

FINANCIAL INFORMATION FORUM

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New York, New York 10004

212-422-8568

June 11, 2015

Electronic Delivery

Pamela Lew
Room 5203
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station,
Washington, DC 20044

Re: REG-143040-14: Reporting of Original Issue Discount on Tax-Exempt Obligations; Basis and Transfer Reporting by Securities Brokers for Debt Instruments and Options; TD 9713: Reporting for Premium; Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options.

Dear Ms. Lew,

The Financial Information Forum (FIF)¹ on behalf of our Cost Basis Working Group is submitting this comment letter with respect to recent publication of REG-143040-14 and TD 9713. The comments focus on the default accrual method for accrued market discount, the reporting obligations of brokers involved in a transfer of an option subject to Section 1256 and the reporting of non-taxable OID.

Default Accrual Method

FIF understands the IRS carefully considered industry comments in deciding to change the default accrual method for a debt instrument acquired at a market discount and we appreciate this change. However, from an implementation perspective, the fact that the rule change becomes effective on January 1, 2015 is problematic. The temporary and proposed regulations states “that for a debt instrument acquired on or after January 1, 2015, brokers are required to assume that a customer has elected to determine accrued market discount using a constant yield method unless the customer notifies the broker otherwise.”

The effective date of January 1, 2015 results in a one year period where the default accrual method for debt acquired at a market discount is the ratable method. This condition will present some difficulties for brokers to implement. Please see the following example.

Example:

A client acquires lots of the same bond in both 2014 and 2015. They make no election and dispose of the bonds at a later date. In this case, the bond purchased in 2014 would use the ratable method and the bond purchased in 2015 would use the constant yield method.

¹ FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our [participants](#) include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

Recommended Solution

We propose that brokers should be allowed to apply either method of accrual as a default for a lot acquired in 2014 as long as no income has been recognized and no election has been provided by the customer. This would allow brokers to apply whichever method works best for their system. In the example above, the broker could apply the same method to lots of the same bond acquired in both 2014 and 2015.

Transfer of an Option Subject to Section 1256

The temporary and proposed regulations extend transfer reporting requirements to section 1256 options which are covered securities. In addition, these regulations require additional data specific to 1256 options, particularly the fair market value of the option as of the end of the prior calendar year. The purpose of this additional data appears to be to provide the receiving broker with the data necessary to calculate and report the prior year unrealized gain/loss for the option, which is required on Form 1099-B. Some of our members have in prior years issued Form 1099-B and filed information returns to report prior year unrealized gain/loss for a 1256 option that the broker transferred to another broker before the end of the tax year. These 1099s only included prior year unrealized gain because the broker did not have information for the current year realized or unrealized gain/loss because the broker did not hold the option or know the details of its disposition.

With the implementation of these transfer requirements for 1256 including the requirement of the delivering broker to provide the fair market value of the option as of the end of the prior calendar year, our members would appreciate confirmation that a broker who delivers off a 1256 option to another broker and provides a transfer statement as proscribed under the new temporary and proposed regulations is not required to perform any reporting for a 1256 option which was reported in the prior calendar year and then delivered to another broker before the end of the current calendar year.

Reporting of Non-Taxable OID

The proposed and temporary regulations require brokers to report accrued OID for non-taxable debt for lots acquired on or after 1/1/2017. We agree that non-taxable OID should be reported so that both the IRS and the taxpayer have the information necessary to reconcile basis and taxable income earned on non-taxable debt. However, we feel that this requirement will be less confusing for taxpayers if it applies to all covered debt (acquired after 1/1/2014). We recognize that starting the reporting in 2017 for debt acquired in 2014 creates a gap in reporting where accrued OID will not have been reported for a covered bond for as much as three years. However, we think this gap between 2014 and 2017 is preferable to gap that will be created if no accrued OID is ever reported on covered debt acquired between 2014 and 2017.

Summary

FIF members believe allowing brokers to support these new requirements in the ways we have described will result in more consistent reporting to taxpayers and the IRS. FIF also welcomes a response to our request for clarification regarding the reporting obligations of brokers involved in a transfer of an option subject to Section 1256. We appreciate the IRS's willingness to accept comments on this matter.

Please contact me at 212-655-2935 or darren.wasney@fif.com if you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Darren". The signature is fluid and cursive, with a large initial "D" and a long, sweeping tail.

Darren Wasney
Program Manager
Financial Information Forum