



May 28, 2026

Submitted via <http://www.regulations.gov>
(IRS Notice-2026-23)

Internal Revenue Service
Attn: CC:PA:01:PR (Notice 2026-23) Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Requests for 2026-2027 IRS Priority Guidance Plan

To Whom It May Concern:

The National Association of Bond Lawyers (“NABL”) respectfully submits the following suggestions for inclusion in the U.S. Treasury Department’s Office of Tax Policy and Internal Revenue Service (“IRS”) 2026-2027 Priority Guidance Plan. Unless otherwise indicated, section references are to the Internal Revenue Code of 1986 (the “Code”). These items are listed in no particular order.

1. Request to continue valued access to IRS guidance.

Private letter rulings are an important tool that an issuer may use to better understand and comply with its tax responsibilities. Requests for private letter rulings are also a helpful tool for the IRS to understand the areas in which additional guidance may be needed. User fees have significantly increased since 2010, resulting in the costs for private letter rulings to be prohibitive for many issuers, leading to fewer requests for private letter rulings and fewer private letter rulings being issued. The reduction in private letter rulings could result in less voluntary compliance with tax laws and higher overall costs and risks to issuers and taxpayers generally. NABL requests that the charges for private letter rulings relating to tax-advantaged bonds for state and local governments be significantly reduced. NABL has provided specific comments to the IRS and Treasury regarding these matters in a letter dated November 4, 2019. We would be pleased to discuss our comments with you.

Issuers and practitioners also highly value informal guidance from IRS and Treasury, such as insights gained from webinars, conferences, one on one discussions, and updates to the tax-exempt bond websites. These types of guidance are instrumental to our practices and support tax compliance by issuers. We hope that the IRS and Treasury can continue to provide these valuable services.

2. Request to withdraw proposed “cash outlay” regulation.

Proposed Treasury Regulations, Guidance on Tax-Exempt Refunding Bonds, were published in the Federal Register on March 12, 2026. Included was the addition of the following

language to Treasury Regulation §1.148-6(d)(1)(ii) (the “Proposed Regulation”): “To allocate funds from a specific source to an expenditure, those funds must be held by or on behalf of the issuer on the date of the cash outlay.” NABL believes that the Proposed Regulation should be withdrawn because (i) it is inconsistent with the regulatory history, existing guidance under other Code sections and long-standing practices used to finance projects, (ii) it imposes significant regulatory costs on issuers and conduit borrowers with little benefit to the federal government, and (iii) it penalizes issuers and conduit borrowers by impeding them from completing their projects in a cost-efficient manner based on the actual project circumstances. NABL has provided specific comments to the IRS and Treasury regarding these matters in a letter dated May 11, 2026, and requested a hearing for stakeholders to provide views.¹ We would be pleased to discuss our comments with you.

3. Request to modernize the incidental use exception to the private business use rules.

In 1997, Treasury promulgated rules setting forth the amount of non-governmental use or “private business use” which may be financed with tax-exempt bonds. These rules include an exception that allows an issuer to disregard small amounts of “incidental use” of a bond-financed facility by a private party if certain requirements are met. Given evolving technology, NABL believes that additional guidance on the measurement of the incidental use exceptions, as well as guidance on remote and tenuous use, would be helpful. NABL has provided specific comments to the IRS and Treasury regarding these matters in a letter dated August 18, 2025.² We would be pleased to discuss our comments with you.

4. Revise and supplement Revenue Procedure 2018-26 to clarify, simplify, and expand the application of the remedial action rules.

On April 11, 2018, the IRS released Rev. Proc. 2018-26, 2018-18 IRB 546, which expanded the availability of certain remedial actions under Treasury Regulation §1.141-12. Revenue Procedure 2018-26 was a step in the right direction and provides much needed relief in this area. However, there are several ways that the IRS could improve this guidance through additional guidance promulgated under Treasury’s authority in Treasury Regulation §1.141-12(h) (i.e., guidance that need not take the form of additional regulations issued after notice and comment). NABL has provided specific comments to the IRS and Treasury regarding these matters in a letter dated February 1, 2019.³ We would be pleased to discuss our comments with you.

5. Revise instructions to IRS Form 8038 and Form 8038-G.

The current instructions for IRS Form 8038 and Form 8038-G include provisions that are ambiguous and inconsistent with each other and with other published guidance. These

¹ See NABL letter re: “On Guidance for Tax-Exempt Refunding Bonds [REG-117298-21]” Web access: <https://www.nabl.org/resources/on-tax-exempt-refunding-bonds/>

² See NABL letter re: “Request for Guidance under IRC §141 Relating to Application of Private Business Use Rules to Modern Technologies.” Web access: <https://www.nabl.org/resources/pbu-modern-tech/>

³ See NABL letter re: “Recommended Remediation Proposals (On Rev. Proc. 2018-26)” sent on February 1, 2019. Web access: <https://www.nabl.org/resources/recommended-remediation-proposals-on-rev-proc-2018-26/>

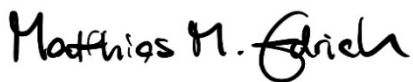
inconsistencies and ambiguities have resulted in differing interpretations and differing approaches to information reporting. The ambiguity and inconsistency of the instructions (or lack of instructions) for many line items has led not only to inconsistent completion of the forms but also to many different practices of providing annotations, supplemental schedules and attachments to IRS Forms 8038 and 8038-G that make form preparation more difficult and may make the completed forms less useful to the IRS. NABL has provided specific comments to the IRS regarding these matters in a letter dated September 29, 2020. We would be pleased to discuss our comments with you.

6. Provide guidance regarding implementation of Section 142(n) and 142(o) of the Code.

The Infrastructure Investment and Jobs Act (Pub. L. 117-58) expands Section 142(a) to provide two new categories of exempt facility bonds for the financing of “qualified broadband projects” and “qualified carbon dioxide capture facilities.” The statutory language raises questions regarding the ability to issue bonds to meet the stated requirements for each category. The tax-exempt bond community would benefit from guidance with respect to the implementation of these new exempt facility categories. For example, among other items, guidance is needed on the qualified carbon dioxide capture facility provisions to clarify how the capture and storage percentage set forth under Section 142(o)(3) is applied to a bond financing for “eligible components” described under Section 142(o)(2)(A), which encompasses activities beyond the capture and storage of carbon dioxide. NABL has provided specific comments to the IRS regarding these two new categories in letters dated June 24, 2022 (qualified carbon dioxide capture facilities) and February 24, 2023 (qualified broadband projects). We would be pleased to discuss these comments with you.

This list of suggested items for inclusion was compiled by members of NABL’s Tax Law Committee. If you have any questions concerning this submission, please contact our Director of Governmental Affairs, Brian Egan, at 202-503-3290 or began@nabl.org.

Sincerely,



Matthias Edrich
President
National Association of Bond Lawyers

CC:

- Jeffrey Van Hove, Associate Chief Counsel, CC:FIP
- Vassiliki Tsilas, Deputy Associate Chief Counsel (Acting), CC:FIP
- Zoran Stojanovic, Assistant to the Branch Chief, CC:FIP:B5