

RESOLUTION

Regarding the 2015 Re-Proposed Regulations related to the determination of “issue price” in the arbitrage rules under section 148 of the Internal Revenue Code (REG-148659-07).

Urging the Internal Revenue Service (IRS): to exempt competitive sales of municipal debt from any issue price rule; to provide specific guidance on acceptable documentation to be used in determining market changes and acceptable variances in the offering price under the proposed alternative method of determining issue price; to establish an efficient process that can quickly and definitively be executed so as not to hinder the proper sizing of an escrow account on the bond sale date; and to eliminate enforcement responsibilities for the municipal bond issuer.

WHEREAS The IRS has released the 2015 Re-Proposed Regulations on issue price, which substantially modify the current regulations as well as revisions proposed in 2013; and

WHEREAS The National Association of State Treasurers (NAST) strongly supports increased transparency in the market for tax-exempt bonds; yet, is concerned that certain aspects of these 2015 Re-Proposed Regulations will negatively impact both the pricing of municipal bonds and the processes used by states to issue debt; and

WHEREAS Under the proposal, the issue price will be determined based on actual sales rather than reasonably expected sales and NAST believes the change will result in increased yields on competitive bids and ultimately an increase in the cost of funds; and

WHEREAS The existing competitive bidding process for municipal debt, by its nature, provides an effective, highly transparent and objective basis for determining the issue price of bonds; and

WHEREAS The 2015 Re-Proposed Regulations do not provide guidance on acceptable documentation for determining market changes under the alternative issue price method. In addition, the proposed alternative method will be costly and difficult for municipal debt issuers to implement; and

WHEREAS Uncertainty regarding the issue price will complicate advance refunding and escrow sizing; and

WHEREAS Municipal debt issuers face unclear and costly due diligence expectations and are not in a position to act as an enforcement mechanism in the sale process.

NOW, THEREFORE BE IT RESOLVED, the National Association of State Treasurers does not support the 2015 Re-Proposed Regulations in their current form.

The National Association of State Treasurers urges the Internal Revenue Service to:

1. Change the re-proposed regulations to provide an exception or “safe harbor” for bona fide competitive sales.
2. Provide specific guidance on acceptable documentation if the alternative method is to be an effective means to determine issue price.
3. Develop an efficient process that can quickly and definitively be executed for setting the issue price.
4. Eliminate the due diligence enforcement responsibilities of the municipal debt issuers.

Approved this 20th Day of October, 2015, by the National Association of State Treasurers.

Honorable David H. Lillard Jr.
NAST President &
Tennessee State Treasurer