



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D C. 20224

October 18, 2016

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Expiration Date: October 18, 2018
Affected IRM: 4.81.5

MEMORANDUM FOR ALL TAX EXEMPT BOND EMPLOYEES

FROM: Rebecca Harrigal /s/ *Rebecca Harrigal*
Director, Tax Exempt Bonds

SUBJECT: Interim Guidance on New Case Closing Procedures

Purpose: This memo informs Tax Exempt Bond (TEB) employees that we'll amend IRM 4.81.5 to include another resolution method for exams.

Resolution method: If, during an exam of a tax-exempt or tax-credit bond issue (Bonds), an issuer redeems 100% of the outstanding principal amount of the Bonds, the examiner and group manager should consider, under the circumstances, whether to close the exam without further TEB action.

When you have a basis to conclude that the Bonds don't comply with applicable law, consider these factors in determining whether to close the exam without further action.

- (a) The reasons for the non-compliance and whether the transaction is abusive (for example, it falls under an anti-abuse rule).
- (b) Whether interested parties were involved in aspects of the transaction resulting in non-compliance. *Interested parties* includes parties directly involved with the transaction (including the underwriter, conduit borrower or other user of the proceeds) and parties having a financial interest in the transaction.
- (c) Whether the issuer and/or conduit borrower took reasonable steps to ensure that the Bonds complied with applicable law.
- (d) Whether the issuer and/or conduit borrower attempted to self-correct before the start of the exam.

Note: There may be circumstances that warrant a referral of a bondholder or other party to the transaction to another business unit under current referral procedures, considering among other factors, whether the bondholder holds a significant amount or percentage of the bonds. Consult with your manager to determine if a referral is warranted following standard referral procedures.

Before you close an exam using this method, your group manager must obtain written approval from the TEB Field Operations Manager.

Closing Letters and Codes:

If you have a basis to conclude that the Bonds don't comply with applicable law:

- a. Issue closing Letter 5859, Full Bond Redemption - Compliance Issue Identified.
- b. Close the case in RCCMS with disposal code 115, Full Bond Redemption Without Agreement and ARDI Code 1-Fully Paid.
- c. Report the principal amount of Bonds redeemed and present value of the tax on the interest that would have accrued on the Bonds to their stated redemption date in the RCCMS closing record.

If you don't have a basis to conclude that the Bonds don't comply with the applicable law:

- a. Issue closing Letter 4411, No Change - Tax-Exempt Bond Qualification
- b. Close the case in RCCMS with disposal code 107, No Change.

Scope: This case resolution method does not apply if:

- a. The Bonds are redeemed with other tax-advantaged bonds.
- b. The Bonds are direct pay bonds.
- c. The issuer did not make appropriate rebate payments on the Bonds.
- d. The issuer asks to negotiate or enter into a closing agreement (See IRM 4.81.6 if they request a closing agreement.)

Effect on Other Documents: This memo expires on the earlier of two years of its effective date or the date incorporated into IRM 4.81.5.

Effective Date: This memo is effective when issued.

Contact: If you have questions about this guidance or need additional information, please contact your manager.

[cc:www.irs.gov](http://www.irs.gov)



Department of the Treasury
Internal Revenue Service
 Tax Exempt and Government Entities
 [Street address]
 [City, State zip]

Date:

Employer ID number:

Form:

Issue date:

Person to contact/ID number:

Contact telephone number:

[Issuer name]
 [Issuer address Line 1]
 [Issuer address Line 2]
 [Issuer city, state, zip]

Re: [BOND ISSUE NAME]

Dear [Insert salutation]:

Why you're receiving this letter

This letter is issued regarding the audit of the debt issuance named above (Bonds). You're receiving this letter because we've decided to close the audit of the Bonds.

OPTION 1. [On DATE, we issued a letter or notice to the effect that [DESCRIBE COMPLIANCE FAILURE]. You've notified us that all the Bonds were [ACTION TAKEN: redeemed/converted to taxable bonds] on [DATE]].

OR

OPTION 2. [Based on our findings during the audit, we have a reasonable basis for concluding that beneficial owners of the Bonds are not entitled to claim tax benefits (i.e., tax-exempt interest or tax credits) on the Bonds because [DESCRIBE COMPLIANCE FAILURE]. You've notified us that all the Bonds were [ACTION TAKEN: redeemed/converted to taxable bonds] on [DATE]].

If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

[Name]
Manager, Tax Exempt Bonds Field Operations

[cc: Authorized representative]