



Tax-Exempt Bond Compliance Guidelines

Brandeis University issues qualified 501(c)(3) tax-exempt bonds as a financing method of various capital projects. This document serves as a guideline to maintain compliance with tax-exempt bond requirements.

I. Tax-exempt Bond Issuance

Initial tax-exempt bond issuance compliance falls under Treasury Services and must be approved by the Board of Trustees. The advice of an independent bond counsel will be sought to ensure compliance with tax-exempt bond requirements.

II. Post-Issuance Compliance

Record Retention:

The Office of General Accounting is responsible for maintaining tax-exempt bond records, including but not limited to:

1. Bond transcripts
2. Offering documents
3. Documentation of use and allocation of tax-exempt bond proceeds, including the identification of facilities that are financed with tax-exempt bond proceeds
4. Management contracts, lease arrangements, and research agreements conducted in facilities that are financed using tax-exempt bond proceeds
5. Minutes and resolutions
6. Private business use calculation
7. Arbitrage calculation and rebate documentation
8. Annual Use of Facility Questionnaires

All tax-exempt bond records should be retained for at least six years after the life of the bond issue, including the life of any issue that refunds the original issue.

General Administration and Compliance with Generally Accepted Accounting Principles

The Office of General Accounting works with Treasury Services to properly administer the bond proceeds, which include allocating proceeds to finance capital expenditures, maintaining records of facilities and projects that are financed by tax-exempt bond proceeds, and submitting payments to reduce tax-exempt bond liabilities. School departments in bond financed facilities will be responsible for identifying the uses of those facilities, including any management service

contracts, lease arrangements, and research agreements, by submitting an annual Use of Facility Questionnaire. The Office of General Accounting also maintains a monthly reconciliation of tax-exempt bond payments and amortization schedules in accordance with Generally Accepted Accounting Principles.

Compliance with Tax Rules

A. Arbitrage yield restriction and rebate requirement:

Arbitrage occurs when tax-exempt bond proceeds are invested and subsequently yield an investment return greater than the yield on the bonds. Generally, arbitrage is not permitted on tax-exempt bond proceeds. In an event that arbitrage exists, the excess earnings must be remitted to the US Treasury Department as a rebate. The Treasury Department conducts an annual arbitrage calculation to ensure compliance with arbitrage yield restriction and rebate requirement.

B. Private Business Use:

Private Business Use means the use of facilities financed by tax-exempt bond proceeds in a trade or business by:

1. A 501(c)(3) entity in a trade or business that is regularly carried on and is unrelated to the exempt purpose of the University
2. Any person other than a 501(c)(3) or state or local government entity

The Office of General Accounting will conduct a private business use calculation for each outstanding bond issue, based on information gathered from school departments. Private business use is limited to 5% of the tax-exempt bond proceeds.

Each school department located in bond financed facilities is responsible for minimizing the number of projects constituting a private business use in any facilities financed by tax-exempt bond proceeds. Common triggers of private business use include management service contracts, lease arrangements, and research agreements. In addition, the portion of the bond issuance cost that is paid with tax-exempt bond proceeds is automatically considered private business use.

III. Post-Issuance Compliance Review and Remedial Actions

School departments complete an annual Use of Facility Questionnaire to identify certain activities conducted within facilities that are financed by tax-exempt bond proceeds. The Office of General Accounting is responsible for reviewing the questionnaires for compliance with tax-exempt bond requirements. Should noncompliance exist with regards to the arbitrage or private business use rules of tax-exempt bonds, the Office of General Accounting should immediately consult with an independent bond counsel to determine the appropriate remedial action. Examples of such actions include reallocating tax-exempt bond proceeds to an allowable capital projects or engaging in immediate redemption or defeasance of the bond. In the case that self-remedial actions are not able to be taken, the University will consider approaching the Internal Revenue Service under the voluntary closing agreement program.