

Bond Case Briefs

Municipal Finance Law Since 1971

IRS Releases Final Arbitrage Regulations (Unrelated to Issue Price): Squire Patton Boggs

The IRS has released [final regulations](#) that make a variety of changes to the arbitrage rules for tax-advantaged bonds. These regulations finalize proposed regulations from 2007 and portions of the [infamous 2013 proposed regulations](#) that are unrelated to issue price. To say it again, these final regulations do not change the current issue price rules.

To recap the timeline: Click [here](#) to view the image.

Topics Covered: The final regulations change some rules that apply to:

- Working capital financings (including long-term working capital financings)
- The rebate computation credit
- Procedures for recovering rebate overpayments
- Certain rules for computing the yield on an issue of bonds (including, for our underwriter friends, the rules for yield-to-call high-premium bonds)
- Integration of hedges (swaps, etc.) with a bond issue
- Accounting for modifying and terminating hedges
- Yield reduction payments (expanding the circumstances under which you can make them)
- Valuing investments of bond proceeds
- The small issuer exception to rebate
- The arbitrage anti-abuse rules
- The definitions of “tax-advantaged bonds” and “issue”
- The definition and treatment of bond-financed grants
- (Rather randomly) Noting that [Rev. Proc. 97-15](#) (dealing with closing agreements requests) is subsumed by [Notice 2008-31](#) (which announced the Voluntary Closing Agreement Program, or VCAP, for tax-exempt bonds), and providing that Rev. Proc. 97-15 is now obsolete

Effective Dates: The final regulations generally apply to bonds sold on or after 90 days after Treasury publishes the final regulations in the Federal Register. The regulations are scheduled to be officially published on Monday (July 18), and 90 days after that date is October 16, 2016, which is a Sunday, so the regulations will generally apply to bonds sold on or after **October 17, 2016**. You can elect to apply certain provisions of the final regulations to bonds sold before that date. The rules for hedges apply to hedges that are entered into or modified on or after October 17, 2016, and there are specific effective dates for some of the provisions.

by John W. Hutchinson

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