

POST-ISSUANCE COMPLIANCE SERVICES

FOR TAX-EXEMPT BONDS
FOR NONPROFIT CORPORATIONS

What is Post-Issuance Compliance?

Post-issuance compliance is a process that involves monitoring how tax-exempt bond proceeds were invested prior to being expended, and how the assets or facilities funded with such tax-exempt bond proceeds were used after they were placed in service. Active monitoring is vital to ensure that an organization is complying with the applicable tax laws under which tax-exempt proceeds were borrowed.

IRS Focus on Post-Issuance Compliance and Schedule K Reporting Requirements

The IRS continues to make post-issuance compliance a high priority and has sharpened its focus and efforts to gather detailed information regarding the use of property financed with tax-exempt bonds. Such efforts include annual reporting requirements for 501(c)(3) borrowers of tax-exempt bonds on *IRS Form 990 Schedule K - Supplemental Information on Tax-Exempt Bonds* which requires detailed information regarding outstanding tax-exempt bonds and accurate private business use calculations.

The completion of IRS Schedule K requires nonprofit organizations to review management and service contracts, research agreements, and other arrangements with outside users or organizations to determine if such contracts or agreements give rise to private use or unrelated trade or business use of bond financed property.

Your organization and your accountants may lack the time, effort and the knowledge of the Federal tax rules required to accurately and efficiently meet the IRS reporting requirements.

Best Practices Relating to Post-Issuance Compliance

- Establish policies and procedures
- Track and allocate bond proceeds and other sources of funds
- Utilize outside experts for annual review of management and service contracts and other use agreements
- Utilize outside experts for annual review of research agreements
- Calculate accurate percentage of private business use on facilities financed with tax-exempt bonds
- Retain records for all tax-exempt bond issues
- Seek professional post-issuance tax compliance assistance

Benefits of a Comprehensive Post-Issuance Compliance Program

- Limit risk of non-compliance with tax rules and financial cost of bonds being declared taxable
- Generate efficient and prompt response to any IRS audit inquiry
- Easy and cost-effective review process at time of bond refunding
- Identify remaining portion of bond proceeds allowed for private business use
- Provide historic analysis of post-issuance tax compliance for outstanding tax-exempt debt
- Memorialize institutional memory of bond transactions in cases of staff turnover

WHY HIRE BLX?

BLX CAN HELP

In order to assure that the requirements relating to IRS Schedule K are being met, and that private business use and unrelated trade or business use are being properly quantified, organizations should consider supplementing their internal compliance efforts by seeking guidance from outside tax experts. To assist nonprofit organizations in meeting their ongoing tax responsibilities, BLX Group LLC (“BLX”) offers a wide range of post-issuance tax compliance services including:

- Comprehensive review of expenditures and use of bond proceeds
- Preparation of final allocations
- Application of “floating equity” to minimize private business use, when applicable
- Review for “safe harbor” compliance of contracts, leases and arrangements with private parties relating to the use of bond financed facilities
- Calculation of private business use of bond financed facilities
- Assistance with and completion of IRS Schedule K
- Preparation of individualized checklists to support compliance with bond document requirements
- Assistance with IRS inquiry
- Preparation of tailored onsite training sessions relating to post-issuance compliance
- Review of and recommendations relating to internal post-issuance tax compliance policies and procedures

ABOUT BLX GROUP

BLX is a SEC registered investment advisory firm and a wholly-owned subsidiary of Orrick, Herrington & Sutcliffe LLP (“Orrick”). BLX offers a comprehensive range of financial and consulting services to the public finance community. Since 1989, our team of professionals has provided pre and post-issuance financial consulting services for over 26,000 bond issues for 3,600 issuers and nonprofit organizations. In addition to the private use and IRS Schedule K related services, BLX also provides arbitrage rebate and yield restriction services, IRS refund request and audit assistance, investment advisory and placement services, continuing disclosure services, and swap monitoring and advisory services.

With more than 40 public finance professionals in offices throughout the country, BLX can assemble a team of consultants with the appropriate skills and experience to formulate solutions to even the most demanding projects.

FOR MORE INFORMATION PLEASE CONTACT

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