

Bond Case Briefs

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IRS Issues Guidance on Current Refunding Issues of Tax-Exempt Bonds.

The IRS has issued guidance (Notice 2014-9) on the refunding of tax-exempt bonds issued before January 1, 2011, that qualify as recovery zone facility bonds under section 1400U-3.

In general, recovery zone facility bonds can be used to finance property located within designated recovery zones. For purposes of the statute, a recovery zone is any area (1) designated by the issuer as having significant poverty, unemployment, or general distress, or a significant rate of home foreclosures; (2) designated by the issuer as economically distressed by reason of the closure or realignment of a military installation under the Defense Base Closure and Realignment Act of 1990; and (3) for which a designation as an empowerment or renewal community is in effect as of February 17, 2009.

The statutory provisions for recovery zone facility bonds are silent regarding the permissibility of current refundings of these bonds after January 1, 2011. Under similar provisions for exempt facility bonds for disaster relief, the IRS and Treasury have previously provided guidance allowing current refundings within specified size limitations for purposes of bond issuance deadlines applicable to those bonds.

Accordingly, a current refunding issue that meets the requirements of Notice 2014-9 may be issued after January 1, 2011, for the issuance of the original qualified bonds and will be treated as an issue of qualified bonds. Also, for such a current refunding issue, the designation of the original qualified bonds by a specified state or local government official or state bond commission that meets the designation requirement of section 1400U-3(b)(1)(C) for recovery zone facility bonds is treated as meeting this requirement for the current refunding issue without further designation or further official state or local governmental action.

Taxpayers can rely on Notice 2014-9 until further guidance is issued.

<http://www.irs.gov/pub/irs-drop/n-14-09.pdf>