



TEB Newsletter

January 2014

The IRS Tax-Exempt Bond Office (TEB) publishes semi-annual newsletters for state officials as part of its State Government Communication and Outreach Project. TEB created the outreach project and these newsletters to help state officials understand and comply with federal tax rules that apply to their tax-advantaged obligations.

Our January newsletter starts with a message from our new Director of Tax Exempt Bonds, Rebecca Harrigal. This newsletter also provides overviews of our recent phone forums and previews of upcoming phone forums; highlights our new Publication 5091, *Voluntary Compliance for Tax-Exempt and Tax-Credit Bonds* and the Advisory Committee on Tax Exempt and Government Entities' Annual Report; and an update on the effects of sequestration on tax-advantaged bonds.

We intend these newsletters to present relevant tax administration topics geared toward the needs of our state colleagues as part of our continuing outreach efforts. We hope you find the TEB Newsletter helpful and we encourage you to contact the TEB representative for your jurisdiction with any questions, feedback or concerns.

Rebecca Harrigal, Director

Bob Griffo, Acting Manager, Compliance & Program Management

Allyson Belsome, Manager, Field Operations

The explanations in this publication provide a general discussion of TEB program updates and may include information about tax laws, regulations and court decisions. This information is, as part of our education and outreach efforts, for general guidance and not for formal guidance or a specific legal determination with respect to a particular set of circumstances. You may contact the IRS for additional information. You may also want to consult a tax advisor to address your situation.



A Message from the New Director of Tax Exempt Bonds

What a pleasure it is to be part of the Office of Tax Exempt Bonds and this collaborative Federal and State government effort. Not only do I get to work with highly committed public servants, I get to work in an area of tax law that helps finance important assets, such as roads, schools, libraries, and hospitals.

I came to the IRS from the IRS Office of Chief Counsel, where I worked on tax-exempt bond matters for twenty years. I started as a docket attorney assisting the IRS with examinations and closing agreements. I also advised the IRS when the first formal tax exempt bond examination program was created. I then served as the Branch Chief of the Tax Exempt Bond Branch for fourteen years. My work included drafting and reviewing private letter rulings, technical advice memoranda, and guidance projects. Most recently I was the Deputy Associate Chief Counsel of Financial Institutions & Products. In that role, I was the division reviewer for tax-exempt bond matters, as well as tax matters affecting other financial products and financial institutions.

As my background suggests, I'm committed to this area of the law and to helping you meet your requirements under the Code. I look forward to working with you.

Report of the Advisory Committee on Tax Exempt and Government Entities (ACT)

In September, the Advisory Committee on Tax Exempt and Government Entities (ACT) released its [2013 Report of Recommendations](#). The ACT, governed by the Federal Advisory Committee Act, Public Law 92-463, is an organized public forum for discussion of relevant employee plans, exempt organizations, tax-exempt bonds, and federal, state, local and Indian tribal government issues. The ACT enables the IRS to receive regular input as it develops and implements policy concerning these communities. ACT members present interested public's observations about current or proposed IRS policies, programs and procedures as well as suggest improvements through a yearly final report.

The 21 members of the ACT presented their report to the IRS in a public meeting in Washington, DC on September 12, 2013. This report recommends that the IRS Office of Tax Exempt Bonds prepare and publish publications geared toward the smaller or infrequent issuers of tax-exempt bonds concerning the arbitrage and yield restriction requirements. The ACT committee's proposed draft of publications entitled "A Roadmap To Arbitrage Requirements For Tax-Exempt Governmental Bonds" and "Qualified Section 501(c)(3) Bonds of Smaller Issuers and Conduit Borrowers" can be found in the [twelfth annual report of the ACT](#).



TEB Phone Forums and Outreach

Telephone forums are an integral part of the Office of Tax Exempt Bonds' education and outreach program. TEB holds these programs to help our stakeholders understand and comply with laws applicable to tax-advantaged bond issuances. We announce these telephone forums on our [website](#) prior to their presentation, as well as, by sending out e-mail notifications to those who subscribe to the Tax Exempt Bond Community Update. We welcome you to enroll in these free telephone forums. If you would like to receive e-mail notifications about future telephone forums and other Tax Exempt Bond announcements, you can subscribe [here](#). We also encourage you to visit our [website](#) for additional educational resources available to issuers of tax-advantaged bonds.

This past year, TEB presented four phone forums, described below. You can access information on, and PowerPoint presentations for, these forums from the [main TEB webpage](#), click on [TEB Archives](#), and then on [Tax Exempt Bonds Webinars and Telephone Forums](#). Links for the PowerPoint presentation sessions are in each of the descriptions below.

Tribal Bonds Financing - the Basics

TEB and the Office of Indian and Tribal Governments (ITG), jointly offered this phone forum to provide tribes with information on the three types of bonds that may be issued by Indian tribal governments, Tribal Bonds under section 7871(a)(e), Tribal Economic Development Bonds (TED) and New Clean Renewal Energy Bonds. All three types carry a federal subsidy, which lowers the borrowing costs of tribes. A pdf version of the PowerPoint slide presentation covering this phone forum is [available here](#). Both [ITG's](#) and [TEB's](#) websites contain articles and other resources that may be helpful to Tribal governments.

Voluntary Compliance and VCAP

This forum provided a general overview of voluntary compliance for tax-advantaged bonds. It included an overview of our Voluntary Closing Agreement Program, or VCAP. The second part of the presentation discussed specifics about VCAP and the process of resolving a violation through the program. During the final part of the presentation, a discussion was held concerning the resolution standards for identified violations under Internal Revenue Manual section 7.2.3. A pdf version of a PowerPoint slide presentation covering this phone forum is [available here](#).



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(TEB Phone Forums and Outreach, continued)

Primer on Monitoring Post-Issuance Compliance

This forum focused on the importance of issuers and conduit borrowers implementing post-issuance compliance procedures and regularly monitoring those procedures to ensure their tax-advantaged bonds meet the tax requirements over the entire life of those bonds. A pdf version of a PowerPoint slide presentation covering this phone forum is [available here](#).

What's Special About Schedule K (Form 990)?

This phone forum provided information and resources for completing the Schedule K and touched on the importance of compliance monitoring procedures. The presentation provided an overview of the Form 990 and then focused on the Schedule K. The forum concluded with a discussion of the relationship between post-issuance compliance monitoring and completion of the Schedule K. A pdf version of a PowerPoint slide presentation covering this phone forum is [available here](#). By clicking the links for [TEB Forms & Pubs](#), [TEB Published Guidance](#) and [TEB Voluntary Compliance](#); you can access the forms, instructions, publications and revenue procedures mentioned in this phone forum. Additional information on Form 990 and the other schedules is available on the web pages for the [Exempt Organization Division of the IRS](#).

Upcoming Phone Forums

TEB will continue to host phone forums in the future, which may include topics such as arbitrage compliance, private business use test, rebate concepts, or other technical topics. As we finalize our topics and dates, we will post them on our [website](#). We encourage you to give us feedback on our forums, including what topics would be useful to you.



Publication 5091

In June of 2013, TEB released [Publication 5091, Voluntary Compliance for Tax-Exempt and Tax-Credit Bonds](#). This is a two-part publication. PART ONE highlights information issuers should consider to ensure their tax-advantaged bonds comply with related federal tax law requirements. PART TWO summarizes Tax Exempt Bonds Voluntary Closing Agreement Program (TEB VCAP) provisions.

This publication continues TEB's emphases on the importance of post-issuance compliance. Tax law requirements apply throughout the life of tax-advantaged bonds. The ongoing nature of these requirements means issuers must actively monitor compliance throughout the entire life of their bonds. TEB believes issuers that establish and follow written monitoring procedures are significantly less likely to face post-issuance tax problems than issuers without such procedures.

The second part of Publication 5091 discusses the Tax Exempt Bonds Voluntary Closing Agreement Program (TEB VCAP) as described in Notice 2008-31, 2008-11 I.R.B. 592. This program provides remedies for issuers who voluntarily come forward to resolve a violation that cannot be rectified under self-correction programs described in the Treasury regulations or other published guidance.

TEB hopes this publication will provide an additional tool for issuers in their quest to comply with all federal tax law requirements associated with their bond issuances.

Effect of Sequestration on Certain State & Local Government Filers of Form 8038-CP

The Balanced Budget and Emergency Deficit Control Act of 1985, as amended, mandates that certain refund payments under section 6431 of the Internal Revenue Code be reduced because of sequestration. Refund payments processed on or after October 1, 2013 and on or before September 30, 2014 will be reduced by the fiscal year 2014 sequestration rate of 7.2 percent, irrespective of when the issuer filed the Form 8038-CP requesting a refund. This sequestration reduction rate will be applied unless and until a law is enacted that cancels or otherwise impacts sequestration, at which time the sequestration reduction rate may be subject to change.

These reductions apply to Build America Bonds, Qualified School Construction Bonds, Qualified Zone Academy Bonds, New Clean Renewable Energy Bonds, and Qualified Energy Conservation Bonds for which the issuer elected to receive a direct payment subsidy pursuant to section 6431. Issuers requesting a refund should complete the Form 8038-CP in the manner provided by the Form 8038-CP Instructions, and the IRS will notify affected issuers that a portion of their requested payment was subject to the sequester reduction. Issuers will be able to use this correspondence to identify the portion(s) of amounts requested that were subject to the sequester reduction.