Instructions for Form 8038

(Rev. February 2022)

Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Private Activity Bond Issues

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

Future Developments

For the latest information about developments related to Form 8038 and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form8038*.

What's New

The Infrastructure Investment and Jobs Act (P.L. 117-58) added exempt facility bonds for qualified broadband projects and qualified carbon dioxide capture facilities. See *Exempt facility bond*, later, for more information.

General Instructions

Purpose of Form

Form 8038 is used by the issuers of tax-exempt private activity bonds to provide the IRS with the information required by section 149 and to monitor compliance with the requirements of sections 141 through 150.

Who Must File

Issuers must file a separate Form 8038 for each issue of the following tax-exempt private activity bonds issued after 1986.

- Exempt facility bonds.
- Qualified mortgage bonds.
- Qualified veterans' mortgage bonds.
- Qualified small issue bonds.
- Qualified student loan bonds.
- Qualified redevelopment bonds.
- Qualified hospital bonds.
- Qualified 501(c)(3) bonds.
- Nongovernmental output property bonds.
- All other tax-exempt private activity bonds.

When To File

File Form 8038 by the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond was issued. Form 8038 may not be filed before the issue date and must be completed based on the facts as of the issue date.

Late filing. An issuer may be granted an extension of time to file Form 8038 under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file timely is not due to willful neglect. Type or print at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038 a letter explaining why Form 8038 was not filed on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust indenture or other bond documents. See *Where To File* next.

Where To File

File Form 8038 and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Private delivery services. You can use certain private delivery services (PDS) designated by the IRS to meet the "timely mailing as timely filing" rule for tax returns. Go to *IRS.gov/PDS* for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using PDS, go to *IRS.gov/PDSstreetAddresses*.

CAUTION *PDS can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

Other Forms That May Be Required

For tax-exempt bonds other than private activity bonds, use Form 8038-G, Information Return for Tax-Exempt Governmental Bonds, or Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales.

Bonds described in section 1312(c) of the Tax Reform Act of 1986 to which the transitional rules in section 1312 or 1313 apply are not private activity bonds for purposes of information reporting. Report them on Form 8038-G or Form 8038-GC.

For rebating arbitrage or paying a penalty in lieu of arbitrage rebate to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate.

Rounding Off to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar (for example, $1.49 becomes $1 and $2.50 becomes $3). If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Tax-exempt bond. This is any obligation on which the interest is excluded from gross income under section 103.

Taxable bond. This is any obligation the interest on which isn't excludable from gross income under section 103. Taxable bonds include tax credit bonds and direct pay bonds.

Private activity bond. This includes a bond issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private business use; and
- More than 10% of the payment of principal or interest of the issue is **either (a)** secured by an interest in property to be used for a private business use (or payments for such property), **or (b)** to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which **(a)** are to be used (directly or indirectly) to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units, and **(b)** exceeds the lesser of 5% of the proceeds **or** $5 million.

Exempt facility bond. This is part of an issue of which 95% or more of the net proceeds are to be used to finance an exempt facility listed in sections 142(a)(1) through (17). Exempt facility bonds include empowerment zone facility bonds and enterprise zone facility bonds for use in empowerment zones and enterprise communities, respectively, and recovery zone facility bonds for use in recovery zones.

Qualified mortgage bond. This is part of an issue:

1. Of which all proceeds (except issuance costs and reasonably required reserves) are to be used to finance owner-occupied residences,
2. That meets the requirements of subsections (c) through (i) and (m)(7) of section 143,
3. That does not meet the private business tests of sections 141(b)(1) and (2), and
4. For which repayments of principal on financing provided by the issue (that are received more than 10 years after the date of issuance) are used to redeem bonds that are part of the issue. Amounts of less than $250,000 need not be used to redeem bonds under this requirement.

Qualified veterans' mortgage bond. This is part of an issue:

1. Of which 95% or more of the net proceeds are to be used to provide residences for veterans;
2. For which the payment of the principal and interest is secured by the general obligation of a state;
3. That meets the requirements of subsections (c), (g), (i)(1), and (l) of section 143; and
4. That does not meet the private business tests of sections 141(b)(1) and (2).

Qualified small issue bond. This is part of an issue not exceeding $1 million of which 95% or more of the net proceeds are to be used to finance the following.

- Land or depreciable property to be used for manufacturing, or subject to additional limitations, farming purposes; or
- A redemption of a prior issue of qualified small issue bonds.

Note. The $1 million limit can be increased to $10 million if an election is made to take certain capital expenditures into account. See section 144(a)(4).

Qualified student loan bond. This is part of an issue of which:

1. 90% or more of the net proceeds are to be used to make or finance student loans under a program of general application to which the Higher Education Act of 1965 applies (see section 144(b)(1)(A) for additional requirements), or
2. 95% or more of the net proceeds are to be used to make or finance student loans under a program of general application approved by the state (see section 144(b)(1)(B) for additional requirements).

Qualified redevelopment bond. This is generally part of an issue of which 95% or more of the net proceeds are to be used for one or more redevelopment purposes in any designated blighted area. See section 144(c) for specific requirements.

Qualified 501(c)(3) bond. This is any private activity bond that meets the following conditions.

1. All property financed by the net proceeds of the bond issue is to be owned by a section 501(c)(3) organization or a governmental unit.
2. The bond would not be a private activity bond if (a) section 501(c)(3) organizations were treated as governmental units with respect to their activities that do not constitute unrelated trades or businesses (determined by applying section 513(a)); and (b) the private activity bond definition was applied using a 5% threshold (instead of 10%) for the private use, security, and/or payment tests, and the activities that constitute unrelated trades or businesses are aggregated with any other private use, security, or payment and by substituting “net proceeds” (instead of proceeds) each place it appears.

A qualified 501(c)(3) bond includes the following.

- Qualified hospital bond that is part of an issue of which 95% or more of the net proceeds are to be used for a hospital. See section 145(c).
- Qualified nonhospital bond that is other than a qualified hospital bond. In general, an organization cannot have more than $150 million of qualified 501(c)(3) nonhospital bonds. However, the limit does not apply to bonds issued after August 5, 1997, if 95% or more of the net proceeds of the issue are to be used solely for capital expenditures incurred after that date. See section 145(b).

Restrictions apply to the use of qualified 501(c)(3) bonds (both hospital and nonhospital) to provide residential rental housing. See section 145(d).

Note. Interest on any bond issued after December 31, 2017, to advance refund a tax-exempt bond is not excluded from gross income.

Issue price. The issue price of bonds is generally determined under Regulations section 1.148-1(f). Thus, when issued for cash, the issue price is the first price at which a substantial amount of the bonds are sold to the public. To determine the issue price of a bond issued for property, see sections 1273 and 1274 and the related regulations.

Note. The issue price does not include interest from the date the bonds are dated to the date of issue.

Issue. Generally, bonds are treated as part of the same issue if they are issued by the same issuer, on the same date, and in a single transaction, or series of related transactions. See Regulations section 1.149(e)-1(e)(2).

Arbitrage rebate. Generally, interest on a state or local bond is not tax exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets **both** of the following conditions.

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a section 501(c)(3) organization.
2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a section 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1 1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C)(vii) and the Instructions for Form 8038-T.

Specific Instructions

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the "Amended Return" box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return.

Line 1. The issuer's name is the name of the entity issuing the bonds, not the name of the entity receiving the benefit of the financing.

Line 2. An issuer that does not have an employer identification number (EIN) should apply online by visiting the IRS website at *IRS.gov/EIN*. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Line 3a. If the issuer wishes to authorize a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact with respect to this return (including in writing or by telephone), enter the name of such person here. The person listed in line 3a must be an individual. Do not enter the name and title of an officer or other employee of the issuer here (use line 10a for that purpose).

Note. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact with respect to this return, the issuer authorizes the IRS to communicate directly with the individual entered on line 3a and consents to disclose the issuer's return information to that individual, as necessary, in order to process this return.

Lines 4 and 6. If you listed in line 3a a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact with respect to this return, enter the number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code of that person. Otherwise, enter the issuer's number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code.

Note. The address entered on lines 4 and 6 is the address the IRS will use for all written communications regarding the processing of this return, including any notices.

Line 5. This line is for IRS use only. Do not make an entry.

Line 7. The date of issue is generally the first date on which the issuer physically exchanges any bond included in the issue for the underwriter's (or other purchaser's) funds.

Line 8. If there is no name of the issue, please provide other identification of the issue.

Line 9. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None."

Line 10a. Enter the name and title of the officer or other employee of the issuer whom the IRS may call for more information. If the issuer wishes to designate a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) whom the IRS may call for more information with respect to the return, enter the name, title, and telephone number of such person on lines 3a and 3b.

CAUTION *Complete lines 10a and 10b even if you complete lines 3a and 3b.*

Part II—Type of Issue

CAUTION *Elections referred to in Part II are made on the original bond documents, not on this form.*

You must identify the type of bonds issued by entering the issue price in the box corresponding to the type of bond (see *Issue price* under *Definitions*, earlier). Also enter information on line 20b, Reissuance, if applicable.

Line 11f. After entering the issue price, check the appropriate box for the percentage test elected by the issuer at the time of issuance of the bonds. Then, check the appropriate box to show whether an election was made for deep rent skewing. See Rev. Rul. 94-57, 1994-2 C.B. 5, for guidance on figuring the income limits applicable to these bonds.

Line 11h. Bonds issued to finance certain facilities may also qualify as exempt facility bonds if they were (a) permitted as exempt facility bonds under prior law, and (b) issued under one of the transitional rules of the Tax Reform Act of 1986 (the 1986 Act).

These facilities include...	As described in former section...
A sports facility	103(b)(4)(B)
A convention or trade show facility	103(b)(4)(C)
A parking facility	103(b)(4)(D)
A pollution control facility	103(b)(4)(F)
A hydroelectric facility	103(b)(4)(H)
An industrial park	103(b)(5)

If one of the above applies, indicate the facility type and then give the specific provision of the 1986 Act pertaining to the facility on line 11h.

Line 11i. Enter the issue price if the bonds are part of any issue 95% or more of the net proceeds of which are to be used to provide any enterprise zone facility in an empowerment zone or enterprise community. See section 1394.

Line 11j. Enter the issue price if the bonds are (a) issued after August 5, 1997, and (b) part of any issue 95% or more of the net proceeds of which are to be used to provide any empowerment zone facility. See section 1394(f).

The updated information on the designated urban empowerment zones is available at *www.hud.gov*; for the designated rural empowerment zones, go to *www.rd.usda.gov*.

Line 11q. On the space provided, enter the facility type, if applicable, and enter the issue price of the bonds in the issue price column.

Facility types include...	As described in section...
Environmental enhancements of hydroelectric generating facilities	142(a)(12) and 142(j)
High-speed intercity rail facilities*	142(a)(11), 142(c), and 142(i)

Note.** Proceeds of an exempt facility bond may not be used for this type of facility if there is a nongovernmental owner of the facility unless that owner makes an irrevocable election ***not to claim (1) depreciation under section 167 or 168, or (2) any credit against its income tax with respect to the property financed with the net proceeds of the issue.

Line 12b. This line is for IRS use only. Do not make an entry.

Line 13. Check the box if the issuer has elected, in the bond indenture or related document, to pay to the United States the amount described in section 143(g)(3)(D).

Line 14. Enter the issue price if the bond issue is an exempt issue of $10 million or less for which an election under section 144(a)(4) has been made by the issuer at or before the time of issuance on the bonds or in its records. See section 144(a). Check the box if the $10 million small issue exemption applies.

Line 17. Attach a schedule listing the name and EIN for each section 501(c)(3) organization benefiting from these qualified hospital bonds.

Line 18. Enter the total amount of qualified nonhospital bonds described in section 145(b)(2) that are a part of this issue. For each section 501(c)(3) organization benefiting from these qualified nonhospital bonds, attach a schedule listing:

1. The name of the organization;
2. Its EIN;
3. The amount of this issue of bonds benefiting the organization; and
4. If the box for line 18 is not checked, the amount of all other nonhospital bonds outstanding as of the date of this issue that benefit the organization.

Note. The amount in item 4 above plus line 18 cannot exceed $150 million with respect to bonds issued (a) prior to August 6, 1997, and (b) after August 5, 1997, if used for noncapital expenditures. The $150 million limit does not apply to bonds issued after August 5, 1997, if 95% or more of the net proceeds are used solely for capital expenditures incurred after that date.

Line 19. Enter the issue price if the bonds are used to acquire nongovernmental output property, which is property used by a nongovernmental person in connection with an output facility (such as an electric or gas power project).

Line 20a. For IRS use only. Do not make an entry.

Line 20b. If the Form 8038 is filed because the bonds are treated as reissued (i) pursuant to Regulations section 1.141-12 or other applicable authority concerning remedial actions, or (ii) because of a significant modification described in Regulations section 1.1001-3 or other applicable authority, complete line 20b, Reissuance, by writing a description of the original type of issue (for example, tax-exempt governmental bonds, qualified 501(c)(3) bonds, Build America bonds, qualified energy conservation bonds, exempt facility bonds, qualified small issue bonds, etc.) in the space provided and entering the amount of bonds treated as reissued in the issue price column.

Line 20c. Enter the issue price only if none of the lines above apply and you are required to file an information return for a private activity bond. Enter a description of the bond type.

Part III—Description of Bonds

Line 21. For column (a), the final maturity date is the last date the issuer must redeem the entire issue.

For column (b), see *Issue price* under *Definitions*, earlier.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue.

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)).

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to figure the present value of all payments of principal and interest to be paid on the bond, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to figure the yield on an issue. If the issue is a variable rate issue, write “VR” as the yield of the issue. For other than variable rate issues, carry the yield out to four decimal places (for example, 5.3125%).

Part IV—Uses of Proceeds of Issue

Line 22. Enter the amount of proceeds that will be used to pay interest on the issue accruing prior to the date of issue. For definition of date of issue, see these instructions, line 7.

Line 24. Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel. If no bond proceeds have been used to pay bond issuance costs, enter zero. Do not leave this line blank.

Line 25. Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (for example, bond insurance premiums and certain fees for letters of credit).

Line 26. Enter the amount of the proceeds that will be allocated to such a fund.

Line 27. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any tax-exempt bonds, including proceeds that will be used to fund an escrow account for this purpose.

Line 28. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any taxable bonds, including proceeds that will be used to fund an escrow account for this purpose.

Part V—Description of Property Financed

Line 31. Enter the amount of nonrefunding proceeds used to finance real and depreciable personal property and if the bonds are qualified 501(c)(3) bonds, the proceeds used to refund taxable bonds used to finance real and depreciable property. If the amounts are not available at the time of issuance, make a reasonable proration between the land, buildings, and equipment.

Note. Under section 147(c), a private activity bond is not a qualified bond if 25% or more of the proceeds are used for the acquisition of land or if any of the proceeds are used to acquire farm land (other than an amount of proceeds not in excess of $450,000 to be used by a first-time farmer). An exception to this general rule is for land acquired for certain environmental purposes. See section 147(c)(3). Also, a bond is not a qualified bond if the proceeds are used for the acquisition of used property (other than land), except in the case of certain rehabilitations. See section 147(d).

For items that do not readily fit within categories 31a, b, c, or d, enter the amount of those proceeds in category 31e, Other, and briefly describe them on the line.

Line 32. For each project to be financed with proceeds entered on line 31a, b, c, d, or e, enter the corresponding:

- Six-digit North American Industry Classification System (NAICS) code that best describes the project, and
- Face amount of the project.

If there are more than four projects to be financed by the issue, attach a separate sheet of paper stating the NAICS codes and face amount of each project.

For the purpose of determining NAICS codes where the project fits into more than one category, the ultimate use of the facility determines the NAICS code number. For example, an investment partnership financing a manufacturing facility should use the relevant manufacturing NAICS code, not the partnership's financial activities code.

The NAICS codes are available on the U.S. Census Bureau website at *www.census.gov/naics*.

Part VI—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds or taxable bonds.

Lines 33 and 34. The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as for line 21, column (d).

Line 35. Enter the last date on which any of the bonds being refunded will be called.

Line 36. If more than a single issue of tax-exempt bonds or taxable bonds will be refunded, enter the date of issue for each refunded issue.

Part VII—Miscellaneous

Line 37. Under the rules of section 147(f), private activity bonds are not tax exempt unless they receive public approval by certain officials or voter referendums. Enter the name of the governmental unit(s) approving the issue. Enter also the date of approval by the applicable elected representatives and the date of the public hearing. In the alternative, enter the date of the voter referendum.

If, under the rules of section 147(f), no approval is needed because the issue meets an exception to the public approval requirement, write “No approval needed” on line 37. Also enter on line 37 the provision of section 147(f) under which the issue is excepted (for example, “section 147(f)(2)(D)”), or if under any transitional rule, write “Transitional rule” and the applicable Act (for example, “Tax Reform Act of 1986”) and section.

Line 39. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the “election document.”

Line 40a. Check this box if the issuer has identified a hedge on its books and records in accordance with Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5) that permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for figuring arbitrage.

Line 41. In determining if the issuer has super-integrated a hedge, apply the rules of Regulations section 1.148-4(h)(4). If the hedge is super-integrated, check the box.

Line 42a. If any portion of the gross proceeds of the issue are or will be invested in a guaranteed investment contract (GIC), as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested.

Line 42b. Enter the final maturity date of the GIC.

Line 42c. Enter the name of the GIC provider.

Line 43. If there are applicable provisions under either the Code or Regulations to ensure that all nonqualified bonds of this issue are remediated and the issuer has established written procedures to comply with such remedial provisions, check the box. For example, remedial provisions under Regulations section 1.142-2 apply to exempt facility bonds; Regulations section 1.144-2 applies section 1.142-2 to qualified small issue bonds; Regulations section 1.145-2 applies section 1.141-12 to qualified 501(c)(3) bonds; and section 142(f)(2)(B) applies to bonds issued to finance facilities for the local furnishing of electric energy or gas.

Line 44. Check the box if the issuer has established written procedures to monitor compliance with the arbitrage, yield restriction, and rebate requirements of section 148.

Line 45a. Determine and enter the amount of the proceeds of the issue used to reimburse the issuer for amounts paid for a qualified purpose prior to the issuance of the bonds. See Regulations section 1.150-2.

Line 45b. Subject to certain exceptions under Regulations section 1.150-2(f), an issuer must adopt an official intent, as described in Regulations section 1.150-2(e), to reimburse itself for preissuance expenditures within 60 days after payment of the original expenditure. Enter the date the official intent was adopted.

Line 46. Check this box if:

The issue is comprised of...	As described in section...
Qualified redevelopment bonds	144(c)
Qualified small issue bonds	144(a)
Exempt facilities bonds	142(a)(4) through 142(a)(11), 142(a)(13) through 142(a)(17), 1394, and 1400U-3

If one of the above applies, then enter the name and EIN of the primary private user. A “primary private user” is the nongovernmental entity that meets the private business tests of section 141(b) or private loan financing test of section 141(c).

Part VIII—Volume Caps

Line 47. Enter the amount of volume cap allocated to the issuer. Attach a copy of the state certification, if applicable. The appropriate state official must certify that the issue meets the requirements of section 146 (relating to volume cap on private activity bonds). See the regulations under section 149(e). The certification must also include the information requested by lines 1, 2, and 7 through 9 on page 1 of Form 8038, as well as the title of the certifying official.

Failure to attach the certification with the information described in the paragraph above may result in a delay in processing this form.

Line 48. Enter the amount of the issue subject to the unified state volume cap for private activity bonds under section 146. If, under section 141(b)(5), the nonqualified amount of an issue exceeds $15 million, but does not exceed the amount that would cause a bond which is part of an issue to be treated as a private activity bond, the issuer must allocate a part of its volume cap to the nonqualified amount over $15 million. Include amounts subject to volume cap under section 146(g)(4), (5), and (6). However, for high-speed intercity rail facilities and qualified broadband projects, if all the bond-financed property is governmentally owned, no volume cap applies. See sections 146(g) and 142(b)(1)(B).

Line 49. This line is for the IRS use only. Do not make an entry.

Line 49a. Enter the amount of any bond issued as part of an issue to finance exempt facilities that are not subject to the unified state volume cap. These facilities include the following.

- Airports.
- Docks.
- Wharves.
- Environmental enhancements of hydroelectric generating facilities.
- Qualified public educational facilities.
- Qualified green building and sustainable design projects.
- Qualified highway or surface freight transfer facilities.
- Solid waste facilities.
  Note. These facilities may have to be governmentally owned. See section 146(h) and section 142(b)(1).
- High-speed intercity rail facilities.
- Qualified broadband projects.
- Qualified carbon dioxide capture facilities.
  Note. Only 75% of any exempt facility bond for high-speed intercity rail facilities, qualified broadband projects, and qualified carbon dioxide capture facilities are not subject to the volume cap; however, for high-speed intercity rail facilities and qualified broadband projects, no volume cap applies if all the bond-financed property is governmentally owned. See sections 146(g) and 142(b)(1)(B).

Line 49b. If any part of the issue is issued under a carryforward election, enter the amount of the bonds being issued under that election. Attach a copy of the applicable Form 8328, Carryforward Election of Unused Private Activity Bond Volume Cap.

Line 49c. If any part of the issue is not subject to the volume cap under a transitional rule of the Tax Reform Act of 1986, enter the appropriate section of the Act and then the amount of the bonds excepted from the volume cap by that rule.

Line 49d. Any bond that is issued to currently refund another bond is not subject to the volume cap to the extent that the amount of such bond does not exceed the outstanding amount of the refunded bond. See section 146(i) and section 1313(a) of the Tax Reform Act of 1986. Enter the amount not subject to the volume cap. Also enter the amount issued to currently refund another bond pursuant to authority provided in Notice 2019-39, 2019-24 I.R.B. 1322, Current Refundings for Certain Targeted State, Local, and Indian Tribal Government Bond Programs.

Line 50b. Enter the state limit on qualified veterans' mortgage bonds for the calendar year under section 143(l)(3).

Line 51a. Enter the amount of volume cap allocated to the issuer. Attach a copy of the government's certification. The official must certify that the issue meets the requirements, including the applicable volume cap under section 1394(f). The certification must also include the information requested by lines 1, 2, and 7 through 9 on page 1 of Form 8038, as well as the title of the certifying official.

Line 51b. Enter the name of the empowerment zone. See the instructions for line 11j on where to get the names of the empowerment zones.

Line 52. Enter the amount of volume cap allocated to the issuer. Attach a copy of the state certification, if applicable. The appropriate state official must certify that the issue meets the volume cap requirements of section 142(k)(5). The certification must also include the information requested by lines 1, 2, and 7 through 9 on page 1 of Form 8038, as well as the title of the certifying official.

Signature and Consent

An authorized representative of the issuer must sign Form 8038 and any applicable certification. Also print the name and title of the person signing Form 8038. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that has been designated in Form 8038.

Note. If the issuer in Part I, lines 3a and 3b, authorizes the IRS to communicate (including in writing and by telephone) with a person other than an officer or other employee of the issuer, by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. The paid preparer must:

- Sign the return in the space provided for the preparer's signature,
- Enter the preparer information, and
- Give a copy of the return to the issuer.

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 and to allow us to figure and collect the right amount of tax.

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 burden for tax-exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through *IRS.gov/FormComments*. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW,
IR-6526
Washington, DC 20224

Do not send Form 8038 to this address. Instead, see *Where To File*, earlier.