having a single yield, determined under §1.148(b)(2).

(b) (2)(iv) through (c)(1) [Reserved]. For guidance see §1.148–5.

(c)(2) *Manner of payment*—(i) *In general*. Except as otherwise provided in §1.148–5(c)(2)(ii), an amount is paid under §1.148–5(c) if it is paid to the United States at the same time and in the same manner as rebate amounts are required to be paid or at such other time or in such manner as the Commissioner may prescribe. For example, yield reduction payments must be made on or before the date of required rebate installment payments as described in §1.148–3(f). The date a payment is required to be paid is determined without regard to §1.148–3(h). An amount that is paid untimely is not taken into account under this paragraph (c) unless the Commissioner determines that the failure to pay timely is not due to willful neglect. The provisions of §1.148–3(i) apply to payments made under §1.148–5(c).

(c)(2)(ii) through (c)(3)(i) [Reserved] For guidance see §1.148–5.

(c)(3)(ii) *Exception to yield reduction payments rule for advance refunding issues*. Section 1.148–5(c)(1) does not apply to investments allocable to gross proceeds of an advance refunding issue, other than—

(A) Transferred proceeds to which §1.148–5(c)(3)(i)(C) applies;

(B) Replacement proceeds to which §1.148–5(c)(3)(i)(F) applies; and

(C) Transferred proceeds to which §1.148–5(c)(3)(i)(E) applies, but only to the extent necessary to satisfy yield restriction under section 148(a) on those proceeds treating all investments allocable to those proceeds as a separate class.

(d)(1) through (d)(3)(i) [Reserved]. For guidance see §1.148–5.

(d)(3)(ii) *Exception to fair market value requirement for transferred proceeds allocations, universal cap allocations, and commingled funds*. Section 1.148–5(d)(3)(i) does not apply if the investment is allocated from one issue to another issue as a result of the transferred proceeds allocation rule under §1.148–9(b) or the universal cap rule under §1.148–6(b)(2), provided that both issues consist exclusively of tax-exempt bonds. In addition, §1.148–5(d)(3)(i) does not apply to investments in a commingled fund (other than a bona fide debt service fund) unless it is an investment being initially deposited in or withdrawn from a commingled fund described in §1.148–6(e)(5)(iii).

(e)(1) through (e)(2)(ii)(A) [Reserved]. For guidance see §1.148–5.

(e)(2)(ii)(B) *External commingled funds*. For any semiannual period, a commingled fund satisfies the 10 percent requirement of §1.148–5(e)(2)(ii)(B) if—

(*1*) Based on average amounts on deposit, this requirement was satisfied for the prior semiannual period; and

(*2*) The fund does not accept deposits that would cause it to fail to meet this requirement.

(iii) *Special rule for guaranteed investment contracts*. For a guaranteed investment contract, a broker's commission or similar fee paid on behalf of either an issuer or the provider is treated as an administrative cost and, except in the case of an issue that satisfies section 148(f)(4)(D)(i), is not a qualified administrative cost to the extent that the present value of the commission, as of the date the contract is allocated to the issue, exceeds the present value of annual payments equal to .05 percent of the weighted average amount reasonably expected to be invested each year of the term of the contract. For this purpose, present value is computed using the taxable discount rate used by the parties to compute the commission or, if not readily ascertainable, a reasonable taxable discount rate.

[T.D. 8538, 59 FR 24045, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148–6A General allocation and accounting rules.

(a) through (d)(3)(iii)(B) [Reserved]. For guidance see §1.148–6.

(d)(3)(iii)(C) *Qualified endowment funds treated as unavailable*. For a 501(c)(3) organization, a qualified endowment fund is treated as unavailable. A fund is a qualified endowment fund if—

(*1*) The fund is derived from gifts or bequests, or the income thereon, that were neither made nor reasonably expected to be used to pay working capital expenditures;

(*2*) Pursuant to reasonable, established practices of the organization, the governing body of the 501(c)(3) organization designates and consistently operates the fund as a permanent endowment fund or quasi-endowment fund restricted as to use; and

(*3*) There is an independent verification (e.g., from an independent certified public accountant) that the fund is reasonably necessary as part of the organization's permanent capital.

[T. D. 8538, 59 FR 24045, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148–9A Arbitrage rules for refunding issues.

(a) through (c)(2)(ii)(A) [Reserved]. For guidance see § 1.148–9.

(c)(2)(ii)(B) *Permissive allocation of non-proceeds to earliest expenditures.* Excluding amounts covered by § 1.148–9(c)(2)(ii)(A) and subject to any required earlier expenditure of those amounts, any amounts in a mixed escrow that are not proceeds of a refunding issue may be allocated to the earliest maturing investments in the mixed escrow, provided that those investments mature and the proceeds thereof are expended before the date of any expenditure from the mixed escrow to pay any principal of the prior issue.

(d) through (h)(4)(v) [Reserved]. For guidance see § 1.148–9.

(h)(4)(vi) *Exception for refundings of interim notes.* Section 1.148–9(h)(4)(v) need not be applied to refunding bonds issued to provide permanent financing for one or more projects if the prior issue had a term of less than 3 years and was sold in anticipation of permanent financing, but only if the aggregate term of all prior issues sold in anticipation of permanent financing was less than 3 years.

[T.D. 8538, 59 FR 24045, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148–10A Anti-abuse rules and authority of Commissioner.

(a) through (b)(1) [Reserved]. For guidance see § 1.148–10.

(b)(2) *Application.* The provisions of § 1.148–10(b) only apply to the portion of an issue that, as a result of actions taken (or actions not taken) after the issue date, overburdens the market for tax-exempt bonds, except that for an issue that is reasonably expected as of the issue date to overburden the market, those provisions apply to all of the gross proceeds of the issue.

(c) through (c)(2)(viii) [Reserved]. For guidance see § 1.148–10.

(c)(2)(ix) For purposes of § 1.148–10(c)(2), excess gross proceeds do not include gross proceeds allocable to fees for a qualified hedge for the refunding issue.

[T.D. 8538, 59 FR 24046, May 10, 1994. Redesignated by T.D. 8718, 62 FR 25507, May 9, 1997]

§ 1.148–11A Effective dates.

(a) through (c)(3) [Reserved]. For guidance see § 1.148–11.

(c)(4) *Retroactive application of overpayment recovery provisions.* An issuer may apply the provisions of § 1.148–3(i) to any issue that is subject to section 148(f) or to sections 103(c)(6) or 103A(i) of the Internal Revenue Code of 1954.

(d) through (h) [Reserved]. For guidance see § 1.148–11.

(i) *Transition rules for certain amendments*—(1) *In general.* Section 1.103–8(a)(5), §§ 1.148–1, 1.148–2, 1.148–3, 1.148–4, .148–5, 1.148–6, 1.148–7, 1.148–8, 1.148–9, 1.148–10, 1.148–11, 1.149(d)–1, and 1.150–1 as in effect on June 7, 1994 (see 26 CFR part 1 as revised April 1, 1997), and §§ 1.148–1A through 1.148–11A, 1.149(d)–1A, and 1.150–1A apply, in whole, but not in part—

(i) To bonds sold after June 6, 1994, and before July 8, 1997;

(ii) To bonds issued before July 1, 1993, that are outstanding on June 7, 1994, if the first time the issuer applies §§ 1.148–1 through 1.148–11 as in effect on June 7, 1994 (see 26 CFR part 1 as revised April 1, 1997), to the bonds under § 1.148–11 (b) or (c) is after June 6, 1994, and before July 8, 1997;

(iii) At the option of the issuer, to bonds to which §§ 1.148–1 through 1.148–11, as in effect on July 1, 1993 (see 26 CFR part 1 as revised April 1, 1994), apply, if the bonds are outstanding on June 7, 1994, and the issuer applies § 1.103–8(a)(5), §§ 1.148–1, 1.148–2, 1.148–3, 1.148–4, 1.148–5, 1.148–6, 1.148–7, 1.148–8, 1.148–9, 1.148–10, 1.148–11, 1.149(d)–1, and 1.150–1 as in effect on June 7, 1994 (see 26 CFR part 1 as revised April 1, 1997), and §§ 1.148–1A through 1.148–11A, 1.149(d)–1A, and 1.150–1A to the bonds before July 8, 1997.