

# TaxNewsFlash

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## Notice 2023-39: Forthcoming proposed regulations regarding arbitrage treatment of certain guarantee funds under section 148

The IRS today released an advance version of [Notice 2023-39](#) [PDF 110 KB] describing proposed regulations under section 148 that the Treasury Department and IRS intend to issue regarding an exception to the arbitrage investment restrictions under section 148 applicable to bonds the interest on which is excludable from gross income under section 103(a).

Specifically, the proposed regulations will amend Treas. Reg. § 1.148-11(d)(1)(i)(F) regarding whether certain perpetual trust funds created and controlled by States that are pledged as credit enhancement to guarantee tax-exempt bonds will be treated as replacement proceeds of the guaranteed bonds for purposes of the arbitrage investment restrictions on tax-exempt bonds under section 148.

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