

# 2010

# Instructions for Schedule K (Form 990)



Department of the Treasury  
Internal Revenue Service

## Supplemental Information on Tax-Exempt Bonds

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

### General Instructions

#### Purpose of Schedule

Schedule K (Form 990) is used by an organization that files Form 990 to provide certain information on their outstanding liabilities associated with tax-exempt **bond issues**. Usually, a bond issue associated with an organization will be issued as qualified 501(c)(3) bonds, but all types of tax-exempt bond issues benefiting the organization are to be reported. A qualified 501(c)(3) bond issue consists of bonds the proceeds of which are used by a section 501(c)(3) organization in furtherance of its charitable purpose. Requirements generally applicable to qualified 501(c)(3) bonds under section 145 include the following:

- All property financed by the bond issue is to be owned by a section 501(c)(3) organization or a state or local **governmental unit**; and
- At least 95% of the net proceeds of the bond issue are used by either a state or local governmental unit or a section 501(c)(3) organization in activities which do not constitute **unrelated trades or businesses** (determined by applying section 513).

If the organization has one or more **related organizations** (for example, parent and subsidiary relationship), it must complete Schedule K (Form 990) consistent with the filing(s) of its related organization(s). The same liability should not be reported by more than one of the related organizations. For example, if a parent organization issues a **tax-exempt bond** issue and loans or allocates that issue to a subsidiary organization, only one organization (either the parent or subsidiary) should report the liability on Form 990 and the Schedule K. Similarly, if a parent organization loans or allocates the proceeds of a tax-exempt bond issue to a group of subsidiary organizations, only one level (either the parent or the group of subsidiaries) should report the liability on Form 990 and the Schedule K. For this purpose, if the subsidiary organizations report the liability, each subsidiary should only report the amount it is loaned or allocated.

If the organization's bond liability relates to a pooled financing issue, the

organization should report with respect to the amount of the issue that the organization is loaned or allocated.

Use Part V to provide additional information or comments relating to the information provided on this schedule. For example, use Part V to provide additional information or comments relating to the reporting of liabilities by related organizations. In addition, an organization can use Part V to describe certain assumptions which are used to complete Schedule K (Form 990) when the information provided is not fully supported by existing records.

#### Who Must File

An organization that answered "Yes" to question 24a of Form 990, Part IV, *Checklist of Required Schedules*, must complete and attach Schedule K to Form 990. This means the organization reported an outstanding tax-exempt **bond issue** that:

- Had an outstanding principal amount in excess of \$100,000 as of the last day of the tax year, and
- Was issued after December 31, 2002.

Up to four separate outstanding tax-exempt liabilities can be reported on each Schedule K (Form 990). The schedule can be duplicated, if needed to report more than four tax-exempt liabilities. If the organization is not required to file Form 990 but chooses to do so, it must file a complete return and provide all of the information requested, including the required schedules.

#### Period Covered

The organization can complete this schedule for any tax-exempt liability using the same period as the Form 990 with which it is filed. Alternatively, the organization can use any other 12-month period or periods selected by the organization and which, used consistently for a tax-exempt liability for purposes of this schedule and computations, is in accordance with the requirements under sections 141 through 150. Under this alternative, the organization can use different 12-month periods for each tax-exempt liability reported. The alternative period(s) must be specifically described in Part V.

### Specific Instructions

#### Definitions

**Tax-exempt bond.** This is an obligation issued by or on behalf of a **governmental issuer** for which the interest paid is excluded from the holder's gross income under section 103. For this purpose, a bond can be in any form of indebtedness under federal tax law, including a bond, note, loan, or lease-purchase agreement.

**Bond issue.** This is an issue of two or more bonds which are sold at substantially the same time; sold pursuant to the same plan of financing; and payable from the same source of funds. See Regulations section 1.150-1(c).

**Governmental issuer.** A state or local **governmental unit** that issues **tax-exempt bonds**.

**Gross Proceeds.** This generally means any sale proceeds, investment proceeds, transferred proceeds, and replacement proceeds of an issue. See Regulations sections 1.148-1(b) and 1.148-1(c).

**Pooled financing issue.** This is a bond issue from which loans, leases, etc. will be made to two or more conduit borrowers.

**Proceeds.** This generally means the sale proceeds of an issue (other than those sale proceeds used to retire bonds of the issue that are not deposited in a reasonably required reserve or replacement fund). Proceeds also include any investment proceeds from investments that accrue during the project period (net of rebate amounts attributable to the project period). See Regulations section 1.141-1(b).

**Defeasance escrow.** This is an irrevocable escrow established to redeem the bonds on their earliest call date in an amount that, together with investment earnings, is sufficient to pay all the principal of, and interest and call premiums on, bonds from the date the escrow is established to the earliest call date. See Regulations section 1.141-12(d)(5). A **defeasance escrow** can be established for several purposes, including the remediation of nonqualified bonds. However, for purposes of completing this schedule, an escrow established with proceeds of a **refunding issue** to defease a prior issue is referred to as a refunding escrow.

**Refunding escrow.** This is one or more funds established as part of a single transaction or a series of related transactions, containing proceeds of a **refunding issue** and any other amounts to provide for payment of principal or interest on one or more prior issues. See Regulations section 1.148-1(b).

**Refunding issue.** This is an issue of obligations the proceeds of which are used to pay principal, interest, or redemption price on another issue (a prior issue), including the issuance costs, accrued interest, capitalized interest on the **refunding issue**, a reserve or replacement fund, or similar costs, if any, properly allocable to that refunding issue. A *current refunding issue* is a refunding issue that is issued not more than 90 days before the last expenditure of any proceeds of the refunding issue for the payment of principal or interest on the prior issue. An *advance refunding issue* is a refunding issue that is not a current refunding issue. See Regulations sections 1.150-1(d)(1), (3), and (4).

**Private business use.** **Private business use** means use of the proceeds of an issue by the organization or another section 501(c)(3) organization in an unrelated trade or business as defined by section 513. Private business use also generally includes any use by a nongovernmental person other than a section 501(c)(3) organization unless otherwise permitted through an exception or safe harbor provided under the regulations or a revenue procedure.

**Special rules for refunding of pre-2003 issues.** Bonds issued after December 31, 2002, to refund bonds issued before January 1, 2003, have special reporting requirements. Such **refunding bonds** are subject to the generally applicable reporting requirements of Parts I, II, and IV. However, the organization need not complete Part III to report private business use information for the issue for such refunding bonds. These special rules do not apply to bonds issued after December 31, 2002, to refund directly or through a series of refundings bonds that were also originally issued after 2002.

**Example 1. Refunding of pre-2003 bonds.** Bonds issued in 1998 to construct a facility were current refunded in 2005. In 2008, bonds were issued to current refund the 2005 bonds. As of December 31, 2010, the last day of the organization's **tax year**, the 2008 refunding bonds had an outstanding principal amount exceeding \$100,000. The organization must list the refunding bond issue in Part I for each year the outstanding principal amount exceeds \$100,000 as of the last day of such year, and must provide all Part I, Part II, and Part IV information for such **refunding issue**. Because the original bonds were issued prior to 2003, the organization need not complete Part III for the refunding bond issue.

**Example 2. Refunding of post-2002 bonds.** Bonds issued in 2003 were advance refunded in 2006. As of December 31, 2010, the last day of the organization's **tax year**, the **refunding issue** had an outstanding principal amount exceeding \$100,000. The organization must list the refunding issue in Part I for each year the outstanding principal amount exceeds \$100,000 as of the last day of the year, and must provide all Part I, Part II, Part III, and Part IV information for such refunding issue. If any outstanding bonds of the 2003 bond issue were not legally defeased, the organization also must list the 2003 bond issue in Part I, and must provide all Part I, Part II, Part III, and Part IV information for such bond issue.

## Part I. Bond Issues

In Part I, provide the requested information for each outstanding tax-exempt **bond issue** (including a **refunding issue**) that:

- Had an outstanding principal amount in excess of \$100,000 as of the last day of the **tax year** (or other selected 12-month period), and
- Was issued after December 31, 2002.

For this purpose, bond issues that have been legally defeased in whole, and as a result are no longer treated as a liability of the organization, need not be listed in Part I and are not subject to the generally applicable reporting requirements of Parts I, II, III and IV. Organizations are reminded, however, that continued compliance with Federal tax law requirements is required with respect to defeased bonds.

Use one row for each issue, and use the Part I row designation for a particular issue (for example, "A" or "B") consistently throughout Parts I through IV. The information provided in columns (a) through (d) should be consistent with the corresponding information included on Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues, filed by the governmental issuer upon the issuance of the bond issue. Complete multiple schedules if necessary to account for all outstanding post-December 31, 2002 tax-exempt bond issues. In this case, describe in Part V of the first Schedule K that additional schedules are included.

**Columns (a) and (b).** Enter the name and employer identification number (**EIN**) of the issuer of the bond issue. The issuer's name is the name of the entity which issued the **bond issue** (typically a state or local **governmental unit**). The issuer's name and EIN should be identical to the name and EIN listed on Form 8038, Part I, lines 1 and 2 filed for the bond issue.

**Column (c).** Enter the Committee on Uniform Securities Identification Procedures (CUSIP) number on the bond with the latest maturity. The CUSIP number should be identical to the CUSIP number listed on Form 8038, Part I, line

8, filed for the bond issue. If the **bond issue** was not publicly offered and there is no assigned CUSIP number, write "None."

**Column (d).** Enter the issue date of the obligation. The issue date should be identical to the issue date listed on Form 8038, Part I, line 6, filed for the **bond issue**. The issue date generally is the date on which the issuer receives the purchase price in exchange for delivery of the evidence of indebtedness (for example, a bond). In no event is the issue date earlier than the first day on which interest begins to accrue on the bond for federal income tax purposes. See Regulations section 1.150-1(b).

**Column (e).** Enter the issue price of the obligation. The issue price generally should be identical to the issue price listed on Form 8038, Part III, line 21(b) filed for the **bond issue**. The issue price generally is determined under Regulations section 1.148-1(b). If the issue price is not identical to the issue price listed on the filed Form 8038, use Part V to explain the difference.

**Column (f).** Describe the purpose of the **bond issue**, such as to construct a hospital or provide funds to refund a prior issue. If any of the bond proceeds were used to refund a prior issue, enter the date of issue for each of the refunded issues. If the issue has multiple purposes, enter each purpose. If the issue financed various projects or activities corresponding to a related purpose, only enter the purpose once. For example, if proceeds are used to acquire various items of office equipment, the amount of such expenditures should be aggregated and identified with the stated purpose of "office equipment." Alternatively, if proceeds are used to construct and equip a single facility, the expenditures should be aggregated and identified with the stated purpose of "construct & equip facility" where the identification of the facility is distinguishable from other bond-financed facilities, if any. Use Part V if additional space is needed for this purpose.

**Column (g).** Check "Yes" or "No" to indicate whether a **defeasance escrow** or **refunding escrow** has been established to irrevocably defease any bonds of the **bond issue**.

**Column (h).** Check "Yes" if the organization acted as an "**on behalf of**" issuer in issuing the **bond issue**. Check "No" if the organization only acted as the borrower of the bond proceeds under the terms of a conduit loan with the **governmental issuer** of the bond issue.

An "on behalf of" issuer is a corporation organized under the general nonprofit corporation law of a state whose obligations are considered obligations of a state or local **governmental unit**. See Rev. Proc. 82-26, 1982-1 C.B. 476, for a description of the circumstances under which the IRS will ordinarily issue a letter ruling that the obligations of a nonprofit

corporation were issued on behalf of a state or local governmental unit. See also: Rev. Rul. 63-20, 1963-1 C.B. 24; Rev. Rul. 59-41, 1959-1 C.B. 13; and Rev. Rul. 54-296, 1954-2 C.B. 59. An "on behalf of" issuer also includes a constituted authority organized by a state or local governmental unit and empowered to issue debt obligations in order to further public purposes. See Rev. Rul. 57-187, 1957-1 C.B. 65.

**Column (j).** Check "Yes" or "No" to indicate if the **bond issue** was a pooled financing issue.

## Part II. Proceeds

Complete for each bond issue listed in rows A through D of Part I. Complete multiple schedules if necessary to account for all outstanding tax-exempt **bond issues**. Note that lines 3 and 5 through 12 concern the amount of proceeds of the bond issue, but line 4 concerns the amount of **gross proceeds** of the bond issue. Because of this, the aggregate of the amounts entered on lines 4 through 12 may not equal the amount entered on line 3.

**Line 1.** Enter the cumulative principal amount of bonds of the issue that have been retired as of the end of the 12-month period used in completing this schedule.

**Line 2.** Enter the cumulative principal amount of bonds of the issue that have not been retired, but have been legally defeased through the establishment of a **defeasance escrow**, as of the end of the 12-month period.

**Line 3.** Enter the total amount of proceeds of the **bond issue** as of the end of the 12-month period. If the total proceeds are not identical to the issue price listed in Part I, Column (e), use Part V to explain the difference (e.g., investment earnings).

**Line 4.** Enter the amount of **gross proceeds** held in a reasonably required reserve or replacement fund, sinking fund, or pledged fund as of the end of the 12-month period. See Regulations sections 1.148-1(c)(2), 1.148-1(c)(3), and 1.148-2(f).

**Line 5.** Enter the cumulative amount of proceeds used, as of the end of the 12-month period, to pay interest on the applicable portion of the **bond issue** during construction of a financed capital project.

**Line 6.** Enter the amount of proceeds held in a **refunding escrow** as of the end of the 12-month period. For this purpose only, include investment proceeds without regard to the project period limitation found in the definition of proceeds. Unless the amount of proceeds of the bond issue used to current or advance refund a prior issue exceeds the amount reported on Form 8038, Part IV, lines 27 and 28 filed for the bond issue, the aggregate amount listed on those lines can be entered here.

**Line 7.** Enter the cumulative amount of proceeds used to pay bond issuance

costs, including (but not limited to) underwriters' spread as well as fees for trustees and bond counsel as of the end of the 12-month period. Issuance costs are costs incurred in connection with, and allocable to, the issuance of a **bond issue**. See Regulations section 1.150-1(b) for an example list of issuance costs.

**Line 8.** Enter the cumulative amount of proceeds 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) as of the end of the 12-month period.

**Line 9.** Enter the cumulative amount of proceeds used to finance working capital expenditures as of the end of the 12-month period. However, do not report expenditures reported in lines 4, 6, 7, or 8. A working capital expenditure is any cost that is not a capital expenditure (for example, current operating expenses). See Regulations section 1.150-1(b).

**Line 10.** Enter the cumulative amount of proceeds used to finance capital expenditures as of the end of the 12-month period. Capital expenditures include costs incurred to acquire, construct, or improve land, buildings, and equipment. See Regulations section 1.150-1(b). However, do not report capitalized interest that was reported on line 5.

**Line 11.** Enter the cumulative amount of proceeds used for any item not reported on lines 4 through 10 as of the end of the 12-month period. Include any proceeds used or irrevocably held to redeem or legally defease bonds of the issue.

**Line 12.** Enter the amount of unspent proceeds as of the end of the 12-month period other than those amounts identified in Part II, lines 4, 6 and 11.

**Line 13.** Enter the year in which construction, acquisition, or rehabilitation of the financed project was substantially completed. A project can be treated as substantially completed when, based upon all the facts and circumstances, the project has reached a degree of completion which would permit its operation at substantially its design level and it is, in fact, in operation at such level. See Regulations section 1.150-2(c). If the **bond issue** financed multiple projects, enter the latest year in which construction, acquisition, or rehabilitation of each of the financed projects was substantially completed. For example, if a bond issue financed the construction of three projects which were substantially completed in 2004, 2005, and 2006, respectively, then enter "2006." If the bond issue financed working capital expenditures, provide the latest year in which the proceeds of the issue were allocated to those expenditures.

**Line 14.** Check "Yes" or "No" to indicate if the bond issue is a current **refunding issue**.

**Line 15.** Check "Yes" or "No" to indicate if the bond issue is an advance **refunding issue**.

**Line 16.** Check "Yes" or "No" to indicate if the final allocation of proceeds has been made. Proceeds of a **bond issue** must be accounted for using any reasonable, consistently applied accounting method. Allocations must be made by certain applicable due dates and are generally not considered final until the expiration of such due dates. See Regulations section 1.148-6.

**Line 17.** Check "Yes" or "No" to indicate if the organization maintains adequate books and records to support the final allocation of proceeds. Answer this question only with respect to the **tax year** applicable to this schedule.

## Part III. Private Business Use

Complete for **bond issues** listed in rows A through D of Part I, other than listed bond issues that are post-December 31, 2002 **refunding issues** which refund pre-January 1, 2003 bond issues directly or through a series of refundings. For this purpose, a refunding bond issue also includes allocation and treatment of bonds of a multipurpose issue as a separate refunding issue under Regulations section 1.141-13(d). Complete multiple schedules if necessary to account for all outstanding **tax-exempt bond issues**.

**Line 1.** Check "Yes" or "No" to indicate if the organization was at any time during the year a partner in a partnership or a member of a limited liability company which both owned property that was financed by the **bond issue** and included as partner(s) or member(s) entities other than a section 501(c)(3) organization.

**Line 2.** Check "Yes" or "No" to indicate if any lease arrangements that may result in **private business use** were effective at any time during the year with respect to property financed by the **bond issue**. The lease of financed property to a nongovernmental person other than a section 501(c)(3) organization is generally private business use. See Regulations section 1.141-3(b)(3).

**Line 3a.** Check "Yes" or "No" to indicate if any management or service contract that may result in **private business use** was effective at any time during the year with respect to property financed by the **bond issue**. For this purpose, answer "Yes" even if the organization has determined that the management or service contract meets the safe harbor under Rev. Proc. 97-13, 1997-1 C.B. 632, and will not result in actual private business use. A management or service contract for the financed property can result in private business use of the property, based on all facts and circumstances. A management or service contract for the financed property generally results in private business use of that property if the contract provides for

compensation for services rendered with compensation based, in whole or in part, on a share of net profits from the operation of the facility. See Regulations section 1.141-3(b)(4).

**Line 3b.** Check “Yes” or “No” to indicate if any research agreement that may result in private business use was effective at any time during the year for property financed by the **bond issue**. For this purpose, answer “Yes” even if the organization has determined that the research agreement meets the safe harbor under Rev. Proc. 2007-47, 2007-2 C.B. 108, and will not result in actual **private business use**. An agreement by a nongovernmental person to sponsor research performed by the organization can result in private business use of the property used for the research, based on all the facts and circumstances. A research agreement for the financed property will generally result in private business use of that property if the sponsor is treated as the lessee or owner of financed property for federal income tax purposes. See Regulations section 1.141-3(b)(6).

**Line 3c.** Check “Yes” or “No” to indicate if for the **tax year** applicable to this schedule the organization routinely engaged bond counsel or other outside counsel to review any management or service contracts or research agreements relating to the financed property. If “No” was checked for line 3a because there are no such service contracts or research agreements, leave line 3c blank.

**Line 4.** Enter the average percentage during the year of the property financed by the **bond issue** that was used in a **private business use** by a nongovernmental person other than a section 501(c)(3) organization. See Regulations section 1.141-3(g)(4). Do not include costs of issuance reported in Part II. Enter the yearly average percentage to the nearest tenth of a percentage point (for example, 8.9%). For this purpose, do not include any use relating to either a management or service contract identified on line 3a that the organization has determined meets the safe harbor under Rev. Proc. 97-13, 1997-1 C.B. 632, or otherwise does not result in private business use. Similarly, do not include any use relating to a research agreement identified on line 3b that the organization has determined meets the safe harbor under Rev. Proc. 2007-47, 2007-2 C.B. 108, or otherwise does not result in private business use.

**Line 5.** Enter the average percentage during the year of the property financed by the **bond issue** that was used in an

**unrelated trade or business activity (a private business use)** by the organization, another section 501(c)(3) organization, or a state or local **governmental unit**. See Regulations section 1.141-3(g)(4). Enter the yearly average percentage rounded to the nearest tenth of a percentage point (for example, 8.9%).

**Line 7.** Check “Yes” or “No” to indicate whether the organization has adopted management practices and procedures to ensure post-issuance compliance of its **tax-exempt bond** liabilities. Answer this question only with respect to the tax year applicable to this schedule.

## Part IV. Arbitrage.

Complete for each **bond issue** listed in rows A through D of Part I. Complete multiple schedules if necessary to account for all outstanding tax-exempt bond issues.

**Line 1.** Check “Yes” or “No” to indicate if Form 8038-T, Arbitrage Rebate, Yield Restriction and Penalty in Lieu of Arbitrage Rebate, has been filed for the bond issue.

**Line 2.** Check “Yes” or “No” to indicate if the **bond issue** is a variable rate issue. A variable rate issue is an issue containing a bond with a yield not fixed and determinable on the issue date.

**Lines 3a through 3e.** In general, payments made or received by a **governmental issuer** or borrower of bond proceeds under a qualified hedge are taken into account to determine the yield on the **bond issue**. A qualified hedge can be entered into before, at the same time as, or after the date of issue. Check “Yes” or “No” on line 3a to indicate if the organization or the governmental issuer has entered into a qualified hedge and identified it on the government issuer’s books and records. See Regulations section 1.148-4(h). If the answer to line 3a is “Yes”:

- Enter the name of the provider of the hedge on line 3b;
- Enter the term of the hedge rounded to the nearest tenth of a year (for example, 2.4 years) on line 3c;
- Enter “Yes” or “No” on line 3d to indicate if, as a result of the hedge, variable yield bonds will be treated as fixed yield bonds (superintegration of the hedge). See Regulations section 1.148-4(h)(4); and
- Enter “Yes” or “No” on line 3e to indicate if the hedge was terminated prior to its scheduled termination date.

**Lines 4a through 4d.** Check “Yes” or “No” on line 4a to indicate if any gross

proceeds of the **bond issue** were invested in a guaranteed investment contract (GIC). A GIC includes any nonpurpose investment that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate, including “negotiations” through requests for bids. It also includes any agreement to supply investments on two or more dates (for example, a forward supply contract). If the answer on line 4a is “Yes”:

- Enter the name of the provider of the GIC on line 4b,
- Enter the term of the GIC rounded to the nearest tenth of a year on line 4c, and
- Enter “Yes” or “No” on line 4d to indicate if the regulatory safe harbor for establishing fair market value provided in Regulations section 1.148-5(d)(6)(iii) was satisfied.

**Line 5.** Check “Yes” or “No” to indicate if any **gross proceeds** were invested beyond a temporary period (for example, the 3-year temporary period applicable to proceeds spent on expenditures for capital projects, or the 13-month temporary period applicable to proceeds spent on working capital expenditures), or if any gross proceeds were invested in a reserve or replacement fund in an amount exceeding applicable limits. See Regulations sections 1.148-2(e) and (f).

**Line 6.** Check “Yes” or “No” to indicate if the **bond issue** qualified for an exception to rebate set forth in Regulations sections 1.148-7 or 1.148-8 (for example, the 2-year spending exception described under section 1.148-7(e)). For this purpose, check “Yes” when the organization reasonably expects to meet an available exception but has not yet satisfied all applicable requirements.

## Part V. Supplemental Information

Use Part V to provide the narrative explanations required, if applicable, to supplement Part I, columns (e) and (f); to provide additional information or comments relating to the reporting of liabilities by related organizations; and to describe certain assumptions which are used to complete Schedule K (Form 990) when the information provided is not fully supported by existing records. Also use Part V to supplement responses to questions on Schedule K (Form 990). Identify the specific part and line number that the response supports, in the order in which the responses appear on Schedule K (Form 990). Part V can be duplicated if more space is needed.