

## TRANSITIONAL RULES FOR TAX EXEMPT MORTGAGE BONDS

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JULY 12 (legislative day, JUNE 21), 1979.—Ordered to be printed

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Mr. GRAVEL, from the Committee on Finance,  
submitted the following

### REPORT

[To accompany S. Res. 188]

The Committee on Finance, to which was referred the resolution (S. Res. 188) relating to the issuance of tax-exempt mortgage bonds under certain transitional rules, having considered the same, reports favorably thereon without amendment and recommends that the resolution do pass.

#### TAX-EXEMPT BONDS FOR HOUSING

Under present law, interest on State and local government bonds generally is exempt from Federal income taxation. However, in order for the interest on a State or local government bond to qualify for tax exemption, the bond must satisfy certain restrictions placed on the use of its proceeds, such as the arbitrage provisions.

In 1968, Congress substantially restricted the uses for which tax-exempt industrial bonds could be issued. In doing so, Congress provided a specific exception for industrial development bonds used to provide residential real property. The explanation of this exception in the legislative history on the Revenue and Expenditure Control Act of 1968 makes no distinction between multi-family rental housing and single-family owner-occupied residents. However, at that time, tax-exempt bonds generally were not being issued for single-family residences.

Beginning in the early 1970's several State governments instituted tax-exempt bond programs (nonindustrial development bonds) to finance the purchase of owner-occupied residences. More recently, many local governments have instituted similar programs. Under these programs, the State or local government typically will issue bonds and lend the bond proceeds through one or more private lending

institutions to private individuals for the purchase or rehabilitation of homes.

On April 25, 1979, legislation was introduced in the House of Representatives which would generally deny tax exempt status to State and local bonds issued to provide mortgages for housing.

H.R. 3712 makes two amendments to the provision exempting interest on State and local bonds from Federal income tax. First, with one exception relating to general obligation bonds used to finance mortgages of veterans, it removes the exemption for bonds which are used for mortgages on owner-occupied residences. Second, it restricts the existing rule allowing tax exemption for industrial development bonds used in a trade or business of a nonexempt person to bonds which are used for projects for low- or moderate-income rental housing, determined in a manner consistent with the leased housing program under section 8 of the United States Housing Act of 1937.

As introduced, the provisions of H.R. 3712 applied generally to bonds issued on or after April 25, 1979 (the date of introduction). However, the bill did not apply to bonds that were sold before April 25, 1979, if the bonds were issued by May 25, 1979. After introduction of the bill, Congress became aware that over 100 issues of proposed tax-exempt housing bonds with a principal amount in excess of \$3 billion was in the process of being issued as of April 25, 1979. These issues were in various stages of development—from initial conversations with bond underwriters and bond counsel to having the bonds being priced and only hours away from sale.

In a markup session on June 5, 1979, the Ways and Means Committee tentatively decided to modify the effective date of H.R. 3712. In addition, on June 19, 1979, Senator Gravel introduced Senate Resolution 188 which was identical to the modified transitional rule adopted by the Ways and Means Committee. The transitional rule tentatively adopted by the Ways and Means Committee and contained in Senate Resolution 188, is designed to deal with three types of situations: first, it allows the issuance of bonds that were in the process of being issued on April 25, 1979, if certain conditions are met; second, it allows the refunding or rollover of tax-exempt obligations issued before April 25, 1979, with certain restrictions; and third, it allows the completion of certain projects that were under development on April 25, 1979.

Under the first part of the transitional rule, bonds could be issued without the restrictions of H.R. 3712 if official action had been taken by a governmental unit prior to April 25, 1979, indicating an intent to issue tax-exempt housing bonds. Official governmental action includes an authorization to hire bond counsel, an authorization to hire bond underwriters, or an authorization to conduct a market analysis indicating the need for such housing bonds.

Under the refunding or rollover rule, bonds may be issued after April 25, 1979, without meeting the restrictions of H.R. 3712 if the proceeds from the bonds are used to retire housing bonds that were outstanding as of April 24, 1979, so long as the maturity date of the new bonds is no longer than the life of the mortgages financed with the old bonds.

Under the transitional rule for projects under development, bonds may be issued after April 24, 1979, without meeting the restrictions

of H.R. 3712 if the proceeds of the bonds are used to finance the completion of a project that was under development as of April 24, 1979. In the case of multi-family rental units, bonds could be issued if a governmental body had approved the number and location of the rental units, and substantial expenditures for the project had been incurred, prior to April 25, 1979. In the case of owner-occupied residences, bonds could be issued if, prior to April 25, 1979, (1) construction had begun (2) the number and location of the units had been approved by a governmental body, and (3) either tax-exempt construction financing had been issued for the project or there exists written evidence that a governmental unit intended to issue tax-exempt bonds to finance the acquisition of the units by home buyers.

#### DESCRIPTION OF THE RESOLUTION

Senate Resolution 188 would express the sense of the Senate that the transitional rules applicable to tax-exempt State and local mortgage revenue bonds, as tentatively agreed to by the House Ways and Means Committee is supported by the Senate. The transitional rule contained in this resolution allows tax-exempt status to bonds issued after April 25, 1979, if official actions had been taken by that date indicating an intent to issue such bonds. The necessary official action would include authorization to hire bond counsel, authorization to hire bond underwriters or authorization to conduct a market analysis. In addition, provisions of the resolution deal with rollovers of existing tax-exempt mortgage bond issues and special rules for projects under development.

#### VOTE OF THE COMMITTEE

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the resolution.

The resolution was ordered reported by voice vote.

