issued by State and local governments. These regulations provide guidance to State and local governments that issue tax-exempt bonds to finance solid waste disposal facilities and to taxpayers that use those facilities.

**DATES:** This correction is effective on September 7, 2011 and is applicable beginning October 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Timothy Jones, (202) 622–3980 (not a toll free number).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The final regulations that are the subject of this document are under section 142 of the Internal Revenue Code.

##### **Need for Correction**

As published August 19, 2011 (76 FR 51879), the final regulations (TD 9546) contain errors that may prove to be misleading and are in need of clarification.

##### **List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

##### **Correction of Publication**

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

#### **PART 1—INCOME TAXES**

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*

■ **Par. 2.** Section 1.142(a)(6)–1 is amended by revising paragraph (c)(2)(v), and the first sentence of paragraph (h), *Example 9* (ii) to read as follows:

<sup>170</sup> Money market funds that comply with the provisions of rule 2a–7 under the Act [17 CFR 270.2a–7], however, may value their portfolio securities on the basis of amortized cost. In addition, under certain circumstances, open-end funds may value certain of their portfolio securities on the basis of amortized cost. See *Valuation of Debt Instruments by Money Market Funds and Certain Other Open-End Investment Companies*, Investment Company Act Release No. 9786 (May 31, 1977) [42 FR 28999 (June 7, 1977)], available at <http://www.sec.gov/rules/interp/1977/ic-9786.pdf>.

<sup>171</sup> Section 2(a)(41)(B) of the Act. See also ASR 118 and ASR 113, *supra* note 14. “Readily available” refers to public market quotations that are current, *i.e.*, “[r]eadily available market quotations refers to reports of current public quotations for securities similar in all respects to the securities in question.” ASR 113, *supra* note 14, at 2.

<sup>172</sup> ASR 113, *supra* note 14.

<sup>173</sup> ASR 118, *supra* note 14.

<sup>174</sup> ASR 113 and ASR 118, *supra* note 14.

<sup>175</sup> ASR 118, *supra* note 14.

**§ 1.142(a)(6)–1 Exempt facility bonds: solid waste disposal facilities.**

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(v) *Radioactive material.* Solid waste excludes any radioactive material subject to regulation under the Nuclear Regulatory Act (10 CFR 1.1 *et seq.*), as in effect on the issue date of the bonds.

\* \* \* \* \*

(h) \* \* \*

*Example 9* \* \* \*

(ii) The facts are the same as in paragraph (i) of this *Example 9*, except that the stripped bark represents only 55 percent by weight and volume of the materials that are transported by the conveyor belt. \* \* \*

\* \* \* \* \*

**LaNita VanDyke,**

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

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1**

[TD 9546]

RIN 1545–BD04

**Definition of Solid Waste Disposal Facilities for Tax-Exempt Bond Purposes; Correction**

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

**ACTION:** Correction to final regulations.

**SUMMARY:** This document contains corrections to final regulations (TD 9546) that were published in the **Federal Register** on Friday, August 19, 2011, on the definition of solid waste disposal facilities for purposes of the rules applicable to tax-exempt bonds issued by State and local governments. These regulations provide guidance to State and local governments that issue tax-exempt bonds to finance solid waste disposal facilities and to taxpayers that use those facilities.

**DATES:** This correction is effective September 7, 2011 and is applicable beginning October 18, 2011.

**FOR FURTHER INFORMATION CONTACT:** Timothy Jones, (202) 622–3980 (not a toll free number).

**SUPPLEMENTARY INFORMATION:****Background**

The final regulations (TD 9546) that are the subject of this correction are

under section 142 of the Internal Revenue Code.

**Need for Correction**

As published August 19, 2001 (76 FR 51879), the final regulations (TD 9546) contain errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the final regulations (TD 9546), that are the subject of FR Doc. 2011–21154, are corrected as follows:

1. On page 51879, column 3, in the preamble, under the paragraph heading “Explanation of Provisions”, line 11 from the bottom of the second paragraph, the language ““that has no market or other value at the place where the property is located”” is corrected to read “that has no market or other value at the place where the property is located””.

2. On page 51880, column 2, in the preamble, under the paragraph heading “Explanation of Provisions”, line 8 of the column, the language “Regulations but recommended removing” is corrected to read “Regulations, but recommended removing”.

**LaNita VanDyke,**

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

[FR Doc. 2011–22739 Filed 9–6–11; 8:45 am]

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**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 301**

[TD 9550]

RIN 1545–BF61

**Section 6707A and the Failure To Include on Any Return or Statement Any Information Required To Be Disclosed Under Section 6011 With Respect to a Reportable Transaction**

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

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations that provide guidance regarding section 6707A of the Internal Revenue Code (Code) with respect to the penalties applicable to the failure to include on any return or statement any information required to be disclosed under section 6011 with respect to a reportable transaction. These final regulations reflect amendments under

the Small Business Jobs Act of 2010 that revise the penalty calculation.

**DATES:** *Effective Date:* These regulations are effective on September 7, 2011.

*Applicability Date:* For dates of applicability, see § 301.6707A–1(f).

**FOR FURTHER INFORMATION CONTACT:** Spence Hanemann, (202) 622–4940 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:****Background**

This document contains amendments to 26 CFR part 301 under section 6707A of the Code. On September 11, 2008, temporary regulations (TD 9425) relating to the penalty under section 6707A for the failure to include on any return or statement any information required to be disclosed under section 6011 with respect to a reportable transaction were published in the **Federal Register** (73 FR 52784). A notice of proposed rulemaking (REG–160868–04) cross-referencing the temporary regulations was published in the **Federal Register** on the same day (73 FR 52805). No public hearing was requested or held. One written comment responding to the notice of proposed rulemaking was received from the public. This comment was considered and is available for public inspection at <http://www.regulations.gov> or upon request. Upon due consideration, the proposed regulations are adopted as amended by this Treasury decision, and the corresponding temporary regulations are removed. The revisions are discussed in this preamble.

**Summary of Comments and Explanation of Revisions***1. 2010 Amendments to Section 6707A*

On September 27, 2010, the President signed into law the Small Business Jobs Act of 2010, Public Law 111–240 (124 Stat. 2504), section 2041 of which amended section 6707A of the Code. The amendments revise the amount of the penalty to make the penalty proportionate to the decrease in tax shown on the return as a result of the reportable transaction (or which would have resulted from the reportable transaction if it were respected for Federal tax purposes). The amendments also establish maximum and minimum penalty amounts. The amended penalty calculation was made retroactive to penalties assessed after December 31, 2006. To account for the change in the law, these final regulations conform to the statutory language of section 6707A, as amended. These changes are reflected in §§ 301.6707A–1(a) and 301.6707A–1(e). These final regulations follow the amended statutory language regarding