

# Module F

## Applying Appropriate Regulations

### Overview

#### Introduction

This section addresses the effective dates of the arbitrage regulations. To be able to determine whether the issuer followed the appropriate rules, it is necessary to determine which set of the arbitrage regulations apply to the bond issue being reviewed.

Since 1979 there have been 10 sets of arbitrage regulations, amendments, and proposed regulations issued by the Service. As such, determining which set of regulations is applicable is very important because a treatment prohibited under one set of regulations may be permitted under another set of regulations. To determine which set of regulations apply to a bond issue, the effective date provisions of each set of the regulations must be reviewed. The following general rules of application should be used in determining which set of regulations apply to a bond issue, subject to specific provisions of the individual set of regulations:

- 1. In general an issuer must use the arbitrage regulations in effect on the date of issue of the obligation.**
- 2. Certain later revisions of the arbitrage regulations permit issuers to retroactively apply such regulations to bonds issued under a prior set of arbitrage regulations.**
- 3. If an issuer chooses to retroactively apply a later set of regulations, such regulation must generally be applied in whole, but not in part, to the bond issue in questions. In limited Circumstances, individual provisions of regulations may be retroactively applied to an outstanding bond issue.**
- 4. After applying a revised regulation to an issue, the issuer may either continue to apply that revision or electively apply an even newer revision of the regulation.**
- 5. A set of regulations must be in effect when the issuer first applies them, i.e. that set of regulations cannot have already been superseded by another set of regulations. Example: A September 1987 Bond issue, computes arbitrage in September 1997. In 1997 issuer may retroactively elect to use the 1997 regulation, but it may not now first elect to use the 1992 or 1993 set of regulations.**
- 6. If an issue is redeemed before the effective date of a set of regulations, the issuer may not thereafter first elect into such regulations.**

Unless otherwise specified, wherever a regulation is cited and not specifically identified, the reference is to the Treasury Regulations in effect July 8, 1997, the "1997 Regulations." Remember, some of the older regulations have been withdrawn or amended, while others are incorporated into the present regulations.

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## Overview, Continued

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### Chronology of Regulations

The following is a chronology of arbitrage regulations. Each set is commonly referred to by its YEAR of publication. For each listed set, there is a short general statement about the set of regulations. This is followed by the Treasury Decision (T.D.) number, the Cumulative Bulletin citation, and the general effective date of the set of regulations. Following the chronology is a discussion of the effective dates of the various arbitrage regulations, including elective retroactive application of the regulations and the transition rules

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#### May 1979

The first set of final arbitrage regulations, the 1979 Treas. Reg. sections 1.103-13, 1.103-14, and 1.103-15 were issued in 1979. These regulations only address yield restriction issues.

**T.D. 7627, 1979-2 C.B. 45**

**Effective:** For governmental obligations issued after May 31, 1979. Special rule for bonds that were the subject of a validation proceeding

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#### December 31, 1984

This Set of Temporary Regulations, a 1984 amendment of the 1979 regulations, added section 1.103-15AT, which placed restrictions on investments in nonpurpose obligations.

**T.D. 8005, 1985-1 C.B. 39**

**Effective:** For bonds issued after December 31, 1984.

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## Overview, Continued

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**May 1989  
Temporary  
Regs.**

The 1989 Temporary regulations were issued in May 1989. These temporary regulations dealt primarily with the rebate provisions and were the first regulations under section 148 of the 1986 Code.

**T.D. 8252, 1989-1 C.B. 25**

**Effective:** For private activity bonds issued **after December 31, 1985**, for all other bonds issued **after August 31, 1986**.

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**1990 Student  
Loan Bond  
Regulations**

The 1990 Student Loan Regulations (1) added a permanent regulation, section 1.148-10, to the 1989 Temporary regulations for qualified student loan bonds. **T.D. 8284, 1990-1 C.B. 23 AND**, (2) by a separate T.D., added section 1.148-10T to the 1989 Temporary Regulations, covering yield adjustment payments, on acquired purpose obligations acquired with proceeds of qualified student loan bonds.

**T.D. 8285, 1990-1 C.B. 26**

**Effective:** For student loan bonds issued after Jan. 1, 1990.

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**April 25, 1991  
1991  
Regulations**

The 1989 regulations were amended, by simplifying some of the more complex provisions. For example, the amended regulations provided safe harbors for the yield calculation for yield-to-call bonds or term bonds sold at a discount. The last paragraph of the 1991 regulations adds section 1.103-13T.

**T.D. 8345, 1991-1 C.B. 33**

**Effective:** April 25, 1991

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**January 13,  
1992  
The  
Reimbursement  
Regulations**

Treas. Reg. section 1.103-18 was published. It included rules regarding reimbursement of prior expenditures with bond proceeds.

**T.D. 8394, 1992-1 C.B. 21**

**Effective:** For bonds issued after 3/2/92

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## Overview, Continued

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**February 12, 1992** The Service published proposed regulations addressing certain provisions under IRC section 148. Two important provisions in the regulations dealt with construction issues and transferred proceeds.

**T.D. 8418, 1992-1 C.B. 29**

**Effective:** Generally 8/15/86 for nongovernmental bonds and 8/31/86 for governmental bonds

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**May 18, 1992** The Service republished regulations which combined the existing 1992 proposed regulations and the 1989 regulations, as amended. These were issued as final and temporary regulations (1992 regulations).

**T.D. 8418, 1992-1 C.B. 29**

**Effective:** Generally 8/15/86 for nongovernmental bonds and 8/31/86 for governmental bonds.

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**November 4, 1992** The Service issued proposed regulations which included many of the provisions of the 1979 regulations, the final and temporary 1992 regulations, and the reimbursement regulations.

**FI-36-92, 1992-2 C.B. 688**

**Effective** for Bonds issued after 6/30/93, with elections to apply to bonds issued earlier.

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**June 30, 1993** The Service issued final regulations under IRC section 148 (1993 regulations).

**T.D. 8476, 1993-2 C.B. 13,**

**Effective:** For bonds issued after 6/30/93, but many elections are allowed to apply this set of regulations retroactively.

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## Overview, Continued

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**June 6, 1994**  
**1994**  
**Temporary**

The Service issued temporary regulations, proposing to amend portions of the 1993 regulations.

**T.D. 8538, 1994-1 C.B. 26**

**Effective:** The regulations were effective 6/9/94, but the generally effective date is for bonds sold after 6/6/94. There are many exceptions. These regulations include many "Dash-T" provisions.

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**May 9, 1997**  
**1997**  
**Regulations**

The Service issued final regulations amending portions of the 1993 regulations. Those amendments were primarily limited to:

- rules for qualified hedges,
- altering the definition of investment-type property, and
- reimbursement rules for exempt facilities.

**T.D. 8718, 1997-1 C.B. 47**

**Effective:** Generally, for bonds sold on or after 7/8/97 with election to apply to bonds outstanding on 7/8/97.

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# Section 1

## 1979 and 1984 Regulations

### Overview

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#### Introduction

These regulations were the first regulations issued under the arbitrage provisions of section 103(c) of the 1954 Code. The regulations issued in 1979 were:

- Treas. Reg. section 1.103-13,
- Treas. Reg. section 1.103-14, AND
- Treas. Reg. section 1.103-15.

They dealt only with yield restriction rules.

In 1984, Treas. Reg. section 1.103-15AT (later removed by T.D. 8476, the 1993 regulations) was issued to provide the general rebate provisions for industrial development bonds.

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#### General Effective Date

These 1979 regulations apply to governmental bonds issued after May 31, 1979.

For governmental bonds issued before the effective date of the final regulations, the proposed regulations under section 103(c) of the 1954 Code apply, according to their internal effective dates (1975, 1976, 1977, and 1978). Bonds that were the subject of a validation proceeding commenced before May 3, 1978 and with respect to which a bond fide preliminary offering statement had been prepared in final form for distribution before May 11, 1978, are considered to have been issued on May 2, 1978.

Prior to 1984 proposed regulations were not published in the C.B.'s. If any issuer of an issue under examination relied on these regulations you may find them in the Federal Register. A listing of the Federal Register citations for the proposed regulations under form Code section 103(c) is found in T.D. 7627, 1979-2 C.B. 45, 46.<sup>1</sup>

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## Overview, Continued

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### Rebate Rules for IDBs

1984 Temporary regulation section 1.103-15AT applies to industrial development bonds issued after December 31, 1984.

This is the temporary regulation under section 103(c)(6) of the 1954 Code.

Treas. Reg. section 1.103-15AT places restrictions on investments in nonpurpose obligations.

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<u>Federal Register Citation</u>	<u>Date of F.R. Publication</u>
38 FR 10944	May 3, 1973
Corrected by: 38 FR 12405	May 11, 1973
40 FR 56488	December 3, 1975
Corrected by: 40 FR 58656	December 18, 1975
41 FR 47679	October 29, 1976
Corrected by: 41 FR 51840	November 24, 1976
42 FR 27610	May 31, 1977
42 FR 29517	June 9, 1977
Corrected by: 42 FR 31462	June 21, 1977
43 FR 19675	May 8, 1978
43 FR 39822	September 7, 1978

## Section 2

### 1989 Regulations with 1990 and 1991 Amendments

#### Overview

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##### Introduction

The 1989 Temporary Regulations consist of:

- Treas. Reg. section 1.148-0T (scope and effective date),
  - Treas. Reg. section 1.148-1T through 1.148-8T (rebate),
  - Treas. Reg. section 1.148-9T (general rules),
  - Treas. Reg. section 1.149(d)-1T (advance refundings),
  - Treas. Reg. section 1.150-1T (definitions), PLUS Student Loan Bond Regulations (1990)
  - Treas. Reg. section 1.148-10 and 1.148-10T, PLUS 1991 Amendments
  - Amendments to many of the foregoing
  - Treas. Reg. section 1.103-13T (proceeds definition).
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##### General Effective Date

The general effective date for the 1989 Temporary regulations is generally retroactive to bonds to which IRC section 148(f) applies.

For nongovernmental bonds described in section 1312(c)(2) of the 1986 Act, the effective date is **August 15, 1986**.

For governmental bonds described in section 1312(c)(2) of the 1986 Act, the effective date is **August 31, 1986**.

**See 1989 Treas. Temp. Reg. §§ 1.148-0T(b)(ii)(A) and (B).**

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## Overview, Continued

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**Transition Rule** Where section 1301 of the 1986 Act does not apply solely because of Act section 1312(a) (relating to construction or binding agreements) or section 1313(a) or (b) (relating to certain current or advance refundings), the requirements of section 148 are treated as included in section 103 of the 1954 Code.

**See 1989 Treas. Temp. Reg. § 1.148-0T(b)(iii).**

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## Rebate Required

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### **Bonds Issued Before General Effective Date or Pursuant to Special Transition Rules**

Under section 1314(d) of the 1986 Act, section 103 of the 1954 Code is treated as including the requirements of IRC section 148(f) in order for section 103(a) of the 1954 Code to apply in the case of any bond issued after:

- **December 31, 1985**, if the bond is a nongovernmental bond described in section 1312(c)(2) of the 1986 Act,
- **3 pm E.D.T., July 17, 1986**, if the bond is a governmental pool bond described in section 1312(c)(2) and section 1314(d)(3), AND
- **August 31, 1986**, if the bond is a governmental bond described in section 1312(c)(2) of the 1986 Act, but is NOT a governmental pool bond.

**(See 1989 Treas. Reg. section 1.148-0T(b)(2)(i)(A)-(C)).**

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### **Certain Retired Issues**

Treas. Reg. sections 1.148-1T through 1.148-8T do not apply to any bond that is part of an issue if:

- the last bond that is part of the issue is discharged on or before May 15, 1989, AND
- rebate, if any, is paid **by the later of May 15, 1989 and 60 days after the date the issue is discharged.**

**(See 1989 Treas. Reg. section 1.148-0T(b)(2)(ii)(B)(1) and (2)).**

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### **Election In**

An issuer may elect to apply the provisions of Treas. Reg. sections 1.148-1T through 1.148-8T to bonds to which section 103(c)(6)(D) of the 1954 Code applies, in lieu of the provisions of Treas. Reg. section 1.103-15AT for purposes of determining whether the bonds meet the requirements of section 103(c)(6)(D) of the 1954 Code.

Treas. Reg. section 1.148-8T(h) provides how the election is to be made.

**(See 1989 Treas. Reg. section 1.148-0T(b)(ii)(C)).**

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## Bonds to Which Treas. Reg. Section 1.148-9T Applies

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**General Rule** Treas. Reg. section 1.148-9T (general rules, including certain computations of yield) generally applies to any bond sold after May 15, 1989, or issued after June 14, 1989.

**(See 1989 Treas. Reg. section 1.148-0T(b)(3)) and 1.148-9T(g).**

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## Transition Rules

### ALL CITATIONS ARE TO 1989 REGULATIONS

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**Fixed Yield Issues** Any bonds sold on or before May 15, 1989, and issued on or before June 14, 1989, shall be treated as a fixed yield issue if the issuer elects to treat the bonds as a fixed yield issue.

(See Treas. Reg. section 1.148-3T(b)(1)(ii)).

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**Eligible Purpose Investments** The requirements of Treas. Reg. section 1.148-3T(b)(12)(viii)(B) (dealing with yield on investments) will be treated as satisfied with respect to a purpose investment acquired on or before June 14, 1989, if certain conditions are met.

(See Treas. Reg. section 1.148-3T(b)(12)(ix)).

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**Computing Yield on a Fixed Yield Issue** Bonds must be sold on or before May 15, 1989, and issued on or before June 14, 1989, and meet other conditions for the yield of the bonds determined by the date of issue to be treated as the only computation date.

(See Treas. Reg. section 1.148-3T(c)(5)).

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**Special Allocation Rules for Refundings** For refunding issues sold on or before May 15, 1989, and issued on or before June 14, 1989 there is a special transition rule for allocations. This generally applies to excess replacement funds and excess proceeds of a refunded issue.

(See Treas. Reg. section 1.148-4T(e)(1)(v) for transition rule regarding excess gross proceeds.)

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**Transferred Proceeds** If a refunding issue is sold on or before May 15, 1989, and issued on or before June 14, 1989, see the transition rule for transferred proceeds.

(See Treas. Reg. section 1.148-4T(e)(2)(iii)).

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## Transition Rules, Continued

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**Certain  
Imputed  
Escrow  
Receipts**

For any issue sold on or before May 15, 1989, and issued on or before June 14, 1989, and only to the extent that the interest savings is attributable to an investment in an escrow established after June 14, 1989, see the transition rule for certain imputed escrow receipts.

**(See Treas. Reg. section 1.148-5T(c)(1)(iii)).**

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## Student Loan Bonds - 1990 Amendments

### CITATIONS ON THIS PAGE ARE TO THE STUDENT LOAN BOND REGULATIONS

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#### **Purpose Investments**

Treas. Reg. section 1.148-10 provides rules relating to arbitrage restrictions on qualified student loan bonds.

According to Treas. Reg. section 1.148-10(b)(3), the rules apply to bonds issued after January 5, 1990. Exceptions are made for (1) certain bonds to refund bonds issued before that date, and (2) certain bonds needed to fulfill commitments to acquire student loans originated after June 30, 1984 and before January 5, 1990.

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#### **Yield Adjustment Payments**

Treas. Reg. section 1.148-10T provides rules relating to certain yield adjustment payments to be made with respect to excess earnings on acquired purpose obligations acquired with proceeds of qualified student loan bonds.

According to Treas. Reg. section 1.148-10T(g), this section applies to any qualified student loan bond issued after January 5, 1990.

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## Proceeds Definition - Treas. Reg. Section 1.103-13T

(Citations to section 1.103-13 are found in the 1979 regulations;  
citations to section 1.103-13T are found in the 1991 regulations.)

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### General Rule

For purposes of Treas. Reg. section 1.103-13(b)(2), the amounts excluded from original proceeds that is contained in Treas. Reg. section 1.148-8T(d)(3) are also excluded from the definition of original proceeds and investment proceeds in Treas. Reg. sections 1.103-13(b)(2)(i) and (ii) for bonds issued after:

- **December 31, 1985** for private activity bonds, AND
- **August 31, 1986** for all other bonds.

(See Treas. Reg. section 1.103-13T(b)).

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## 1991 Amendment of 1989 Temporary Regulations

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**Introduction** Modifications to the 1989 temporary rebate regulations were made on April 25, 1991. The new temporary regulations were **generally effective from April 25, 1991, but they are generally retroactive**.

They are applicable to private activity bonds issued after December 31, 1985.

They are applicable to governmental bonds issued after August 31, 1986.

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**Prospective Effective Date for Change to Special Rule Regarding Excess Tax Exempt Receipts**

1989 Treasury Temp. Reg. section 1.148-5T(c)(2), as amended by the 1991 Amendment, applies to bonds issued after May 28, 1991. This gives a prospective effective date for the change in the special rule regarding excess tax exempt receipts treated as imputed receipts with respect to the nonpurpose investments in the same escrow. **See 1991 Amendment of Treas. Reg. section 1.148-0T(b)(4)**.

Section G2 of the explanatory preamble to T.D.8324 (the 1991 Amendment) states that “ 1.148-5T(c)(2) is deleted, and new 1.149(d)-1T(d)(3) address the abuse prohibited by this provision. These changes are effective for bonds issued after May 28, 1991.” Both 1.148-0T(b)(4) and 1.149(d)-1T(d)(3)(iii) have effective dates of May 28, 1991.

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**Prospective Effective Date for Removal of Special Issue Price Rule Regarding Concessions**

Treas. Reg. section 1.148-8T(c)(2)(ii), as amended, applies to a bond issued after May 28, 1991.

**See 1991 Amendment of Treas. Reg. Section 1.148-0T(b)(5)**

Section F2 of the explanatory preamble to T.D. 8324 (the 1991 Amendment), states that "1.148-5T(c)(2) is deleted. Issuers and underwriters are no longer required or permitted to identify and segregate bonds expected to be publicly offered to the general public at one price from those publicly offered to institutions at a concession. This change is effective for bonds issued after May 28, 1991.”

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## Section 3

### 1992 Regulations

#### Overview

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##### Introduction

The 1992 regulations consist of the following rules:

- Treas. Reg. section 1.103-18 (reimbursement rules, from the 1992 Reimbursement Regulations),
- Treas. Reg. section 1.148-0 through 1.148-8 (rebate),
- Treas. Reg. section 1.148-9 (general rules),
- Treas. Reg. section 1.148-10 (purpose investments mostly relating to student loan bonds) AND

##### REMOVED

- **The 1989 Temporary Regulations** and the following sections:
- Treas. Reg. section 1.103-13(f), and
- Treas. Reg. section 1.103-14(e).

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##### General Effective Date

The general effective date of the 1992 final regulations is generally retroactive to bonds to which section 148(f) applies. Section 148(f) was enacted by the Tax Reform Act of 1986.

For nongovernmental bonds (qualified private activity bonds and IDBs), the effective date is **August 15, 1986**.

For governmental bonds, the effective date is **August 31, 1986**.

**(See Treas. Reg. sections 1.148-0(b)(1)(ii)(A) and (B) and Treas. Reg. section 1.148-0(b)(2)(ii)).**

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## Rebate Required

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### **Bonds Issued Before General Effective Date or Pursuant to Special Transition Rules**

Under section 1314(d) of the Tax Reform Act of 1986, section 103 of the 1954 Code is treated as including the requirements of IRC section 148(f) in order for section 103(a) of the 1954 Code to apply for bonds issued after:

- **December 31, 1985** for a nongovernmental bond described in section 1312(c)(2) of the 1986 Act. (See **1992 Treas. Reg. Section 1.148-0(b)(2)(i)(A)**),
- **3pm E.D.T., July 17, 1986** for a governmental pool bond described in sections 1312(c)(2) and 1314(d)(3) of the 1986 Act. (See **1992 Treas. Reg. section 1.148-0(b)(2)(i)(B)**), AND
- **August 31, 1986**, for a governmental bond described in section 1312(c)(2) AND is NOT a governmental pool bond described in section 1314(d)(3).

(See **Treas. Reg. section 1.148-0(b)(2)(i)(C)**).

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### **Certain Retired Issues**

1992 Treas. Reg. sections 1.148-1 through 1.148-8 shall NOT apply and final rebate shall be considered timely paid, for any bond that is part of an issue if:

- the last bond that is part of the issue is discharged on or before May 15, 1989, AND
- any rebate due is paid by the **later of May 15, 1989 AND 60 days after the date the issue is discharged**.

(See **1992 Treas. Reg. section 1.148-0(b)(2)(ii)(B)**)

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### **Election In**

1992 Treas. Reg. section 1.148-0(b)(2)(ii)(C) provides that the issuer may elect to apply the provisions of Treas. Reg. sections 1.148-1 through 1.148-8 in lieu of the provisions of Treas. Reg. section 1.103-15AT(d).

Section 103(c)(6)(D) of the 1954 Code must apply to the bonds (IDBs).

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## Bonds to Which Treas. Reg. Section 1.148-9 Applies

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**General Rule** 1992 Treas. Reg. section 1.148-9 provides that certain provisions of the 1992 Treas. Reg. sections 1.148-1 through 1.148-8 apply for purposes of IRC section 148 generally.

Treas. Reg. section 1.148-9 generally applies to any bond sold after May 15, 1989, or issued after June 14, 1989.

**(See Treas. Reg. section 1.148-0(b)(3)).**

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## Prospective Effective Dates for 1992 Regulations

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**Special Rule for Excess Tax-exempt Receipts** 1992 Treas. Reg. section 1.148-5T(c)(2) applies to bonds issued after May 28, 1991, and before June 17, 1992. This reflects the removal of former section 1.148-5T(c)(2) of the 1989 regulations.

**See 1992 Treas. Reg. section 1.148-0(b)(4).**

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**Removal of Special Issue Price Rule** 1992 Treas. Reg. section 1.148-8(c)(2)(ii) (special price rule regarding concessions) applies to bonds issued after May 28, 1991. This reflects the removal of former section 1.148-8T(c)(2)(ii) of the 1989 Regulations.

**See 1992 Treas. Reg. section 1.148-0(b)(5).**

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**Spending Exceptions to Rebate** 1992 Treas. Reg. section 1.148-6 (spending exceptions) generally applies to all bonds issued after June 17, 1992. Issuer can election to apply it to some bonds issued on or before June 17, 1992. If issuer made an election under Code section 148(f)(4)(C)(vii) to pay penalty in lieu of rebate, it must also make election under 1.148-6(e)(2) in order to make this election. The election may not be made for bonds issued before the effective date of Code section 148(f)(4) and must be made on or before the later of November 13, 1992, and 60 days after the first computation date of the issue that occurs after June 17, 1992.

**See 1992 Treas. Reg. sections 1.148-0(b)(6)(i) and (ii)(A) and (B). Section 1.148-0(b)(6)(ii)(B) also defines computation date.**

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**Allocation and Accounting Rules** Treas. Reg. section 1.148-4 (allocation and accounting rules) generally applies to all bonds issued after June 17, 1992, but the issuer can elect to apply it to bonds issued on or after May 18, 1992.

**(See Treas. Reg. sections 1.148-0(b)(7)(i) and (ii)).**

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## Prospective Effective Dates for 1992 Regulations, Continued

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### Temporary Allocation and Accounting Rules

1989 Treas. Temp. Reg. section 1.148-4T(e) (allocation rules for refundings, 1.148-8T (required rebate rules), and 1.148-9T(c) (general rules) as amended by T.D. 8345 (the 1991 Regulations) apply to bonds sold after May 15, 1989 or issued after June 14, 1989, and issued on or before June 17, 1992.

**See 1992 Treas. Reg. section 1.148-0(b)(7)(iii)**

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### Refunding Issues

Treas. Reg. section 1.148-11 generally applies to all bonds issued after June 17, 1992, unless specifically provided otherwise in this section.

**(See Treas. Reg. section 1.148-0(b)(8)(i)).**

Exceptions to this general rule are:

- Issuer may election to apply multipurpose rules (for allocations with respect to a multipurpose refunding issue) in 1992 Treas. Reg. section 1.148-11(j) to bonds issued on or after February 12, 1992, and before June 17, 1992. The election must be made on or before September 15, 1992, in the manner described in the regulation section.

**(See Treas. Reg. section 1.148-0(b)(8)(ii)).**

- Issuer may elect to apply Treas. Reg. sections 1.148-4 (allocation and accounting rules), 1.148-8 (definitions for required rebate), AND 1.148-11 (refundings) to bonds issued on or after May 18, 1992.

**(See Treas. Reg. section 1.148-0(b)(8)(iii)).**

- Issuer may elect to apply Treas. Reg. sections 1.148-11 (refundings) and 1.148-4(b)(3) (universal cap) in lieu of Treas. Reg. section 1.148-4T(e) (special allocation rules for refundings) to bonds sold after May 15, 1989 and issued after June 14, 1989, AND issued on or before June 17, 1992.

If an issuer makes this election, it must determine in good faith the estimated savings associated with this election, using any reasonable accounting method, and must apply those savings to redeem outstanding tax-exempt bonds of the issue to which this election applies at the earliest possible call date on which those bonds may be called or otherwise retired. Other rules are contained in the subparagraph.

**(See Treas. Reg. section 1.148-0(b)(8)(iv)).**

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## Temporary Regulations Under IRC Section 148

(Citations on this page are to the 1992 Regulations.)

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### Arbitrage Rebate in Lieu of Yield Restriction

For all bonds issued after May 18, 1992, this rule provides that generally proceeds invested in a higher yielding investments are treated as invested for a reasonable temporary period if certain conditions (compliance with both rebate requirement and eligible temporary periods) are met. This rule also provides exceptions to this general rule.

(See **Treas. Reg. section 1.148-12T(a)(4)**).

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### Recovery of Overpayment

This section provides rules for recovering an overpayment. It provides that the Service is NOT required to process any refund requests **prior to September 15, 1992**.

See **1992 Treas. Reg. section 1.148-13T(c)(5)**.

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### Restrictions on Advance Refundings

1992 Treas. Reg. section 1.149(d)-1 provides restrictions on advance refundings dealing with (1) failure to pay required rebate, and (2) mixed escrows. This applies to any bond issued after May 28, 1991, if any bond issued as part of the issue is issued to advance refund another bond.

See **1992 Treas. Reg. section 1.149(d)-(d)(3)(iii)**. **1992-1 C.B. 91-92**.

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## Reimbursement Rules Under Treas. Reg. Section 1.103-18

Citations on this page are to the 1992 Reimbursement Regulation.

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<b>General Effective Date</b>	Treas. Reg. section 1.103-18 applies to all allocations of proceeds of reimbursement bonds <u>issued after March 2, 1992</u> .
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**(See Treas. Reg. section 1.103-18(l)(1)).**

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## Transition Rules

Citations on this page are to the 1992 Reimbursement Regulation

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### Certain Expenditures

Treas. Reg. section 1.103-18(c)(2)(i) (concerning official intent) does NOT apply if:

- the expenditure was paid by the issuer **after September 8, 1989, and before March 3, 1992,**
- there is objective evidence that at the time of the expenditure was paid, the issuer expected to reimburse the expenditure with proceeds of a borrowing, AND
- the expectation was reasonable as described in Treas. Reg. section 1.103-18(g).

**(See Treas. Reg. section 1.103-18(l)(2)(i)-(iii)).**

---

### Form of Official Intent

Treas. Reg. section 1.103-18(f)(1)(ii) does NOT apply to any official intent declared before March 3, 1992.

**(See Treas. Reg. section 1.103-18(l)(3)).**

---

# Section 4

## 1993 Regulations

### Overview

Citations in this Section 4 are to the 1993 Regulations.

---

**Introduction**      The 1997 regulations incorporated most of the 1993 regulations without change. The 1993 regulations consist of Treas. Reg. sections 1.148-0 through 1.148-11 (yield restriction and rebate).

---

**General Effective Date**      The general effective date of the 1993 regulations is for obligations issued after June 30, 1993.

**(See Treas. Reg. section 1.148-11(a)).**

---

**In this Section**      This section contains the following topics:

Topic	See Page
Overview	F-26
Elective Retroactive Application into the Regulations in Whole	F-27
Exception to Retroactive Application into the Regulations in Whole	F-28
Elective Retroactive Application of the Regulations in Part	F-29
Transition Rules in the 1993 Regulations	F-31
1994 Temporary Regulations	F-33

---

## Elective Retroactive Application into the Regulations in Whole

Citations in this Section 4 are to the 1993 Regulations.

---

**General Rule** An issuer may apply the 1993 regulations in whole, but not in part, to any issue that is **outstanding on June 30, 1993**. The bonds must be subject to IRC section 148(f) or to sections 103(c)(6) or 103A(i) of the 1954 Code.

(See **Treas. Reg. section 1.148-11(b)(1)**).

---

## Exception to Retroactive Application into the Regulations in Whole

Citations in this Section 4 are to the 1993 Regulations

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### 18-Month Spending Exception

An issuer may NOT retroactively apply the 18-month spending exception set forth in Treas. Reg. section 1.148-7(d) for bonds issued on or before **June 30, 1993**.

(See Treas. Reg. section 1.148-11(b)(2)).

---

# Elective Retroactive Application of the Regulations in Part

Citations in this Section 4 are to the 1993 Regulations

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**Introduction** The 1993 regulations, like the 1997 regulations, also provide that certain provisions of the regulations may be elected to apply retroactively without electing to apply the entire regulations. The 1993 regulations provide, however, that this election in part for certain provisions applies only to outstanding bonds issued on or before August 15, 1993, as more fully described below.

**(See Treas. Reg. section 1.148-11(c)(1)).**

---

**Certain  
Commingled  
Funds** If the 1993 regulations apply to an issue, and the bonds were issued before August 15, 1993, and that issue has a commingled fund with commingled reserves to which the provisions of Treas. Reg. section 1.148-6(e)(6) apply, that provision may be applied to all issues secured by that commingled reserve.

**(See Treas. Reg. section 1.148-11(c)(1)(i)).**

---

**Certain  
Applications of  
Yield  
Reduction  
Payments** Treas. Reg. Section 1.148-5(c)(3)(i)(F) (and related provisions) may be applied to satisfy the requirements of section 148 (or applicable provisions of the law), to the application of the universal cap results in amounts in a refunding escrow becoming replacement proceeds of an issue issued on or before June 30, 1993.

**See Treas. Reg. section 1.148-11(c)(1)(ii).**

---

*Continued on next page*

## Elective Retroactive Application of the Regulations in Part, Continued

Citations in this Section 4 are to the 1993 Regulations.

---

### Certain Allocations of Multipurpose Issues

Certain multipurpose allocations under 1993 Treas. Reg. section 1.148-9(h) may be adjusted to reflect allocations made **between May 18, 1992, and August 15, 1993**, if the allocations satisfied the corresponding provisions of section 1.148-11(j)(4), under prior applicable regulations.

See **Treas. Reg. section 1.148-11(c)(2) and 1992 Treas. Reg. section 1.148-1(j)(4). 1992-1 C.B. 29, 90.** This is a safe harbor for pro-rata allocations method.

---

### Special Limitation on Refunding Issues

The provisions of Treas. Reg. section 1.148-9 relating to the arbitrage rules for refunding issues apply to bonds issued **before August 15, 1993**, only if certain conditions are met. Those conditions related to estimates of present value savings on refunding escrows, using reasonable accounting methods and the issuer applies those savings, if any, to redemption of the outstanding prior bonds at the earliest possible date.

**(See Treas. Reg. section 1.148-11(c)(3)).**

---

## Transition Rules in the 1993 Regulations

Citations in this Section 4 are to the 1993 Regulations.

---

### Excepting Certain State Guarantee Funds from Being Replacement Proceeds

Perpetual Trusts are excepted from being replacement proceeds where (1) there is a guarantee by a fund created and controlled by a State, (2) established pursuant to its constitution, and (3) six specific criteria are met. See **Treas. Reg. section 1.148-11(d)(1)(i)-(vi)**.

A Permanent University Fund is also not included in replacement proceeds. See **Treas. Reg. section 1.148-11(d)(2)**.

---

### Special Allowance Payments in Student Loan Bonds

Under **Treas. Reg. section 1.148-5(b)(5)** the yield on qualified student loans is computed by including as receipts any special allowance payments made by the Secretary of Education pursuant to section 438 of the Higher Education Act of 1965. This applies to certain bonds **issued after January 5, 1990**, except for a bond that was used solely to refund a bond **issued before January 6, 1990**. There are other qualifications.

(See **Treas. Reg. section 1.148-11(e)**).

---

### Applicability of Yield Reduction Rule

**Treas. Reg. section 1.148-5(c)** (yield reduction payments) applies to nonpurpose investments allocable to replacement proceeds of an issue that are held in a reserve or replacement fund to the extent that certain conditions are met.

(See **Treas. Reg. section 1.148-11(f)**).

---

### Extension of Due Date of Rebate Payments

Rebate payments that are **due after June 30, 1993, and before September 1, 1993**, may be **paid by September 1, 1993**.

(See **Treas. Reg. section 1.148-11(g)**).

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*Continued on next page*

## Transition Rules in the 1993 Regulations, Continued

Citations in this Section 4 are to the 1993 Regulations.

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**Elective  
Application of  
Prior  
Regulations**

For bonds issued **after June 30, 1993, and before August 15, 1993**, an issuer may apply the (1) the 1979 regulations as amended by the 1992 regulations, (2) the 1989 Temporary regulations, as simplified by the 1991 Temporary Regulations, or (3) the 1992 Regulations, IN WHOLE, but not in part, in lieu of applying the 1993 regulations.

**(See Treas. Reg. section 1.148-11(h)).**

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## 1994 Temporary Regulations

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### Transition Rule for Certain Amendments

Treas. Reg. section 1.148-11(i) provides that in general, the following rules apply in whole, but not in part, to bonds that are sold after the effective date **(June 6, 1994)**:

- Treas. Reg. section 1.103-8(a)(5),
- Treas. Reg. section 1.148-1 through 1.148-11,
- Treas. Reg. section 1.149(d)(1) and 1.150-1, as amended June 6, 1994 (the effective date),

which reflect amendments to those sections as they appeared in the 1993 Regulations, and include:

- Treas. Reg. section 1.103-8T,
- Treas. Reg. sections 1.148-1T through 1.148-6T,
- Treas. Reg. section 1.148-9T through 1.148-11T,
- Treas. Reg. section 1.149(d)-1 and 1.150-1T.

Added by the 1994 Temporary Regulations.

In addition, the above sections apply in whole, but not in part to:

- bonds issued **prior to July 1, 1993**, if the issuer, **after June 6, 1994**, first applies Treas. Reg. section 1.148-1 through 1.148-11 to the bonds under Treas. Reg. sections 1.148-11(b) or (c), AND
  - bonds to which Treas. Reg. sections 1.148-1 through 1.148-11, as in effect **before June 6, 1994** apply, at the option of the issuer.
-

# Section 5

## 1997 Regulations

### Overview

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**Introduction** The 1997 final arbitrage regulations incorporate most of the 1993 regulations without change. The 1997 regulations also incorporate the 1994 amendments to the 1993 regulations and make them final.

Most of those amendments involve the rules for qualified hedges.

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**General Effective Date** The general effective date of the 1997 final regulations is for obligations issued on or after July 8, 1997.

**(See Treas. Reg. section 1.148-11(a))**

---

**In this Section** This section contains the following topics:

Topic	See Page
Overview	F-34
Elective Retroactive Application into the Regulations in Whole	F-35
Exceptions to Retroactive Application into Regulations in Whole	F-36
Elective Retroactive Application of Certain Provisions and Special Rules of the Regulations	F-37
Transition Rules	F-39
Transition Rules for Bonds <u>Sold</u> Prior to Effective Date of the 1997 Regulations AND no elective retroactive application in whole is made	F-40
Related Regulations	F-44

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## Elective Retroactive Application into the Regulations in Whole

---

**General Rule** An issuer may apply the 1997 regulations in whole, but not in part, to any issue that is outstanding on July 8, 1997.

Before the 1997 regulations can be elected in lieu of the otherwise applicable regulations, the bonds must also be subject to IRC section 148(f) or to sections 103(c)(6) or 103A(i) of the 1954 Code.

**See Treas. Reg. section 1.148-11(b)(1). Modifies 1993 regulation provisions only by new effective date.**

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## **Exceptions to Retroactive Application into Regulations in Whole**

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### **18-Month Spending Exception**

An issuer may NOT retroactively apply the 18-month spending exception set forth in Treas. Reg. section 1.148-7(d) for bonds issued on or before June 30, 1993.

**(See Treas. Reg. section 1.148-11(b)(2). No change from 1993 regulations).**

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### **No Elective Retroactive Application for Hedges of Fixed Rate Issues**

An issuer may NOT retroactively apply the provisions of Treas. Reg. section 1.148-4(h)(2)(i)(B), relating to hedges of fixed rate issues, for bonds sold on or before July 8, 1997.

**See Treas. Reg. section 1.148-11(b)(3). This modifies the 1993 regulation provision.**

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# Elective Retroactive Application of Certain Provisions and Special Rules of the Regulations

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**Introduction** The 1997 regulations also provide that certain provisions of the regulations may be elected into without electing the entire application of the regulations.

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**Overpayment Recovery** An issuer may retroactively apply the overpayment recovery provisions of 1997 Treas. Reg. section 1.148-3(i). But to do so, the issue must be subject to IRC section 148(f) or to sections 103(c)(6) or 103A(i) of the 1954 Code. This provision appeared as **1993 Treas. Reg. section 1.148-11T(c)(4)**.

---

**Certain Commingled Funds** If the 1997 regulations apply to an issue, and that issue has a commingled fund with commingled reserves to which Treas. Reg. section 1.148-6(e)(6) apply, that provision may be applied to all issues secured by that commingled reserve. (See **Treas. Reg. section 1.148-11(c)(1)(i)**. **No change from 1993 regulations**).

---

**Certain Applications of Universal Cap** The yield reduction payment provisions under Treas. Reg. section 1.148-5(c)(3)(i)(F) (and related provisions) can be applied to satisfy the requirements of IRC section 148 (or applicable prior law) if the application of the universal cap results in amounts in a refunding escrow becoming replacement proceeds of bonds issued on or before June 30, 1993. (See **Treas. Reg. section 1.148-11(c)(1)(ii)**. **No change from 1993 regulations**).

---

**Certain Allocations of Multipurpose Issues** An allocation of bonds to a refunding purpose under Treas. Reg. section 1.148-9(h) may be adjusted as necessary to reflect allocations made **between May 18, 1992 and August 15, 1993**, if the allocation satisfied the corresponding prior provision of Treas. Reg. section 1.148-11(j)(4) under applicable prior regulations. (See **Treas. Reg. section 1.148-11(c)(2)**. **No change from 1993 regulations**).

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*Continued on next page*

## Elective Retroactive Application of Certain Provisions and Special Rules of the Regulations, Continued

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### **Special Limitation on Refunding Issues**

The provisions of Treas. Reg. section 1.148-9 relating to the arbitrage rules for refunding issues apply to bonds issued before August 15, 1993, only if certain conditions are met. Those conditions relate to estimates of present value savings on refunding escrows, using reasonable accounting methods and redemption of outstanding prior bonds.

**(See Treas. Reg. section 1.148-11(c)(3). No change from 1993 regulations).**

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### **Note: Certain Commingled Funds, and Certain Applications of the Universal Cap**

The elective retroactive election provision for certain commingled funds and for certain applications of the universal cap, both found in 1993 Treas. Reg. Section 1.148-11(c)(1), were eliminated by the 1997 regulations. Those provisions would still have validity only for bonds issued before the effective date of the 1993 Regulations for which the issuer timely retroactively elected to be covered by the 1993 regulation provision, and that issuer did not subsequently elect to be retroactively covered by the 1997 regulations.

### **Caution**

The Commerce Clearing House (**CCH**) and **Lexis** versions of this provision are **incorrect** in their 1998 publications that include this section of the regulations.

**Compare 1997 Treas. Reg. section 1.148-11(c)(1) as published in T.D. 8718, 1997-1 C.B. 45, 58, or 1997-22 I.R.B. 15. with 1993 Treas. Reg. Sections 1.148-11(c)(1) and 1.148-11T(c)(4).**

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## Transition Rules

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### Excepting Certain State Guarantee Funds from Being Replacement Proceeds

Perpetual Trusts: A guarantee by a fund created and controlled by a State pursuant to its constitution will NOT cause funds to be a pledge fund treated as replacement proceeds if certain conditions are met.

**(See Treas Reg. 1.148-11(d)(1)(i)-(vi). No change from 1993 regulations).**

Permanent University Fund: Replacement proceeds do NOT include amounts allocable to investments of the fund described in section 648 of Public Law 98-369. This is a special arbitrage rule in Deficit Reduction Act of 1984 relating to securities or obligations held in certain funds that have been continuously in effect since October 9, 1969.

**(See Treas. Reg. section 1.148-11(d)(2). No change from 1993 regulations).**

---

### Special Allowance Payments in Student Loan Bonds

Treas. Reg. section 1.148-5(b)(5) (dealing with yield on student loans including special allowance payments made by the Secretary of Education) applies to any bond issued after January 5, 1990, except for a bond that was used exclusively to refund a bond issued before January 6, 1990, and if certain other conditions were met.

**(See Treas. Reg. section 1.148-11(e). No change from 1993 regulations).**

---

### Applicability of Yield Reduction Rule

Treas. Reg. section 1.148-5(c) applies to nonpurpose investments allocable to replacement proceeds of an issue that are held in reserve or replacement fund to the extent that certain conditions are met.

**(See Treas. Reg. section 1.148-11(f). No change from 1993 regulations).**

---

## Transition Rules of Bonds Sold Prior to Effective Date of the 1997 Regulations AND No Elective Retroactive Application in Whole is Made.

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### **Bonds Sold Before July 8, 1997 AND after June 6, 1994**

If bonds were outstanding on or before July 8, 1997 (the effective date of the 1997 Regulations) and NO elective retroactive application in whole was made, (See page F-29),

- (1) Treas. Reg. section 1.148-11(g) states that section 1.148-11A provides rules applicable to bonds sold after June 6, 1994, and before July 8, 1997, and
- (2) **Sections 1.148-1 through 1.148-11 of the 1993 regulations as revised by the 1994 regulations, and section 1.148-11A(i) (relating to elective retroactive application of certain provisions) provide rules applicable to certain issues issued before June 7, 1994.**

**See Treas. Reg. sections 1.148-11(g)(1) and 1.148-11A.**

---

### **Transitional Rule Under Treas. Reg. section 1.148- 11A**

This rule refers one to the effective dates under the 1997 regulations for some sections and provides separate effective dates for other sections.

For subsections (a) through (c)(3) and (d) through (h) of Treas. Reg. section 1.148-11 of the 1993 regulations (as amended in 1994), this rule provides that the 1997 regulations under Treas. Reg. section 1.148-11 provide the guidance as to effective date.

**(See Treas. Reg. section 1.148-11A).**

---

### **Overpayment Recovery**

Treas. Reg. section 1.148A(c)(4) involving retroactive application of overpayment recovery provisions, provides that an issuer may apply the 1997 regulations under Treas. Reg. section 1.148-3(i), if IRC section 148(f) or sections 103(c)(6) or 103A(i) of the 1954 Code is applicable.

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*Continued on next page*



## Transition Rules of Bonds Sold Prior to Effective Date of the 1997 Regulations AND No Elective Retroactive Application in Whole is Made, Continued

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Treas. Reg. section 1.148-11A(i)(1)

Treas. Reg. section 1.148-11A(i)(1) provides a roadmap for applicable regulations **where no elective retroactive application of the 1997 regulations in whole is made.** Section 1.148-11A(i)(1) provides that in general, the following rules apply in whole, but not in part to:

Treas. Reg. section 1.103-8(a)(5), and  
Treas. Reg. section 1.148-1 through 1.148-11 and  
Treas. Reg. sections 1.149(d)-1 and 1.150-1A of

The regulations in effect June 7, 1994 (See 26 CFR as revised April 1, 1997,) (i.e. the 1993 Regulations as revised by the 1994 Regulations), plus:

Treas. Reg. sections 1.148-1A through 1.148-11A and  
Treas. Reg. sections 1.149(d)-1A and 1.150-1A of

the 1997 Regulations.

The foregoing regulation provisions apply as shown below:

---

(i) Bonds issued while the 1994 Regulations were in effect

Applies to bonds that are sold after June 6, 1994 and before July 8, 1997,

See **Treas. Reg. Section 1.148-11A(i)(1)(i).**

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*Continued on next page*

## Transition Rules of Bonds Sold Prior to Effective Date of the 1997 Regulations AND No Elective Retroactive Application in Whole is Made, Continued

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**(ii) Bonds issued before the 1993 Regulations, for which the regulations were first applied after the 1994 Regulations were in effect and before the 1997 Regulations were in effect**

If bonds are issued before July 1, 1993 and are outstanding on June 7, 1994, if the first time the issuer applies Treas. Reg. section 1.148-1 through 1.148-11 (as in effect June 7, 1994 - The 1994 regulations) is after June 6, 1994, and before July 8, 1997.

**See Treas. Reg. Section 1.148-11A(i)(1)(ii).**

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**(iii) BONDS ISSUED under the 1993 regulations and before the 1994 regulations were in effect, but regulations were first applied while the 1994 regulations were in effect**

The above-stated rules may also apply - at the option of the issuer - if the 1993 regulations apply to such bonds, the bonds are outstanding on June 7, 1994 (the effective date of the 1994 Regulations), and the issuer applies the 1994 Regulations prior to July 8, 1997.

**(See Treas. Reg. Section 1.148-11A(i)(1)(iii))**

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*Continued on next page*

## Transition Rules of Bonds Sold Prior to Effective Date of the 1997 Regulations AND No Elective Retroactive Application in Whole is Made, Continued

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### **Dash T Regs replaced by Dash A Regulations**

For the purposes of Treas. Reg. section 1.148-11A(i)(1), any reference to a particular paragraph which ends in "-(any number)T", e.g. 1.148-1T or 1.148-2T (dash T regulations), should be applied by as if it were a reference to the corresponding respective paragraph of the 1997 regulations which ends in "-(any number)A", e.g. 1.148-1A or 1.148-2A (dash A regulations)

**(See Treas. Reg. Section 1.148-11A(i)(2) )**

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### **Identification of Hedges entered into under the 1993 Regulations**

Any hedge entered into after June 18, 1993, and on or before June 6, 1994, that would be a qualified hedge under the 1994 Regulations but for the issuer's failure to identify the hedge within three days of entering into the contract, as required by section 1.148-4(h)(2) of the 1994 Regulations, will be treated as meeting that 1994 Regulation requirement if the contract is identified on the issuer's books and records for the hedged bond, not later than July 8, 1997, the effective date of the 1997 Regulations.

**(See Treas. Reg. Section 1.148-11A(i)(3) )**

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## Related Regulations

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### **Application of Savings Test to Multipurpose Issues**

There are limitations and requirements relating to advance refundings under Code section 149, and Treas. Reg. 1.149(d)-1. One of the requirements is that bonds refunded by an advance refunding bond must be redeemed on their first call date if the savings test under section 149(d)(3)(B)(i) is satisfied. The savings test is satisfied if the issuer may realize present value debt service savings in connection with the issue of which the refunding bond is a part. A special application of the savings test to multipurpose issues, added by the 1997 Regulations, applies the multipurpose issue rules in Treas. Reg. 1.148-9(h) for purposes of the savings test. [E.G. if any separate issue in a multipurpose issue increases the aggregate present value debt service savings on the entire multipurpose issue or reduces the present value debt service losses on the entire multipurpose issue, that separate issue satisfies the savings test.]

The general effective date for section 1.149(d)-(1) is for bonds **issued after June 30, 1993**, or to any bond for which a retroactive election to apply the 1997 regulations in whole (section 1.149-11(b)(1) ) is made. However, the effective date for the multipurpose issue savings test is for bonds sold on or after July 8, 1997, the effective date of the 1997 Regulations, and to any bonds for which a retroactive election to apply the 1997 regulations in whole (section 1.149-11(b)(1) ) is made. For this purpose, section 1.148-11A(i) provides the rules relating to certain bonds sold before July 8, 1997.

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*Continued on next page*

## Related Regulations

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### Effective Date of Definitions

Generally, the effective date of definitions given in Treas.Reg. section 1.150-1 is to issues issued after June 30, 1993, and to any issue for which a retroactive election to apply the 1997 regulations in whole (section 1.149-11(b)(1) ) is made.

However, specified definitions have a later special effective date, and apply to any bonds sold on or after July 8, 1997, and to any issue to which the election in 1.149-11(b)(1) is made. [For this purpose, section 1.148-11A(i) provides the rules relating to certain bonds sold before July 8, 1997.] The affected definitions are:

- Section 1.150-1(c)(1) (Generally, definition of issue) including:
    - (i) Sold at substantially the same time,
    - (ii) Sold pursuant to the same plan of financing,
    - (iii) Payable from the same source of funds;
  - Section 1.150-1(c)(4) certain general obligation bonds (relating to bonds secured by pledges of issuer's full faith and credit); and
  - Section 1.150-1(c)(6) relating to Sale Date.
-

## Summary

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### Review of Module F

Module F discussed the history of the arbitrage regulations, including the effective dates, rules regarding retroactive application, and the transition rules.

The first step in determining compliance with the arbitrage rules, is to identify the appropriate regulations. To do this, the following steps should be taken:

Step	Action
1	Ask the issuer if any elections were made regarding retroactive application of regulations. If elections were made, verify that they were made correctly.
2	If no elections were made, identify the appropriate regulations according to the issuance date of the bonds.
3	Read the effective dates of the regulations to verify that the bonds fit into the regulations.
4	Check the transitional rules of subsequent regulations to see if any apply to the bond issue.

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### Preview of Module G

Module G discusses the reissuance rules under Treas. Reg. section 1.1001-3. These rules come into play when there is a change in bond terms after the issuance date. The rules distinguish between changes which will cause the bond to be treated as a newly-issued bond, and those which do not affect the bond issue.

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## Effective Date Exercises

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1. County issues tax-exempt bonds on July 1, 1982 to finance construction of new schools. The bonds are still outstanding, and the State has made no elections with respect to the bonds.
  - Which Code and regulation provisions apply?
  
2. County issues bonds on June 30, 1986 the proceeds of which it loans to Corporation which builds and operates a water treatment plant. The bonds are still outstanding and the County has made no election with respect to the bonds.
  - Which Code and regulation provisions apply?
  
  - Can the County elect to apply other rebate regulations? If so which regulations could be elected?
  
  - Which provisions would apply if the County had used the proceeds to build, own and operate the treatment plant?
  
3. City issues bonds for new government offices on May 30, 1993. The bonds are outstanding as of May 1997. In May 1997, the city elects the most current regulations.
  - Which Code and regulation provisions apply?
  
  - If the City had made the election for the most current regulations in August of 1997, which regulations would apply?
  
  - Can the City argue that no rebate is owed on bonds because requirements of the 18 month spending exception under Treas. Reg. 1.148-7(d) were met?

## Effective Date Exercises, continued

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4. On August 8, 1996 the Authority issues \$60 million of mortgage revenue bonds to finance mortgages on owner-occupied residences. The bonds will be floating rate weekly or monthly demand revenue bonds with a 32 year term. An insurance company will also issue a financial guarantee policy simultaneously with the issuance of the bonds. The policy will insure the Authority against interest rate fluctuations on the floating rate bonds by, in effect, fixing the costs of borrowing to the Authority.
  - Which Code and regulations apply?
  
  - Can the Authority elect into the 1997 regulations?
  
5. City issues bonds on September 1, 1992 to purchase police cars. The bonds are retired on September 1, 1993. City has made no elections with respect to the bonds.
  - Which Code and regulation provisions apply?
  
  - Can City elect to apply the refund of rebate provisions in 1.148-3(i) of the 1993 regulations to the bonds without applying the rest of the regulations?
  
6. City issues bonds on December 11, 1989 to finance construction of a new courthouse. All bond proceeds are spent within 19 months from the date of issuance. The bonds are still outstanding, and the City has made no elections with respect to the bonds.
  - Which Code and regulations apply?
  
  - Does the two-year spending exception to rebate apply to these bonds?

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*Continued on next page*



## Effective Date Exercises, continued

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7. County issues bonds on July 15, 1993 to purchase new government vehicles for its Parks and Recreation Department.
    - Which Code and regulations apply?
  
    - Can the County elect into the 1992 regulations?
  
  8. The Authority issues special assessment bonds on July 9, 1997 for repair and replacement of existing sewer lines and other street improvements.
    - Which Code and regulation provisions apply?
- 

END OF MODULE F