

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

July 1, 2011

**III - Scope, Methodology and Implementation of the
Questionnaire Projects**

Overview

The principal objective of the questionnaire projects was to evaluate and measure whether § 501(c)(3) organizations and government bond issuers generally have a sufficient level of knowledge of the post-issuance tax compliance requirements applicable to the tax-exempt obligations for which they are responsible. The projects' objective was intended to produce several compliance results.

First, the projects were expected to identify trends of comprehensive and/or inadequate post-issuance debt management procedures that could be shared with the various stakeholder associations representing governmental issuers, § 501(c)(3) organization borrowers, investment groups, and public finance practitioners who comprise the qualified 501(c)(3) and governmental bond market segments. The sharing of this information (through outreach efforts, the irs.gov web site, and other appropriate media) is expected to enable issuers and borrowers of bond proceeds to better understand their responsibilities and increase overall compliance with applicable tax requirements.

Second, the projects were expected to identify noncompliance trends and other information items for use in developing new compliance programs within TEB to increase overall compliance. For example, TEB could create new voluntary compliance programs to address identified matters allowing § 501(c)(3) organization borrowers and governmental bond issuers to correct such items of noncompliance when correction is not available through existing remedial action provisions.¹ Similarly, TEB could create new examination training programs and audit tools to assist revenue agents in identifying and resolving potential record retention deficiencies.

To achieve this objective, TEB defined the scope of the projects to focus upon the exempt organizations and governmental bond issuers themselves rather than specific tax-exempt bond issues. This approach allowed TEB to target its information requests to general practices and procedures affecting all tax-exempt obligations of the § 501(c)(3) organizations and governmental bond issuers. It was determined during the project planning process that such an approach would yield

¹ Treas. Reg. §§ 1.141-12 and 1.145-2.

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more valuable information relating to the market segment as a whole, rather than targeting specific actions taken by § 501(c)(3) organizations or governmental bond issuers with respect to individual bond issues.

Development of the Charitable Financing Compliance Check Project

TEB and the Exempt Organizations Compliance Area ("EOCA") jointly implemented the charitable financing questionnaire project. EOCA was requested to participate in the project for two principal reasons. First, given the project's focus on § 501(c)(3) organizations in lieu of individual bond issues, EOCA expertise in serving this taxpayer segment was critical. For example, EOCA could help TEB draft correspondence in a manner more easily understood by exempt organizations. Second, TEB was able to benefit from EOCA's experience in implementing similar compliance check questionnaire projects to ensure the successful implementation of this project.

In preparation for the charitable financing questionnaire implementation, TEB provided EOCA with all the planning process documentation including the draft letter and questionnaire. EOCA coordinated the finalization and publication of these documents in preparation for distribution. EO's Customer Education & Outreach staff assisted EOCA in this effort. EOCA also developed a training program for its staff with technical assistance provided by TEB specialists.

TEB developed, with the assistance of a Government Entities research analyst, search queries to identify a diverse sample of exempt organizations reporting outstanding end-of-year tax-exempt liabilities on its IRS Form 990 filed with the IRS for calendar year 2005.² EOCA research analysts identified from these queries 207 § 501(c)(3) organizations. The identification criteria was based on selecting a representational cross-section of different charitable purposes within the market segment and on a diverse range in the amounts of outstanding bonds in order to capture large, middle, and smaller exempt organization conduit borrowers.

EOCA staff initiated the project by sending the letters and questionnaires to each exempt organization identified in the project sample. EOCA staff followed its standard procedures in conducting the project including making subsequent contacts to non-responsive organizations and researching returned correspondence. EOCA staff also received and addressed questions submitted by respondents. TEB provided technical assistance to EOCA in responding to these questions.

Upon receipt of the questionnaires from respondents, EOCA compiled the data extracted from the completed questionnaires and forwarded this data and the original case files to TEB for review. TEB analyzed the extracted data and narrative descriptions for response trends.

² The judgmental sample consisted of both calendar and fiscal year 2005 returns. These returns, at the time of the project's initiation, were the most recent taxpayer data available.

Development of the Governmental Bond Compliance Check Project

TEB implemented the governmental bond questionnaire project. TEB developed the governmental bond questionnaire using the questionnaire for the charitable financings project as a model. Building on lessons learned in the charitable financings project, TEB added a third possible response, "Not Applicable," to several questions, particularly in the recordkeeping area. Date fields were included to determine when issuers adopted their written compliance procedures.

TEB used a Government Entities research analyst to identify a diverse sample that represented a balance of governmental bond issues by taking the Form 8038-G filer population for issue dates in calendar year 2005, and aggregating EINs to get an aggregate issue price for bond issues of each issuer. Analysts divided these issuers into two populations, those aggregating above \$10 million and those aggregating below \$10 million to reflect relatively larger and smaller issuers. TEB then selected 100 from each population, using a statistically valid sampling method.

TEB staff initiated the project by sending the letters and questionnaires to each governmental bond issuer identified in the project sample. TEB staff followed EOCA standard procedures in conducting the project; including making subsequent contacts to non-respondents and researching returned correspondence. TEB staff also received, addressed, and responded to questions submitted by respondents.

Design of Charitable Financings Compliance Check Questionnaire

IRS Form 13907, *Tax-Exempt Bond Financings Compliance Check Questionnaire* (Appendix A), consists of identifying questions (name and EIN), and twenty-seven specialized questions. The specialized questions are organized into five parts.

Part I, Post-Issuance Compliance – General (6 questions), requests information on:

1. Maintenance of written procedures or guidelines and descriptions of the procedures or guidelines in the following areas:
 - a. Proper and timely use of bond proceeds and bond-financed property;
 - b. Arbitrage yield restriction and rebate; and
 - c. Timely return filings and other general requirements.
2. Person(s) primarily responsible for monitoring post-issuance compliance.
3. Maintenance and descriptions of written procedures or guidelines for individuals when more than one person is responsible for maintaining post-issuance compliance records.
4. Training of responsible persons in post-issuance compliance requirements.
5. Tax-exempt status.
6. Remedial actions and VCAP options.

Part II, General Recordkeeping (3 questions) gathers information on the tax-exempt bond recordkeeping practices (policies) of the organizations. Information was requested on retention length, types of media used, and types of records maintained.

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Part III, Investments and Arbitrage Compliance (5 questions), gathers information on the knowledge of arbitrage yield restriction and rebate requirements, including retention standards, arbitrage computations, and written procedures or guidelines for monitoring arbitrage compliance.

Part IV, Expenditures and Assets (8 questions), gathers information on the maintenance of records of the allocations of the bond proceeds to expenditures and issuance costs, contracts, reimbursements, asset schedules, depreciation schedules, and purchase and sale of bond-financed assets.

Part V, Private Business Use (5 questions), gathers information on the maintenance of records of the organization's unrelated trade or business activities allocated to the bond-financed facilities, as well as trade or business activities by third parties that are allocated to the bond-financed facilities.

Design of the Governmental Bonds Compliance Check Questionnaire

IRS Form 14002, *Governmental Bond Financings Compliance Check Questionnaire* (Appendix B), consists of identifying questions (name and EIN), and twenty-four specialized questions. The specialized questions are organized into five parts.

Part I, Post-Issuance Compliance – General (5 questions), requests information on:

1. Maintenance of written procedures or guidelines and descriptions of the procedures or guidelines in the following areas:
 - a. Proper and timely use of bond proceeds and bond-financed property;
 - b. Arbitrage yield restriction and rebate; and
 - c. Timely return filings and other general requirements.
2. Person(s) primarily responsible for monitoring post-issuance compliance.
3. Maintenance and descriptions of written procedures or guidelines for individuals when more than one person is responsible for maintaining post-issuance compliance records.
4. Training of responsible persons in post-issuance compliance requirements.
5. Remedial actions and VCAP options.

Part II, General Recordkeeping (3 questions) gathers information on the tax-exempt bond recordkeeping practices (policies) of the issuers. Information was requested on retention length, types of media used, and types of records maintained.

Part III, Investments and Arbitrage Compliance (5 questions), gathers information on the knowledge of arbitrage yield restriction and rebate requirements, including retention standards, arbitrage computations, and written procedures or guidelines for monitoring arbitrage compliance.

Part IV, Expenditures and Assets (8 questions), gathers information on the maintenance of records of the allocations of the bond proceeds to expenditures and issuance costs, contracts, reimbursements, asset schedules, depreciation schedules, and purchase and sale of bond-financed assets.

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Part V, Private Business Use (3 questions), gathers information on the maintenance of records of trade or business activities by third parties that are allocated to the bond-financed facilities and an opportunity for the issuer to make any additional comments about how they ensure they maintain tax-exempt status for their bonds.

The primary changes made to the structure of the charitable financings questionnaire when designing the governmental bonds questionnaire were: (1) utilization of "Not Applicable" as an option to answer, thereby removing possible ambiguity from a response of "No" to certain questions; (2) specification that the questions about having procedures are questions as to having written procedures; (3) asking for dates of implementation of procedures; and (4) removal of questions relating to the tax status of and tax returns required of organizations described in § 501(c)(3), including removal of questions related to unrelated business use of bond-financed property.
