

**Carryforward Election of Unused  
Private Activity Bond Volume Cap**  
(Under Sections 146(f) and 142(k))

OMB No. 1545-0874

Enter the calendar year for which the election is made ►

**Part I Reporting Authority**

State name for qualifying public educational facility bond **or** issuer's name for all other bonds

Reporting Authority's EIN

Number, street (or P.O. box if mail is not delivered to street address)

Room/suite

Report number

**9**

City or town, state, and ZIP code

**Caution:** Part II is **only** for section 146(f) filers. Part III is **only** for qualifying public educational facility bond filers.

**Part II Unused Volume Cap and Carryforward under Section 146(f)**

**Computation of Unused Volume Cap**

|          |  |          |
|----------|--|----------|
| <b>1</b> | Total volume cap of the issuer for the calendar year . . . . .   | <b>1</b> |
| <b>2</b> | Aggregate amount of private activity bonds issued to date that are taken into account under section 146 (see instructions) . . . . . | <b>2</b> |
| <b>3</b> | Total amount of volume cap exchanged for authority to issue mortgage credit certificates (see instructions) . . . . .                | <b>3</b> |
| <b>4</b> | Total amount of volume cap allocated to private activity portion of governmental bonds (see instructions) . . . . .                  | <b>4</b> |
| <b>5</b> | Add lines 2 through 4 . . . . .  | <b>5</b> |
| <b>6</b> | Unused volume cap (subtract line 5 from line 1) . . . . .  | <b>6</b> |

**Purpose and Amount of Each Carryforward**

|           |  |            |
|-----------|--|------------|
| <b>7</b>  | Qualified student loan bonds . . . . .   | <b>7</b>   |
| <b>8</b>  | Qualified mortgage bonds or mortgage credit certificates . . . . .                                   | <b>8</b>   |
| <b>9</b>  | Qualified redevelopment bonds . . . . .  | <b>9</b>   |
| <b>10</b> | Exempt facility bonds:   |            |
| <b>a</b>  | Mass commuting facilities (section 142(a)(3)) . . . . .  | <b>10a</b> |
| <b>b</b>  | Water furnishing facilities (section 142(a)(4)) . . . . .  | <b>10b</b> |
| <b>c</b>  | Sewage facilities (section 142(a)(5)) . . . . .  | <b>10c</b> |
| <b>d</b>  | Solid waste disposal facilities (section 142(a)(6)) . . . . .  | <b>10d</b> |
| <b>e</b>  | Qualified residential rental projects (section 142(a)(7)) . . . . .                                  | <b>10e</b> |
| <b>f</b>  | Facilities for the local furnishing of electric energy or gas (section 142(a)(8)) . . . . .          | <b>10f</b> |
| <b>g</b>  | Local district heating or cooling facilities (section 142(a)(9)) . . . . .                           | <b>10g</b> |
| <b>h</b>  | Qualified hazardous waste facilities (section 142(a)(10)) . . . . .                                  | <b>10h</b> |
| <b>i</b>  | 25% of bonds for privately owned high-speed intercity rail facilities (section 142(a)(11)) . . . . . | <b>10i</b> |
| <b>j</b>  | Qualified enterprise zone facility bonds (section 1394(a)-(e)) . . . . .                             | <b>10j</b> |
| <b>11</b> | Total carryforward amount (add lines 7 through 10j) (not to exceed line 6) . . . . .                 | <b>11</b>  |

**Part III Unused Volume Cap and Carryforward Under Section 142(k) (Qualifying Public Educational Facility Bonds)**

|           |  |           |
|-----------|--|-----------|
| <b>12</b> | Total volume cap for the calendar year . . . . .                                       | <b>12</b> |
| <b>13</b> | Total amount of bonds issued under section 142(k) for the calendar year . . . . .      | <b>13</b> |
| <b>14</b> | Unused volume cap available for carryforward (subtract line 13 from line 12) . . . . . | <b>14</b> |
| <b>15</b> | Amount elected to carryforward (not to exceed line 14) . . . . .                       | <b>15</b> |

**Sign  
Here**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete.

► Signature of authorized public official

Date

► Type or print name and title.

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

### Purpose of Form

Form 8328 is filed by the issuing authority of private activity bonds to elect to carry forward its unused volume cap for one or more carryforward purposes (see section 146(f)). If the election is made, bonds issued with respect to a specified carryforward purpose are not subject to the volume cap under section 146(a) during the 3 calendar years following the calendar year in which the carryforward arose, but only to the extent that the amount of such bonds does not exceed the amount of the carryforward elected for that purpose.

Also, Form 8328 is used by a state to carry forward the unused volume cap under section 142(k). A state may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f). However, this election can only be made for the issuance of qualified public educational facility bonds. For definitions related to qualified public educational facilities, see section 142(k).

### When To File

Form 8328 must be filed by the earlier of: **(1)** February 15 of the calendar year following the year in which the excess amount arises, or **(2)** the date of issue of bonds issued pursuant to the carryforward election.

Once Form 8328 is filed, the issuer may not revoke the carryforward election or amend the carryforward amounts shown on this form.

Errors on this form cannot be corrected through an amended filing. The issuer may file a Voluntary Closing Agreement Program (VCAP) request to correct mathematical, typographical, and similar errors. See Notice 2008-31, 2008-11 I.R.B. 592, and IRM 7.2.3 for more information about VCAP.

### Where To File

File Form 8328 with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

### Bonds Taken Into Account Under Section 146

All private activity tax-exempt bonds issued during a calendar year are taken into account under section 146 **except**:

1. Qualified veterans' mortgage bonds.
2. Qualified section 501(c)(3) bonds.
3. Exempt facility bonds for governmentally owned airports, docks and wharves, and environmental enhancements of hydroelectric generating facilities; also exempt facility bonds for qualified public educational facilities, qualified green building and sustainable design projects and qualified highway or surface freight transfer facilities.
4. 75% of any exempt facility bonds for privately owned high-speed intercity rail facilities; 100% if governmentally owned.
5. Exempt facilities bonds for governmentally owned solid waste disposal facilities. See section 146(h).
6. Bonds issued pursuant to a carryforward election. See section 146(f)(3)(A).
7. Certain current refundings. See section 146(i).
8. Certain bonds issued by Indian tribal governments for tribal manufacturing facilities. See section 7871(c)(3).
9. Tribal Economic Development Bonds, section 7871(f).
10. Gulf Opportunity Zone bonds, Midwestern Disaster Area bonds, Hurricane Ike Disaster Area bonds, section 1400N.
11. New York Liberty Zone bonds, section 1400L.
12. Enterprise Zone Facility bonds, section 1394(f).

**Note.** Enterprise Zone Facility bonds under section 1394(a)-(e) are subject to section 146. See Line 10j of Form 8328.

In addition, the private activity portion of governmental bonds is taken into account to the extent that the nonqualified amount exceeds \$15 million. See sections 141(b)(5) and 146(m).

### Bonds Eligible for Carryforward Elections

• An election under section 146(f) may be made by the issuing authority for only the following types of tax-exempt bonds:

1. Qualified student loan bonds.
2. Qualified mortgage bonds (or mortgage credit certificates).
3. Qualified redevelopment bonds.
4. Exempt facility bonds taken into account under section 142(a).

5. Enterprise zone facility bonds taken into account under Regulations section 1.1394-1(m)(3).

6. Tax-Exempt Economic Development Bonds for the District of Columbia Enterprise Zone, section 1400A. Include any Tax-Exempt Economic Development Bond carryforward on Line 10j.

• An election under section 142(k) may be made by the state for qualified public educational facility bonds.

## Specific Instructions

Parts I and II of this form must be completed to properly elect the carryforward provisions under section 146(f).

Parts I and III must be completed to properly elect the carryforward provisions under section 142(k).

### Part I. Reporting Authority

**Name.** Enter the name of the state if filing under section 142(k). For all others, enter the name of the entity issuing the bonds.

**Report number.** This line is for IRS use only. Do not make an entry.

### Part II. Unused Volume Cap and Carryforward Under Section 146(f)

#### Computation of Unused Volume Cap

**Line 1.** Enter the issuing authority's volume cap under section 146 for the current calendar year. Take into account any reduction in the amount of the volume cap under section 25(f) (relating to the reduction in the aggregate amount of qualified mortgage bonds where certain requirements are not met). See section 146(n)(2).

**Line 2.** Enter the total amount of private activity bonds issued by the issuing authority during the current calendar year that are taken into account under section 146. See **Bonds Taken Into Account Under Section 146.**

**Line 3.** Enter the total amount of qualified mortgage bonds the issuing authority has elected not to issue under section 25(c)(2)(A)(ii) during the current calendar year, plus the reduction under section 25(f) for that calendar year. See section 146(n).

**Line 4.** Enter the total amount of volume cap allocated by the issuer to the private activity portion of governmental bonds. See sections 141(b)(5) and 146(m).

#### Purpose and Amount of Each Carryforward

Enter the amount of unused volume cap the issuer elects to carry forward for each carryforward purpose and the total carryforward amount.

### Part III. Unused Volume Cap and Carryforward Under Section 142(k) (Qualifying Public Educational Facility Bonds)

Complete lines 12 through 15 to compute the amount elected to carry forward under section 142(k).

### Signature

Form 8328 must be signed by an authorized public official responsible for carrying forward unused volume cap.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

|  |                |
|--|----------------|
| <b>Recordkeeping</b>                             | 7 hr., 24 min. |
| <b>Learning about the law or the form</b>        | 2 hr., 47 min. |
| <b>Preparing and sending the form to the IRS</b> | 3 hr., 1 min.  |

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the form to this address. Instead, see *Where To File*.

