

**Tax Exempt Bonds Questionnaire Project:
Final Report on Governmental and Charitable Financings**

July 1, 2011

I - Introduction

This is the final report on the Tax-Exempt Charitable Financings Compliance Check Questionnaire¹ and the Governmental Bond Financings Compliance Check Questionnaire projects initiated by the Tax Exempt Bonds (TEB) function of the IRS Tax Exempt and Government Entities Division as part of a new soft-contact compliance check program.² The projects principally evaluated whether exempt organizations described in § 501(c)(3) of the Internal Revenue Code (the "Code") and governmental bond issuers generally have a sufficient level of knowledge of the post-issuance tax compliance requirements applicable to their tax-exempt debt obligations. The initiative focused on measuring several aspects of post-issuance compliance practices including queries on:

- 1) Written procedures or guidelines;
- 2) Recordkeeping and retention policies;
- 3) Arbitrage yield restriction and rebate requirements;
- 4) Bond expenditures and asset management procedures; and
- 5) Private business use monitoring procedures.

In addition, the questionnaires asked governmental issuers and § 501(c)(3) organizations about their compliance training programs for individuals responsible for monitoring post-issuance compliance of tax-exempt bond financings.

The data in this report pertaining to exempt organizations is derived from the responses of 203 various § 501(c)(3) organizations who identified outstanding tax-exempt liabilities on their IRS Form 990, *Return of Organization Exempt from Income Tax*, filed for the calendar year or fiscal year 2005. The organizations in the initiative included hospitals, universities and colleges, senior housing projects, and other § 501(c)(3) organizations. Data reported for governmental issuers is derived from the responses of 175 issuers who reported the issuance of governmental bonds on Form 8038-G, *Information Return for Government Purpose Tax-Exempt Bond Issues*, filed for bonds issued during calendar year 2005.

¹ An interim report providing a preliminary summary of reported data and analysis on the Tax-Exempt Charitable Financings Questionnaire project was released on www.irs.gov/bonds on September 11, 2008. This final report supersedes that interim report.

² Soft contact compliance is an informal non-audit contact. The 2004 report of recommendations of the Advisory Committee on Tax Exempt and Governmental Entities encouraged TE/GE to seek alternative means, such as "soft contacts," to initiate contact with taxpayers.

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This report summarizes the data reported by the issuers and conduit borrowers, and was not independently verified. Most of the respondents answered all of the questions; however, there were a few who failed to answer some questions or a part of a multiple-part question. The data is arranged to show the number and type of responses to the questions asked. Non-responses are noted, but do not appear to distort the results. The phrasing of some of the questions was ambiguous or, particularly in the charitable financing questionnaire, did not always provide the respondent with an opportunity to respond “not applicable,” which may have distorted some of the results pertaining to certain questions.³ Because of these varied responses, the data may not fully disclose the actual level of compliance with applicable post-issuance requirements. Nevertheless, the initiative provides the IRS with unique and valuable information of the knowledge and practices of both § 501(c)(3) organizations and governmental bond issuers relating to their post-issuance tax compliance requirements.

TEB has analyzed key aspects of this project. The focus for this report centers on questions relating to governmental issuers or 501(c)(3) organization’s implementation of written procedures and guidelines to ensure that their tax-exempt bonds remain in compliance with applicable federal tax law requirements following their issuance. The main focus of the questionnaire was to ascertain the degree of written procedures or guidelines maintained by the § 501(c)(3) organizations and governmental bond issuers to monitor use of proceeds of their bond issues with respect to expenditures, asset acquisitions, private business use of bond-financed property, and the investment of bond proceeds. In addition, the questionnaire attempted to ascertain the amount of specialized education provided to individuals identified as responsible for monitoring tax-exempt bond post-issuance compliance.

Part II discusses post-issuance compliance of tax-exempt bonds. Part III describes the scope, methodology, and implementation of the questionnaire projects. Part IV summarizes the reported data and key points of analysis for the charitable financings questionnaire.⁴ Part V summarizes the reported data and key points of analysis for the governmental bonds questionnaire. Part VI discusses TEB’s analysis and conclusions.

³ Certain respondents appear to have felt compelled to provide a Yes or No response rather than leave the response blank when their corresponding narrative suggested that a N/A response would have been the most appropriate response.

⁴ Due to rounding, percentages in analysis shown in text and charts may not add to 100%.