



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D C. 20224

July 16, 2018

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Affected IRM: 4.81.6

**MEMORANDUM FOR ALL INDIAN TRIBAL GOVERNMENTS/TAX-EXEMPT BONDS
EMPLOYEES**

FROM: Christie Jacobs /s/ *Christie Jacobs*
Director, Indian Tribal Governments and Tax-Exempt Bonds

SUBJECT: Interim Guidance on Closing Agreements for Tax-Exempt Bonds

Purpose:

This memo modifies Internal Revenue Manual (IRM) 4.81.6.5.3.1, Computation of Taxpayer Exposure (Revision 01-28-2016), and provides direction to revenue agents and tax law specialists to resolve tax-exempt bond examination and Voluntary Closing Agreement Program cases.

This directive is not an official pronouncement of law, and cannot be used, cited, or relied on as such. In addition, nothing in this directive should be construed as affecting the operation of any provision of the Internal Revenue Code, regulations, or guidance thereunder.

Background:

IRM 4.81.6.5.3, Resolution Amount (Revision 01-28-2016), lists closing agreement resolution amounts for tax-exempt bonds. All methods for the closing agreements we reference in this section are fully described in IRM section 4.81.6, Tax Exempt Bonds (TEB) Examination Program and Procedures, Closing Agreements. In general, the resolution amount for tax-exempt bonds is based upon taxpayer exposure of the bond issue. Taxpayer exposure is the estimated amount of tax liability the United States would collect from the bondholders if the bondholders were taxed on the interest they realized from the bonds during the calendar year(s) covered under the closing agreement. Unless specifically instructed otherwise or a more accurate measure of a particular holder's tax rate is available, the IRM prescribes a 29% tax rate to calculate taxpayer exposure. Although income tax rates changed over the years, the use of the 29% tax rate remained unchanged since IRM 4.81.1.23 (Revision 01-01-2003) was issued. This guidance updates the tax rate used in calculating taxpayer exposure for resolution amounts for closing agreements for tax-exempt bonds.

Procedural Change:

Unless specifically instructed otherwise or a more accurate measure of a particular holder's tax rate is available, in calculating taxpayer exposure for tax years before 2018, use 29%. For tax

years after 2017, use the sum of (i) the backup withholding rate on interest payments pursuant to IRC section 3406(a)(1) and (ii) the net investment income tax rate specified in section 1411(a)(1), in effect on the closing agreement execution date. For example, for a closing agreement executed on May 15, 2018, compute taxpayer exposure as follows:

Year	Rate
2015	29%
2016	29%
2017	29%
2018 and later years	24% plus 3.8% equals 27.8%

Effect on Other Documents:

This guidance will be incorporated into IRM 4.81.6.5.3, Resolution Amount, within two years of the effective date of this memo.

Effective Date:

This memo is effective when issued.

Contact:

If you have any questions regarding the application of this directive or issues relating to resolution amounts other than those mentioned above, please contact Telly Meier, Field Operations Manager or Allyson Belsome, Technical Manager.

Distribution:

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