

Department of the Treasury
Internal Revenue Service

Instructions for Form 8038

(January 1983)

Information Return for Private Activity Bond Issues

General instructions

(Section references are to the Internal Revenue Code.)

Paperwork Reduction Act Notice

The Paperwork Reduction Act of 1980 says we must tell you why we are collecting this information, how we use it and whether you have to give it to us. We ask for the information to carry out the Internal Revenue laws of the United States. We need it to ensure that you are complying with these laws. You are required to give us this information.

Purpose of Form

Form 8038 is to be used by the issuers of certain tax-exempt bonds to provide IRS with the information required by section 103(l).

Who Must File

Form 8038 should be filed by issuers of three types of tax-exempt bonds issued, after December 31, 1982:

1. Student loan bonds.
2. Private exempt entity bonds.
3. Industrial development bonds (all types).

A student loan bond is defined as a bond which is part of an issue in which more than 25 percent of the issue proceeds are used, directly or indirectly, for student loans or related educational expenses.

A private exempt entity bond is defined as a bond which is part of an issue in which more than 25 percent of the issue proceeds are used, directly or indirectly, for charitable, etc., organizations described in section 501(c)(3) which are exempt from taxation by reason of section 501(a).

Issues which refund a prior issue of student loan or private exempt entity bonds generally are treated as used for the same purpose as the prior issue.

An industrial development bond (IDB) is described in section 103(b) (2) and regulations section 1.103-7 (b)(1). Issues which refund an IDB are generally treated as IDBs, as well. For further information, see regulations section 1.103-7.

When to File

File Form 8038 on or before the 15th day of the second calendar month after the close of the calendar quarter which contains the issue date. Form 8038 may be filed before the issue date but must be complete based on the facts as of the issue date.

A separate Form 8038 must be used for each issue.

Where to File

File Form 8038 with the Internal Revenue Service Center, Philadelphia, PA 19255.

Specific instructions

Line 3.—Issuer's employer identification number.—If the issuer does not have an employer identification number, enter "none" and attach a completed Form SS-4, Application for Employer Identification Number, to Form 8038. If, however, the issuer has previously applied for such a number, attach a statement giving the date of the application and the office where it was submitted.

Line 4.—Date of issue.—Enter the date of issue. This is generally the date on which the issuer physically exchanges the bonds for the underwriter's (or other purchaser's) funds.

Part I.—Type of Issue

If you check Boxes 6, 7, or 8, you must enter the four-digit Standard Industrial Classification (SIC) Code(s) of the project to be financed by the issue and enter the amount of lendable proceeds that will be allocated to each activity. For abbreviated lists of these codes, see the instructions to Forms 1120, U.S.

Corporation Income Tax Return, or 990-T, Exempt Organization Business Income Tax Return.

For purposes of Boxes 6, 7, 8 and 9a-k, refunding issues should be categorized on the basis of the use of the proceeds (or corresponding portion thereof) of the issue(s) that is being refunded.

Line 9.—Check the Box(es) a-k that apply and enter the amount of lendable proceeds to be used in each activity. For this purpose, insubstantial amounts of proceeds also should be allocated to the exempt activity.

Box 9d.—Airports, docks, etc. include wharves, mass commuting facilities, parking facilities, or storage or training facilities directly related to any of the foregoing.

Part II.—Description of Obligations

Line 10.—A maturity comprises all those obligations within the issue that have identical stated interest rates and maturity dates. Combine them and report them on a single line. In column (A) designate the maturity date (e.g. 12/83). In column (B) provide the total face amount of the obligations of that maturity. In column (C) provide the stated annual interest rate for that maturity, i.e., the rate of interest on the face amount of the obligation. If the interest rate is variable, provide a description of the method used to compute the interest rate. In column (D) enter the term of each maturity, i.e., the number of years from the date of issue until the date on which interest ceases to accrue on the maturity, determined without regard to any optional call date.

Line 11.—Enter the average maturity of the issue, weighted by the respective issue prices of the obligations. This line should be completed only with respect to industrial development bonds. See section 103(b) (14) for details.

Part III.—Proceeds of Issue

Line 15.—Reasonably required reserve or replacement fund.—For this purpose enter only the amount of original proceeds (i.e., the receipts net of bond issuance costs received by the issuer as a result of the sale of the issue) allocated to such fund.

Line 16.—Enter here the amount received by the issuer net of any issue costs and net of proceeds

invested in a reasonably required reserve or replacement fund.

Part IV.—Description of Financed Property

Do not complete this part for student loan bonds (Box 5). Complete it for all other types of bonds (Boxes 6-9k).

Lines 17a through 17f.—If the issue is a refunding issue, complete lines 17a through 17f by describing the property financed by the refunded issue or corresponding portion thereof.

Lines 17a through 17d.—ACRS refers to the Accelerated Cost Recovery System of section 168. You should classify all property using ACRS even if the property was placed in service before 1981 (as might be the case in a refunding issue).

Line 17f.—Enter the cost of property not included in lines 17a through 17e excluding bond issuance costs and amounts allocated to reasonably required reserve or replacement funds.

Line 18b.—Complete this line only if the refunding issue is issued more than 180 days before all portions of the refunded issue(s) (i.e., those portions to be refunded by this issue) are to be discharged.

Line 19.—This line should be completed only with respect to issues of industrial development bonds. Enter the average economic life of the assets financed by the issue, weighted by the financed cost of the assets. See section 103(b)(14) for details.

Part V.—Description of Initial Principal Users

Do not complete this part for student loan bonds (Box 5). Complete it for all other types of bonds (Boxes 6-9k).

Line 20.—Enter the names, addresses and EINs of each of the initial principal users of the facilities provided by the issue. Whether a person is a principal user of a facility is determined using the rules of section 103(b)(6). For this purpose the determination is made without regard to whether the user is an exempt person under section 103(b)(3). A principal user is an *initial* principal user if, based on contractual obligations as of the time of issue, it is reasonably expected that that person will utilize the facility in such way that it will be a principal user.

Line 21.—Enter any common parents of any affiliated groups of corporations of which an initial principal user listed on line 20 is a subsidiary member. Common parents are determined using the rules of section 1504 without regard to the exceptions of section 1504(b). You should complete line 21 only if at least one of the initial principal users is a subsidiary member of an affiliated group.

Line 21, Column (A).—Enter the user designations ((i) through (vii)) from line 20, column (A), of the initial principal user(s) who are subordinate members of the controlled group whose common parent you describe in columns (B); (C) and (D).

Part VI.—Approval of Issue

Complete this part only for IDBS (Boxes 7, 8, and 9a-k). Under the rules of section 103(k), industrial development bonds are not tax exempt unless they receive public approval by certain officials (line 22) or voter referenda (line 23). Lines 22 and 23 indicate the means by which the requirements of section 103(k) have been fulfilled.

If, under the rules of section 103(k), no approval is needed because the issue meets an exception to the public approval requirement, enter “no approval needed” on line 22. Also enter on line 22 the provision of section 103(k) under which the issue is excepted, for example “section 103(k)(2)(D).” If the issue is excepted from the public approval requirement under the transitional rule of section 215(c)(1) of Public Law 97-248 (Tax Equity and Fiscal Responsibility Act of 1982), enter “Transitional rule” on line 22.

Signature

Form 8038 must be signed by an authorized representative of the issuer.

If the return was prepared by an individual, firm, or corporation paid for preparing it, the paid preparer's space must also be signed. For a firm or corporation, sign in the firm's or corporation's name. Leave the paid preparer's space blank if the return was prepared by a regular employee of the issuer.