

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.601: Rules and Regulations.
(Also: §§ 147, 1.147(f)-1)

Rev. Proc. 2021-39

SECTION 1. PURPOSE

This revenue procedure provides temporary guidance regarding the public approval requirement under § 147(f) of the Internal Revenue Code for tax-exempt qualified private activity bonds. Specifically, in light of the continuing Coronavirus Disease 2019 (COVID-19) pandemic, this revenue procedure extends until March 31, 2022, the time period described in section 4.02 of Rev. Proc. 2020-21, 2020-22 I.R.B. 872, as modified by Rev. Proc. 2020-49, 2020-48 I.R.B. 1121, during which certain telephonic hearings are permitted.

SECTION 2. BACKGROUND

.01 Pursuant to § 147(f), tax-exempt qualified private activity bonds are subject to a public approval requirement. Except for refunding bonds described in § 147(f)(2)(D), a bond issue must be approved by the governmental unit issuing the bonds (or on behalf of which such bonds are issued) and by the governmental unit having jurisdiction over the area in which any facility to be financed by the issue is located. Under § 147(f)(2)(B), an issue will be treated as having been approved by any governmental unit if the issue is approved by the applicable elective representative of the governmental unit after a public hearing following reasonable public notice, or by voter referendum of the governmental unit.

.02 Section 1.147(f)-1(d)(1) of the Income Tax Regulations provides that 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. Section 1.147(f)-1(d)(2) provides 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. The location is presumed convenient for residents of the approving governmental unit if the public hearing is located in the approving governmental unit's capital or seat of government. Further, if more than one governmental unit is required to hold a public hearing, the hearings may be combined as long as the combined hearing affords the residents of all of the participating governmental units a reasonable opportunity to be heard. The location of any combined hearing is presumed convenient for residents of

each participating governmental unit if it is no farther than 100 miles from the seat of government of each participating governmental unit beyond whose geographic jurisdiction the hearing is conducted.

.03 In light of the COVID-19 pandemic, state and local governmental units sought alternatives to in-person hearings held to meet the public approval requirement. In response to these concerns, Rev. Proc. 2020-21, effective May 4, 2020, provides temporary guidance regarding the public approval requirement under § 147(f). Rev. Proc. 2020-21 provides that for the period beginning May 4, 2020, and ending on December 31, 2020, hearings held by teleconference that are 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 for purposes of § 1.147(f)-1(d)(2). Rev. Proc. 2020-49 extends that time period until September 30, 2021. The Department of the Treasury and the Internal Revenue Service have received several requests for further extension of the time period. This revenue procedure extends the time period until March 31, 2022.

SECTION 3. EXTENSION OF TIME PERIOD

The period described in section 4.02 of Rev. Proc. 2020-21 is extended. Accordingly, section 4.02 of Rev. Proc. 2020-21 is modified as follows:

.02 Time period. The period described in this section 4.02 is the period beginning on May 4, 2020, and ending on March 31, 2022.

SECTION 4. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies section 4.02 of Rev. Proc. 2020-21 and modifies and supersedes Rev. Proc. 2020-49.

SECTION 5. DRAFTING INFORMATION

The principal authors of this revenue procedure are Johanna Som de Cerff and David White of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue procedure, contact Ms. Som de Cerff or Mr. White on (202) 317-6980 (not a toll-free number).