

TaxNewsFlash

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Second package of proposed regulations withdrawn; definition of “political subdivision” for tax-exempt bonds

The U.S. Treasury Department and IRS today released for publication in the Federal Register a notice of withdrawal of proposed regulations (REG-129067-15) under section 103 concerning the definition of “political subdivision” for purposes of issuing tax-exempt municipal bonds.

Today’s notice of withdrawal of the regulations proposed in February 2016 is the second one released by Treasury this week. This action is pursuant to an executive order and Treasury report.

Read the [notice of withdrawal of the proposed regulations](#) [PDF 183 KB]

Background

President Trump in April 2017, signed an executive order ([Executive Order 13789](#)) directing the U.S. Treasury to examine recent tax regulations to determine whether any of the regulatory projects: (1) imposed an undue financial burden on U.S. taxpayers; (2) added undue complexity to the federal tax laws; or (3) exceeded the statutory authority of the IRS. According to the executive order, Treasury was to take “appropriate steps” to delay or suspend the effective date of the identified regulations, and to modify or rescind the regulations, through notice and comment rulemaking.

The executive order directed Treasury to review “significant tax regulations” issued on or after January 1, 2016, and to issue reports according to a timetable.

The IRS on July 7, 2017, released [Notice 2017-38](#) [PDF 38 KB] providing an interim list of eight tax regulations identified as either imposing an undue financial burden on taxpayers, or adding excessive complexity to the tax system (none of the regulations was identified as exceeding statutory authority). Included in the eight regulatory projects were the February 2016 proposed regulations (REG-129067-15) promulgated

under section 103 on the definition of "political subdivision" for purposes of issuing tax-exempt municipal bonds.

The U.S. Treasury Department on October 4, 2017, released a final report with recommendations for specific actions to mitigate the burden imposed by regulations previously identified as either imposing an undue financial burden on taxpayers, or adding excessive complexity to the tax system. A related Treasury release states that the proposed regulations under section 103 would be withdrawn because:

"The new requirements would have imposed enhanced standards to show a governmental purpose and governmental control. The changes proposed by the regulations would have been costly and burdensome."

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