

IRS Permanently Allows TEFRA Hearings by Teleconference

Description

By Eugene G. Bernardo II or David M. DiSegna

On March 18, 2022, the IRS issued Revenue Procedure 2022-20, which permanently allows issuers of tax-exempt private activity bonds to hold TEFRA hearings via teleconference.

Pursuant to § 147(f) of the Internal Revenue Code, tax-exempt qualified private activity bonds are subject to a public approval requirement. One means by which governmental issuers may satisfy this requirement is approval by the applicable elected representative of the governmental unit after a public hearing following reasonable public notice.

Under IRS regulations, a public hearing means a forum providing a reasonable opportunity for interested individuals to express their views, orally or in writing, on the proposed issue of bonds and the location and nature of the proposed project to be financed. Additionally, IRS regulations provide that the public hearing must be held in a location that, based on the facts and circumstances, is convenient for residents of the approving governmental unit.

In light of the COVID-19 pandemic, the IRS issued Revenue Procedure 2020-21, which stated that a hearing conducted by teleconference accessible to the residents of the approving governmental unit by calling a toll-free telephone number will be treated as held in a location that, based on the facts and circumstances, is convenient for residents of the approving governmental unit. Revenue Procedure 2020-21 allowed public hearings to be held via teleconference through December 31, 2020. The IRS later extended this time period to September 30, 2021 (Revenue Procedure 2020-49), and again to March 31, 2022 (Revenue Procedure 2021-39).

The IRS has now removed any time limitations from this prior guidance and will permanently allow public hearings to be held via teleconference. In making this determination, the IRS noted that prior to the COVID-19 pandemic, it had previously rejected suggestions that an effective public hearing for qualified private activity bonds may be held by teleconference or webinar. However, it explained that “the experience using telephonic hearings during the COVID-19 pandemic has shown that telephonic access has in fact made it easier for the public to express its views regarding a proposed private activity bond issue and thus furthers the purpose of the public approval requirement in § 147(f).”

The Revenue Procedure also states that, provided a toll-free number is available to allow residents to participate in the teleconference, governmental units are not precluded from offering additional access to the hearing by other telephone numbers, internet-based meeting technology, or in-person attendance.

Please contact [Partridge Snow & Hahn LLP](#) if you have questions about the Revenue Procedure.

Date Created

March 21, 2022