

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.601: Rules and Regulations.

(Also: §§ 147, 1.147(f)-1)

Rev. Proc. 2022-20

SECTION 1. PURPOSE

This revenue procedure provides guidance regarding the public approval requirement under § 147(f) of the Internal Revenue Code for tax-exempt qualified private activity bonds. Specifically, this revenue procedure provides that hearings held by teleconference as described in section 4 of this revenue procedure 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 the purpose of § 1.147(f)-1(d)(2) of the Income Tax Regulations.

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 elected 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) 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 Coronavirus Disease 2019 (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, 2020-22 I.R.B. 872, 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 (time period limitation), 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, 2020-48 I.R.B. 1121, modified section 4.02 of Rev. Proc. 2020-21 by extending the time period limitation until September 30, 2021, and the time period limitation was further extended until March 31, 2022, by Rev. Proc. 2021-39, 2021-38 I.R.B. 426, modifying sec. 4.02 of Rev. Proc. 2020-21, and modifying and superseding Rev. Proc. 2020-49.

.04 The Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) have received requests to permanently allow public hearings for qualified private activity bonds to be held telephonically. In the past, the Treasury Department and the IRS rejected suggestions that an effective public hearing for qualified private activity bonds may be held by teleconference or webinar. See TD 9845 (83 FR 67687 (Dec. 31, 2018)). 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). Accordingly, this revenue procedure provides the requested guidance by eliminating the time period limitation on holding public hearings telephonically.

SECTION 3. SCOPE

This revenue procedure applies to hearings held telephonically for the purpose of satisfying the public approval requirement under § 147(f).

SECTION 4. APPLICATION

A hearing that is held 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 for the purpose of § 1.147(f)-1(d)(2). Provided the requirements of the preceding sentence are satisfied, governmental units are not precluded from offering additional access to the hearing by other telephone numbers, internet-based meeting technology, or in-person attendance.

SECTION 5. EFFECT ON OTHER DOCUMENTS

This revenue procedure modifies and supersedes Rev. Proc. 2020-21 and Rev. Proc. 2021-39.

SECTION 6. DATE OF APPLICABILITY

This revenue procedure applies to public hearings held on or after March 18, 2022.

SECTION 7. DRAFTING INFORMATION

The principal authors of this revenue procedure are Johanna Som de Cerff and

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