



TaxNewsFlash

United States

No. 2016-544
December 8, 2016

Regulations: Tax-exempt bonds, “issue price” and other definitions

The U.S. Treasury Department and IRS today released for publication in the Federal Register final regulations (T.D. 9801) concerning the issue price for purposes of the arbitrage investment restrictions that apply to tax-exempt bonds and tax-advantaged bonds.

The [final regulations](#) [PDF 213 KB] concern state and local governments that issue tax-exempt bonds, and adopt with revisions regulations that were proposed in June 2015. In general, the final regulations provide:

- A general rule that, for bonds issued for money, the issue price is the first price at which a substantial amount of the bonds is sold to the public, and for these purposes, a “substantial amount” is 10%
- A modified hold-the-offering-price requirement that requires underwriters to hold the price for offering and selling unsold bonds at a price that is no greater than the initial offering price to the public for a shorter time period that ends on the earlier of (1) the close of the date that is the fifth business day after the sale date, or (2) the date on which the underwriters have sold a substantial amount of the bonds to the public
- A definition of “competitive sale” to mean a sale of bonds by an issuer to an underwriter that is the winning bidder in a bidding process in which the issuer offers the bonds for sale to the underwriters at specified written terms and when certain other requirements are satisfied
- A definition of “underwriter”
- The existing due diligence standard under existing regulations will apply to any certification

The final regulations apply to bonds that are sold on or after a date that is 180 days after December 9, 2016—which is the date when the final regulations will be published in the Federal Register.

The information contained in TaxNewsFlash is not intended to be "written advice concerning one or more Federal tax matters" subject to the requirements of section 10.37(a)(2) of Treasury Department Circular 230, as the content of this document is issued for general informational purposes only, is intended to enhance the reader's knowledge on the matters addressed therein, and is not intended to be applied to any specific reader's particular set of facts. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. Applicability of the information to specific situations should be determined through consultation with your tax adviser.

KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever.

Direct comments, including requests for subscriptions, to [Washington National Tax](#). For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.

To unsubscribe from TaxNewsFlash-United States, reply to [Washington National Tax](#).

[Privacy](#) | [Legal](#)