Part III

Administrative, Procedural, and Miscellaneous

Notice 2008-80

Tax-Exempt Bond Partnerships: Eligibility for Monthly Closing Elections

SECTION 1. Purpose.

In order to provide greater administrative certainty in a major short-term sector of the tax-exempt bond market in response to taxpayer requests and to promote stability in this sector of the market, the Treasury Department and the Internal Revenue Service ("IRS") propose to issue a revenue procedure substantially in the form included in section 5 of this Notice. The proposed revenue procedure would modify and supersede Rev. Proc. 2003-84, 2003-2 C.B. 1159. The proposed revenue procedure would provide certain more specific eligibility criteria that partnerships that invest in tax-exempt bonds must meet to qualify for monthly closing elections to allow the partners to take into account monthly the inclusions required under §§702 and 707(c) of the Internal Revenue Code of 1986, as amended (the "Code"). The Treasury Department and the IRS are issuing this guidance in proposed form to afford an opportunity for public comment and to limit any potential impact on the current market.

SECTION 2. Request for Comments.

The Treasury Department and the IRS seek public comments on all aspects of the proposed revenue procedure, including comments on ways to facilitate market innovation consistent with promoting administrative certainty and sound tax policy. The Treasury Department and the IRS seek specific public comment on whether or under what circumstances the proposed revenue procedure should apply when the variable interest holder has a minimum gain share percentage of less than five percent, such as circumstances in which the variable-rate interest holders receive particular rights to control sales of underlying tax-exempt bond assets held by a tax-exempt bond partnership. The Treasury Department and the IRS also seek specific comment on whether or under what circumstances the proposed revenue procedure should be expanded to allow qualifying income from assets beyond original assets of the partnership referred to in §4.02(3) of the proposed revenue procedure. The Treasury Department and the IRS also seek specific comment on whether or under what circumstances the proposed revenue procedure should be expanded to allow application to any other types of transactions besides the contemplated tax-exempt bond partnerships.

Before the proposed revenue procedure described in this Notice is made effective, consideration will be given to any written public comments on this Notice that are submitted in a timely fashion by December 15, 2008. A signed original and eight (8) copies of public comments should be sent by mail to the IRS at CC:PA:LPD:PR (reference IRS Notice 2008-80), Room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Public comments also may be sent electronically, via the IRS Internet site at www.irs.gov/regs or via the Federal eRulemaking portal at www.regulations.gov (reference IRS Notice 2008-80). All comments will be available for public inspection and copying.

SECTION 3. Effective Date and Immediate Elective Reliance.

This Notice is effective on September 17, 2008. The proposed revenue procedure is proposed to apply generally to tax-exempt bond partnerships with a start-up date that occurs on or after the date that is 30 days after the final revenue procedure is released to the public, subject to the special rules set forth in the effective date provisions in section 9 of the proposed revenue procedure.

At their option, eligible tax-exempt bond partnerships may rely immediately on the proposed revenue procedure to make monthly closing elections in accordance with the proposed revenue procedure effective with respect to any such monthly closing elections that are made on or after September 17, 2008. Eligible tax-exempt bond partnerships also may continue to rely on Rev. Proc. 2003-84 until the proposed revenue procedure is finalized and made effective.

SECTION 4. Drafting Information.

The principal author of this Notice is Frank J. Fisher of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure, contact Frank J. Fisher at (202) 622-3050 (not a toll free call).

SECTION 5. Form of Proposed Revenue Procedure.

Set forth below is the form of the proposed revenue procedure that is proposed in this Notice:

Form of Proposed Revenue Procedure

Part III

Administrative, Procedural, and Miscellaneous
26 CFR 1.706-1: Taxable years of partner and partnership.
(Also Part I, Section(s) 103, 171, 702, 704, 706, 708, 851, 852, 1275, 6001, 6031, 6229, 6231, 6233, 6698, 6722; 301.6031(a)-1, 601.105.

Rev. Proc. 2009-XX

SECTION 1. Purpose.

In order to provide greater administrative certainty in a major short-term sector of the tax-exempt bond market in response to taxpayer requests and to promote stability in this sector of the market, this revenue procedure modifies and supersedes Rev. Proc. 2003-84, 2003-2 C.B. 1159. This revenue procedure provides certain more specific eligibility criteria that partnerships that invest in tax-exempt bonds must meet to qualify for monthly closing elections to allow the partners to take into account monthly the inclusions required under §§702 and 707(c) of the Internal Revenue Code of 1986, as amended (the "Code"). (Except as noted, section references in this revenue procedure are to the Code and the Income Tax Regulations.) This revenue procedure provides rules for partnership income tax reporting under §6031 for such partnerships.

SECTION 2. Background.

This revenue procedure provides a means for certain partnerships that invest in state or local governmental debt obligations the interest on which is excludable from gross income under §103 ("tax-exempt bonds") to elect to allow the partners to take into account monthly the inclusions required under §§702 and 707(c). This revenue procedure applies to certain partnerships used to create the economic equivalent of a variable-rate tax-exempt bond. To create this instrument, a sponsor that holds a tax-exempt bond may transfer the tax-exempt bond to an entity that qualifies as a partnership for federal tax purposes ("tax-exempt bond partnership"). The tax-exempt bond partnership issues two classes of equity interests: (1) interests that are entitled to a preferred variable return on its capital payable out of partnership income ("variable-rate interests"); and (2) interests that are entitled to all of the remaining income of the partnership ("inverse interests"). Owners of variable-rate interests and inverse interests are referred to as "variable-rate interest holders" and "inverse interest holders," respectively. The variable return on the variable-rate interests tracks current short-term tax-exempt bond yields. Under §702(b), tax-exempt interest income received by a partnership retains its character when the partnership allocates the income to a partner.

Under §706(a), a partner generally includes in income for a taxable year the partner's allocable share of items of partnership income, gain, loss, deduction, and credit for the partnership's taxable year ending within or with the partner's taxable year. A partner must also include in income for a taxable year guaranteed payments under §707(c) that are taken into account by the partnership under its method of accounting in the partnership's taxable year ending within or with the partner's taxable year. Moreover, for each taxable year in which a partnership has income, deductions, or credits, §6031(a) and (b) requires the partnership to file a Form 1065, U.S. Return of Partnership Income, and to issue Schedules K-1 (Form 1065) to each partner.

Annual inclusion of income under §706(a) can be incompatible with the needs of money market funds and certain other investors that invest in tax-exempt bonds. To assist tax-exempt bond partnerships to meet the needs of the market for tax-exempt bonds within the requirements of the Code, the Treasury Department and the Internal Revenue Service ("IRS") are issuing this revenue procedure to allow partners in tax-exempt bond partnerships to take into account on a monthly basis their distributive shares of partnership items ("monthly closing") if the partnership has made an effective monthly closing election with the consent of all partners ("monthly closing election"). A partnership may make a monthly closing election by including a binding provision to that effect in the partnership's governing documents. A partnership that has a monthly closing election in effect for the partnership's entire taxable year and that meets the other applicable requirements is not required to file a Form 1065, U.S. Return of Partnership Income, or to issue Schedules K-1 (Form 1065) to its partners for the taxable year.

In the past, to resolve the annual inclusion of income problem, many tax-exempt-bond partnerships attempted to make an election under §761(a) to be excluded from the provisions of subchapter K. A tax-exempt-bond partnership is not eligible to elect to be wholly or partially excluded from subchapter K, however, and an attempted election has no effect. Two of the requirements for eligibility to make an election under §761(a) are that the partners must own the partnership property as co-owners and the partners must be able to compute their income without the necessity of computing partnership taxable income. See §1.761-2(a)(1) and (2) of the Income Tax Regulations. If a business entity (classified as a partnership) owns a tax-exempt bond and issues membership interests that apportion the benefits and burdens of that bond to its members in a manner that differs significantly from direct investment in the bond, the holders of those membership interests do not satisfy the requirement that they own the partnership property as co-owners. Cf. §301.7701-4(c) of the Procedure and Administration Regulations. Moreover, if one class of partners has a right to partnership income that is superior to the right of another class of partners, then the net partnership income or loss allocated to the partners with inferior rights to partnership income can be determined only by computing the net income or loss of the partnership and then by reducing that net income by income allocable to partners with superior rights to partnership income. Such a partnership does not meet the requirement of §1.761-2(a)(1) that the members of the organization be able to compute their incomes without the necessity of computing partnership income.

To assist tax-exempt-bond partnerships to meet the needs of the market for tax-exempt obligations within the requirements of the Internal Revenue Code, the IRS previously issued three revenue procedures on this topic of monthly closing elections. Rev. Proc. 2002-16, 2002-1 C.B. 572, was issued to allow money market fund partners in tax-exempt-bond partnerships to take into account on a monthly basis their distributive shares of partnership items (monthly closing) if the partnership made an effective election under that revenue procedure (monthly closing election). Rev. Proc. 2002-68, 2002-2 C.B. 753, modified and superseded Rev. Proc. 2002-16 to extend the monthly closing election to all partners in tax-exempt-bond partnerships and established certain transition rules. Rev. Proc. 2003-84 modified and superseded Rev. Proc. 2002-68 to provide certain simplified income tax reporting procedures in response to public comment. This revenue procedure modifies and supersedes Rev. Proc. 2003-84 to provide certain additional eligibility conditions and to promote greater administrative certainty.

This revenue procedure generally is intended to cover tax-exempt bond partnerships with certain common characteristics. These tax-exempt bond partnerships create variable-rate interests that have characteristics of investment grade, highly-liquid, short-term tax-exempt bonds. These features often are intended to make the variable-rate interests eligible for investment by money market funds under Rule 2a-7, 17 C.F.R. §270.2a-7, under the Investment Company Act of 1940 ("Rule 2a-7"). The holders of the variable-rate interests generally invest a substantial majority of the capital in the partnership (for example, often 99 percent of such capital) and the holders of the inverse interests invest the balance of such capital.

In general, the variable-rate interest holders are substantially protected against risk of loss of their capital investment, plus accrued distributive shares in the partnership by short-term tender option rights (for example, seven-day demand purchase options) supported by a creditworthy liquidity provider. The liquidity provider may be an unrelated third party, an affiliate of the partnership's sponsor, or the inverse interest holder. If the liquidity provider purchases variable-rate interests under the liquidity facility, it typically has rights to reimbursement either from the inverse interest holder or from sales of partnership assets in its capacity as a partner. The variable-rate interest holders, however, typically are not fully protected against risk of loss of their capital investments because such tender options terminate if certain extraordinary events occur.

A tax-exempt bond partnership eligible for simplified reporting under this revenue procedure is a partnership whose primary purpose is to invest in a relatively fixed portfolio of investments in tax-exempt bonds, as contrasted with a partnership whose primary purpose is to engage in an active bond trading business which involves frequent trading in tax-exempt bond investments.

Tax-exempt bond partnerships have various unique features that provide broad benefits to the investing public. Tax-exempt bond partnerships efficiently respond to a need in the tax-exempt bond market to address an imbalance between the traditional preferences of State and local governments to issue long-term, fixed-rate tax-exempt bonds and the significant demands of institutional investors, particularly money market funds, to purchase high-quality, short-term, variable-rate tax-exempt bonds. Tax-exempt bond partnerships also expand the investor base in, and enhance liquidity and investor pricing to, the tax-exempt bond market.

SECTION 3. Summary of Changes.

This revenue procedure modifies and supersedes Rev. Proc. 2003-84. This section briefly summarizes the changes.

3.01 Background. Section 2 of this revenue procedure provides additional background regarding certain characteristics of partnerships intended to be covered by this revenue procedure.

3.02. Additional Eligibility Conditions. Sections 4.01(5), (6), and (7), respectively, of this revenue procedure provide additional conditions to eligibility for a partnership to make a monthly closing election under §4.01 of this revenue procedure, including additional conditions with respect to tender option termination events, five percent minimum gain shares to the variable-interest holders, and an eighty percent weighted average bond maturity date by which variable-interest holders must have a right to realize any such gains.

3.03. Effective Dates. Section 9 of this revenue procedure provides effective date rules, including a general prospective effective date, a rule for certain existing partnerships which receive new capital, and certain grandfathering rules.

SECTION 4. Scope.

This revenue procedure applies to eligible partnerships under §4.01 of this revenue procedure that make a monthly closing election under §5 of this revenue procedure).

4.01 Eligible Partnership. An entity is an eligible partnership for a calendar month if all of the following conditions are met:

(1) Test Dates for Income and Expense Test. As of the election test date and as of every operational test date that occurs on or before the end of such calendar month, the partnership satisfies both the income test and the expense test. The test dates are described in §4.05 of this revenue procedure, and the income test and the expense test are described in §§4.02 and 4.03 of this revenue procedure, respectively.

(2) Partnership Entity. The entity is a partnership for federal tax purposes.

(3) Allocations. All allocations of income, gain, loss, deduction, and credit of the partnership are made in accordance with §704(b).

(4) Partnership Agreement. A written partnership agreement (or other governing document) provides that (a) the entity is making the monthly closing election under this revenue procedure; and (b) all partners consent to the election.

(5) Tender option termination events. The tender option or put option rights provided to the variable-rate interest holders are subject to termination without notice upon the occurrence of one of the following events with respect to a tax-exempt bond held by the partnership: (i) a bankruptcy filing by or against a tax-exempt bond issuer; (ii) a downgrade in the credit rating of a tax-exempt bond and a downgrade in the credit rating of any guarantor of the tax-exempt bond, if applicable, to a rating or ratings, as applicable, below investment grade; (iii) a payment default on a tax-exempt bond; or (iv) a final judicial determination or a final IRS administrative determination of taxability of a tax-exempt bond for Federal income tax purposes under §103.

(6) Share in Appreciation. Upon any sale or other disposition of any tax-exempt bond held by the partnership, the variable-rate interest holders shall have the right to receive a share of the gain from any such sale or other disposition in an amount equal to not less than five percent (5%) of such gain. The partnership shall pay each required gain share to the variable-rate interest holders by distributing the proceeds of the sale or other disposition within a reasonable period.

(7) Gain Share Realization Event by 80 Percent of Remaining Weighted Average Maturity Date. In order to provide variable-rate interest holders a reasonable opportunity to realize potential appreciation in the value of tax-exempt bonds held by a tax-exempt bond partnership, the partnership shall terminate or otherwise provide to

such holders a right to require a sale, redemption, or other disposition of such tax-exempt bonds, with attendant gain share realization potential, by a date that is no later than the date that represents 80 percent of the remaining weighted average maturity of the tax-exempt bonds held by the partnership, measured from the date of the partnership's acquisition of the tax-exempt bonds, as determined generally in any reasonable manner that takes into account the parameters set forth in this §4.01(7) (the "80 percent WAM test"). For this purpose, the weighted average maturity of applicable tax-exempt bonds generally shall be determined in a manner similar to the determination of the weighted average maturity of tax-exempt bonds under § 147(b), determined generally based on issue prices and mandatory sinking fund redemptions, with further adjustments to take into account optional redemptions at the first optional par redemption date and to take into account the partnership's date or dates of acquisition of the tax-exempt bonds. Further, any reasonable, consistently applied measure may be used to weight the bonds in lieu of issue price, if different than the partnership's acquisition price (for example, issue price, principal amount, cost, or fair market value). Further, for this purpose, a partnership may apply the 80 percent WAM test either separately on a "bond-by-bond" basis to each group of substantially identical tax-exempt bonds of the same maturity within the same "issue" (as defined in §1.150-1(c)) held by the partnership, or collectively on a "portfolio" basis to all tax-exempt bonds held by the partnership.

4.02 Income Test. At least 95 percent of the partnership's gross income (computed without regard to items described in §4.04 of this revenue procedure) is or is reasonably expected to be from the following eligible sources:

(1) Tax-exempt Interest. Interest on tax-exempt obligations as defined in §1275(a)(3) and §1.1275-1(e).

(2) Exempt-interest Dividends. "Exempt-interest dividends," as defined in §852(b)(5), that are paid by a "regulated investment company" ("RIC"), as defined in §851(a).

(3) Gains from Eligible Source Income. Gains from the sale, redemption, or other disposition of assets generating the income described in §§4.02(1) and (2) of this revenue procedure and income from the temporary investment (for a period no greater than 7 months) of the proceeds of such a disposition; but only if the assets that are sold, redeemed, or disposed are original assets of the partnership. For this purpose, an asset is an original asset of the partnership if the asset is contributed to the partnership or is acquired with capital contributed to the partnership (and not with the proceeds of the sale, redemption, or other disposition of a partnership asset).

4.03 Expense Test. Substantially all of the partnership's expenses and deductions (computed without regard to items described in §4.04 of this revenue procedure) are properly allocable to the following eligible expense activities:

(1) Expenses for Certain Income. Producing, collecting, managing, protecting, and conserving the income described in §§4.02(1), (2), or (3) of this revenue procedure or the assets generating the income.

(2) Expenses for Certain Property. Acquiring, managing, conserving, maintaining, or disposing of property held for the production of the income described in §§4.02(1), (2), or (3) of this revenue procedure.

(3) Expenses for Servicing. Servicing the equity in the partnership.

4.04 Exclusion. For the purposes of §§4.02 and 4.03 of this revenue procedure, reasonable amounts charged to persons requesting information from the partnership under §8.03 of this revenue procedure and the costs of collecting, managing, computing, and supplying the information are not taken into account.

4.05 Test Dates and Test Periods. The income test described in §4.02 of this revenue procedure and the expense test described in §4.03 of this revenue procedure must be satisfied both as of the first day of the first month for which the partnership's monthly closing election is effective (the “election test date”) and, beginning with the fourth month after the partnership's monthly closing election becomes effective, on the last day of each month (the “operational test date”). The partnership determines whether the income test and the expense test are satisfied as of the election test date by reference to the election test period. The partnership determines whether the income test and expense test are satisfied as of each operational test date by reference to the operational test period. In applying the income and expense tests for a test period, a termination of the partnership under §708(b)(1)(B) during that period is ignored.

(1) The Election Test Period and Start-up Date. This §4.05(1) defines the terms “election test period” and “start-up date.” The election test period differs depending upon how long the partnership has been in existence (determined from its start-up date). A partnership's “start-up date” (“start-up date”) is the later of the date the entity had more than one owner and the date the entity had more than a de minimis amount of assets. If, on the election test date, the partnership has been in existence for at least six full calendar months, then the “election test period” is the longer of the six full calendar months preceding the election test date and the portion of the partnership's taxable year that precedes the election test date. If, on the election test date, the partnership has not been in existence for at least six full calendar months, then the “election test period” is the first six full calendar months of the partnership's existence.

(2) The Operational Test Period. The “operational test period” is the three-calendar-month period consisting of the calendar month within which the operational

test date falls and the preceding two calendar months.

SECTION 5. Making a Monthly Closing Election.

5.01. Manner of Making the Election. An eligible partnership makes a monthly closing election by providing in the entity's governing documents that (a) the partnership is making a monthly closing election that is effective as provided under §5.02 of this revenue procedure, and (b) all partners consent to the election.

5.02 Effective Date of the Election. The monthly closing election is effective on the later of: (a) the start-up date of the partnership (as defined in §4.05(1) of this revenue procedure); or (b) the first day of the month in which the provision described in §5.01 of this revenue procedure is first included in the entity's governing documents.

5.03 Partnership Terminations under §708(b)(1)(B). A termination of the partnership under §708(b)(1)(B) does not terminate the monthly closing election and does not cause the partnership to close its books under §1.706-1(c) other than as described in §6 of this revenue procedure.

SECTION 6. Monthly Closing of the Books.

If, at the end of any calendar month, an eligible partnership has a monthly closing election in effect, then, with respect to each partner, the partnership must close its books as described in §1.706-1(c)(2) as if each partner had sold its entire interest in the partnership on the last day of that month. Each partner must include in its taxable income for that month both the partner's distributive share of items described in §702(a) with respect to the partner that were earned by the partnership since either the last closing of the books or the first day of the partnership's taxable year (whichever is later) and any guaranteed payments under §707(c) to the partner that are taken into account by the partnership since the last closing of the books. If a partner is on a 52-53 week taxable year, then the provisions of §1.441-2(e) apply as if the last day of the month were the last day of the partnership's taxable year.

SECTION 7. Termination of Monthly Closing Election and Re-election after Termination.

7.01. Termination of Monthly Closing Election. A partnership's monthly closing election terminates as of the first day of the month during which a partnership first fails to be an eligible partnership under §4.01 of this revenue procedure.

7.02. Consent of Commissioner for Another Election. If the partnership's monthly closing election terminates, the partnership may not make another monthly closing election without the consent of the Commissioner.

7.03. Revocation of Election with Commissioner's Consent. A partnership's monthly closing election may be revoked only with the consent of the Commissioner.

SECTION 8. Reporting Requirements.

8.01. Initial Filing Requirement. A partnership must file an abbreviated Form 1065, U.S. Return of Partnership Income, for the first taxable year during which the monthly closing election was in effect. The abbreviated Form 1065 must be filed by the date that the partnership's income tax return for that taxable year would ordinarily be due and must be signed by a person with the authority to sign the partnership's Form 1065. The words "Filed in Accordance with Rev. Proc. 2009-**[INSERT NUMBER OF THIS REVENUE PROCEDURE]**" must be typed or printed across the top of the form. The partnership is required to provide only the following information on the abbreviated Form 1065:

(1) A statement that the partnership has made an election under this revenue procedure to which all present and future partners consent;

(2) Identification of the partnership by name, address, and EIN;

(3) The name, title, address, and phone number of the contact person from whom partners, beneficial owners, middlemen, and the IRS may request information about the partnership;

(4) The issue date of the partnership interests and the CUSIP (Committee on Uniform Securities Identification Procedures) number or other identification of each class of partnership interest;

(5) A statement that the entity's governing documents expressly provide that the entity is making a monthly closing election; and

(6) The effective month of the election and the start-up date of the partnership. See §4.05(1) of this revenue procedure for a definition of the start-up date.

8.02 Annual Filing Requirements.

(1) Elimination of Annual Filing Requirements. A partnership is not required to file a Form 1065, U.S. Return of Partnership Income, or to issue Schedules K-1 (Form 1065) to its partners for any taxable year if the following requirements are satisfied:

(a) The partnership's monthly closing election is effective for the partnership's entire taxable year;

(b) The partnership makes the initial filing described in §8.01 of this revenue procedure;

(c) A written partnership agreement (or other governing document) provides that (i) the entity and its partners will comply with the reporting requirements of §§8.02, 8.03, and 8.04 of this revenue procedure in lieu of complying with the requirements of §6031(a) through (d); and (ii) all partners consent to such reporting; and

(d) The partnership complies with the requirements of §§8.03 and 8.04 of this revenue procedure.

(2) Effect of Elimination of Annual Filing Requirement. An entity that is not required to file a partnership return under this revenue procedure is not required to file a partnership return under §6031(a) and, as a result, is not a partnership as defined under §6231(a)(1). Consequently, the entity and its members will not be subject to the provisions of subchapter C of chapter 63. An abbreviated Form 1065 used to make the initial filing described in §8.01 of this revenue procedure is not considered to be a partnership return for purposes of §6233.

(3) Monthly Closing Election Effective for Portion of Taxable Year. A partnership that makes a monthly closing election that is effective after the first day of its taxable year must comply with the partnership reporting rules of §6031(a) for that taxable year (but is still permitted to close its books on a monthly basis). If the partnership also makes the initial filing described in §8.01 of this revenue procedure by the due date for its return for the first full taxable year during which the monthly closing election is in effect, then the partnership qualifies for elimination of annual filing requirements under §8.01 of this revenue procedure for subsequent taxable years.

(4) Annual Reporting Required. Failure to qualify for the elimination of annual filing requirements under §8.02(1) of this revenue procedure does not terminate the partnership's monthly closing election. However, a partnership that fails to satisfy all of the requirements of §8.02(1) of this revenue procedure is required to file a complete (not abbreviated) Form 1065 and to issue Schedules K-1 (Form 1065) to its partners as required by §6031(a). A partnership that fails to file a Form 1065 or to issue Schedules K-1 as required is subject to the applicable penalties under §§6698 and 6722 for failure to file a partnership return and to furnish payee statements, as well as any other applicable penalties. Moreover, if a partnership is required to file a return under §6031(a) but fails to do so, the period of limitations on assessment of tax attributable to items of that partnership remains open indefinitely under §6229(a).

8.03. Requests for Information. Within 45 days of a request by the IRS or a partner (or a beneficial owner or a nominee of a beneficial owner), the partnership must make available all the information necessary to compute a partner's taxable income, tax-exempt income, gain, loss, deduction, or credit, including sufficient information for a partner to determine the portion of the tax-exempt interest that may be subject to the alternative minimum tax and information regarding each partner's share of any bond premium amortization under §171, any market or original issue discount, and capital gain or loss.

8.04. Nominee and Beneficial Ownership Reporting.

(1) If an eligible electing partnership complies with the requirements of §§8.02 and 8.03 of this revenue procedure, the nominee reporting requirements of §6031(c) and the regulations thereunder do not apply. In place of those requirements, the partnership and the partners must comply with this §8.04. See §1.6001-1(a) and (e) for rules that apply to recordkeeping requirements.

(2) Any person on whose behalf another person holds as a nominee an interest in an eligible partnership (a beneficial owner), other than a beneficial owner for which the relevant advisor or manager agrees to comply with §8.04(3) of this revenue procedure, shall notify the partnership of its beneficial ownership status and provide the partnership with:

(a) its name, address, and taxpayer identification number and the name, address, and taxpayer identification number of its nominee; and

(b) the name of the partnership, its CUSIP number or other information sufficient to identify the partnership interest, and the amount of the partnership interest.

(3) In the case of a group of RICs that is managed or advised by a common, or affiliated, manager or advisor (the manager), the manager may elect to be responsible for collecting, retaining, and providing the IRS upon demand the beneficial ownership information. To make such an election, the manager must provide each eligible partnership in which any of the RICs has an equity interest a statement indicating that it is responsible for collecting, retaining, and providing the IRS upon demand the beneficial ownership information that otherwise would be required to be provided directly to the eligible partnerships by the beneficial owners. In addition, the manager must provide the partnership with:

(a) its name, address, and taxpayer identification number and contact information for the person from whom the IRS can request beneficial ownership information; and

(b) the name of the partnership, its CUSIP number or other information sufficient to identify the partnership interests, and the amount of the partnership interests.

SECTION 9. Effective Date.

9.01. In General. Except as otherwise expressly provided, this revenue procedure applies prospectively to any tax-exempt bond partnership with a "start-up date" under §4.05(1) of this revenue procedure (that is, generally the later of the date the entity has more than one owner or more than a *de minimis* amount of assets) that occurs on or after **[DATE THAT IS 30 DAYS AFTER THE DATE THAT THE FINAL VERSION OF THIS DOCUMENT IS RELEASED TO THE PUBLIC]**. Further, except as otherwise expressly provided, this revenue procedure applies to any tax-exempt bond partnership without regard to its start-up date if new capital is originally contributed to the partnership on or after **[DATE THAT IS 30 DAYS AFTER THE DATE THAT THE FINAL VERSION OF THIS DOCUMENT IS RELEASED TO THE PUBLIC]** in an amount which has an aggregate fair market value that is greater than ten percent of the aggregate fair market value of the total assets owned by the partnership on the day before **[DATE THAT IS 30 DAYS AFTER THE DATE THAT THE FINAL VERSION OF THIS DOCUMENT IS RELEASED TO THE PUBLIC]**. For purposes of applying the 10 percent new capital test in the preceding sentence, deemed capital contributions to a reconstituted partnership as a result of a partnership termination under §708(b)(1)(B) upon the sale or exchange of more than 50 percent of the total interests in a partnership's capital and profits within a 12-month period are disregarded. The IRS will not challenge any tax-exempt bond partnership's eligibility to use a monthly closing election on the grounds that such partnership failed to follow specific modifications made to Rev. Proc. 2003-84 by this revenue procedure with respect to additional eligibility conditions added in §§4.01(5), (6), or (7) of this revenue procedure (for example, the 5% minimum gain share condition) to the extent that such modifications are inapplicable to the partnership under the effective date provisions in this §9.

9.02 Grandfathering Rules.

(1) Rev. Proc. 2003-84 Grandfathering Rules. The grandfathering rules in § 9.02 of Rev. Proc. 2003-84 continue to apply to matters covered by such grandfathering rules.

(2) Partnerships under IRS Notice 2008-55. In the case of a partnership that meets the requirements of §3.8 of IRS Notice 2008-55, 2008-27 I.R.B. (July 7, 2008), regarding certain partnerships that hold certain auction rate preferred stock and that have certain prescribed liquidity facilities, this revenue procedure shall apply for purposes of §3.8 of IRS Notice 2008-55 as the successor to Rev. Proc. 2003-84, and in applying this revenue procedure to a partnership under §3.8 of IRS Notice 2008-55, the partnership eligibility conditions in §4.01(5) and §4.01(7) of this revenue procedure shall be inapplicable.

SECTION 10. Effect on Other Documents.

Rev. Proc. 2003-84 is modified and superseded.

SECTION 11. Paperwork Reduction Act.

The collection of information contained in this revenue procedure, carried forward without change from Rev. Proc. 2003-84, has been reviewed and approved by the

Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1768. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. The collection of information is in section 8 of this revenue procedure. The collection of information is required to obtain a benefit, and is required to inform the Service which partnerships are making the monthly closing election. The likely respondents are businesses. The estimated total annual reporting and recordkeeping burden is 500 hours. The estimated annual burden per respondent/record keeper is 1/2 hour. The estimated number of respondents and record keepers is 1,000. The estimated annual frequency of responses (used for reporting requirements only) is once. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

SECTION 12. No Inferences on Law.

This revenue procedure provides administrative relief to address a special need in the tax-exempt bond market in furtherance of public policy. No inferences should be drawn from this revenue procedure regarding any general principle of substantive law with respect to partner status or the debt or equity character of any security.