

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 non-qualified 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.

[T.D. 8712, 62 FR 2302, Jan. 16, 1997, as amended by T.D. 9150, 69 FR 50066, Aug. 13, 2004]

§ 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.

- (a) Overview.
- (b) Scope.
- (c) Effective dates.

§ 1.142-2 Remedial actions.

- (a) General rule.
- (b) Reasonable expectations requirement.
- (c) Redemption or defeasance.
 - (1) In general.
 - (2) Notice of defeasance.
 - (3) Special limitation.
 - (4) Special rule for dispositions of personal property.

(5) Definitions.
(d) When a failure to properly use proceeds occurs.

- (1) Proceeds not spent.
- (2) Proceeds spent.
- (e) Nonqualified bonds.
 - (1) Amount of nonqualified bonds.
 - (2) Allocation of nonqualified bonds.

§ 1.142-3 Refunding issues. [Reserved]

[T.D. 8712, 62 FR 2302, Jan. 16, 1997, as amended by T.D. 9150, 69 FR 50066, Aug. 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.

Under section 142(a), an exempt facility bond is any bond issued as a part of an issue using 95 percent or more of the proceeds for certain exempt facilities.

(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 net proceeds that have been spent, §1.142-2 does not apply 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.

[T.D. 8712, 62 FR 2302, Jan. 16, 1997]

§ 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