2008

Department of the Treasury
Internal Revenue Service

Instructions for Schedule K (Form 990)

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.

Use Schedule O (Form 990), Supplemental Information to Form 990, to provide additional information or comments relating to the information provided on this schedule. For example, an organization may use Schedule O (Form 990) 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

Any 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 which, both 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 five separate outstanding tax-exempt liabilities can be reported on each Schedule K (Form 990). The schedule may be duplicated, if needed to report more than five 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 filing organization may complete this schedule for any tax-exempt liability using the same period as the Form 990 with which it is filed. The filing organization may also use any other 12-month period or periods selected by the organization and which, used consistently for an obligation for purposes of this schedule and computations, is in accordance with the requirements under sections 141–150. Under this alternative, the organization may use different 12-month periods for each liability or obligation reported, provided each 12-month period is sufficiently described in Schedule O (Form 990).

Specific Instructions

Definitions

Tax-exempt bond. This is an obligation issued by or on behalf of a governmental issuer on 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.

Qualified 501(c)(3) bond. This is a tax-exempt bond the proceeds of which are used by a section 501(c)(3) organization in furtherance of its charitable purpose. Requirements generally applicable to a qualified 501(c)(3) bond under section 145 include the following:

1. 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
2. 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 trade or businesses (determined by applying section 513). See section 145.

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.

On behalf of issuer. 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 Service will ordinarily issue an advance 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 specifically to issue tax-exempt bonds in order to further public purposes. See Rev. Rul. 57-187, 1957-1 C.B. 65.

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).

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 may 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 by your 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 such refunding bonds. These special rules do not apply to bonds issued after December 31, 2002, to refund bonds that were also issued after 2002.

Example 1. Refunding of pre-2003 bonds. Bonds issued in 1998 were current refunded in 2008. As of December 31, 2008, the last day of the organization's tax year, the refunding bonds had an outstanding principal amount exceeding $100,000. For the organization's Schedule K completed for its 2008 tax year, it must list the refunding issue in Part I and report all required information in that part. The organization need not complete Parts II and IV with respect to the refunding bonds for 2008 because such parts are optional for that reporting year. Beginning with the organization's 2009 tax year, 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 refunded bonds were issued prior to 2003, the organization need not complete Part III for the refunding bond issue or the refunded bonds in 2008 or in later tax years.

Example 2. Refunding of post-2002 bonds. Bonds issued in 2003 were current refunded in 2006. As of December 31, 2008, the last day of the organization's tax year, the refunding bonds had an outstanding principal amount exceeding $100,000. For the organization's Schedule K completed for its 2008 tax year, it must list the refunding issue in Part I and report all required information in that part. The organization need not complete Parts II and IV for the 2008 refunding bonds because those parts are optional for that reporting year. Beginning with the organization's 2009 tax year, the organization must list the refunding bonds 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 bonds.

Part I. Bond Issues (Required for 2008)

In Part I, provide the requested information for each outstanding tax-exempt bond issue (including refunding bonds) which, both 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. 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 (e) 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 tax-exempt bond issues.

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 should generally be identical to the issue price listed on Form 8038, Part III, line 21(b) filed for the bond issue. The issue price is generally 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 Schedule O (Form 990) 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, state each purpose. If the issue financed various projects or activities corresponding to a related purpose, only state 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 Schedule O (Form 990) if additional space is needed for this purpose.

Column g. Check "Yes" or "No" to indicate whether a defeasance or refunding escrow has been established to irrevocably defease 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.

Part II. Proceeds (Optional for 2008)

Complete for each bond issue listed in rows A through E of Part I. Complete multiple schedules if necessary to account for all outstanding tax-exempt bond issues. Note that lines 1 and 3 through 7 concern the amount of proceeds of the bond issue, but line 2 concerns the amount of gross proceeds of the bond issue. Because of this, the aggregate of the amounts entered on lines 2 through 7 may not equal the amount entered on line 1.

Line 1. Enter the total amount of proceeds of the bond issue as of the end of the 12-month period used in completing this schedule.

Line 2. Enter the amount of gross proceeds deposited into a reasonably required reserve or replacement fund, sinking fund, or pledged fund. See Regulations sections 1.148-1(c)(2), 1.148-1(c)(3), and 1.148-2(f).

Line 3. Enter the amount of proceeds deposited into either a refunding or defeasance escrow. For this purpose, proceeds deposited into a refunding escrow are irrevocably pledged to refund a prior bond issue (the refunded issue). 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 may be entered here. Also for this purpose, proceeds are typically used to fund the establishment of a defeasance escrow for the purpose of remediating nonqualified bonds.

Line 4. Enter the amount of unspent proceeds other than those amounts identified in Part II, lines 2 and 3.

Line 5. Enter the 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. 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 6. Enter the amount of proceeds used to finance working capital expenditures. 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 7. Enter the amount of proceeds used to finance capital expenditures. Capital expenditures include costs incurred to acquire, construct, or improve land, buildings, and equipment. See Regulations section 1.150-1(b).

Line 8. Enter the year in which construction, acquisition, or rehabilitation of the financed project was substantially completed. A project may 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 2003, 2004, and 2005, respectively, then enter "2005." 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 9. Check "Yes" or "No" to indicate if the bond issue is a current refunding issue.

Line 10. Check "Yes" or "No" to indicate if the bond issue is an advance refunding issue.

Line 11. 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 12. 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 (Optional for 2008)

Complete for bond issues listed in rows A through E that are not post-December 31, 2002, bond issues consisting of refunding bonds which refund a pre-January 1, 2003, issue. Complete multiple schedules if necessary to account for all outstanding tax-exempt bond issues. 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).

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 there are any lease arrangements for property financed by the bond issue which may result in private business use. 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 which 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 available 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 may 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 which 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 available under Rev. Proc. 2007-47, 2007-29 I.R.B. 108, and will not result in actual private business use. An agreement by a nongovernmental person to sponsor research performed by the organization may 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 the organization routinely engages bond counsel or other outside counsel to review any management or service contracts or research agreements relating to the financed property. If there are no such agreements, enter "None." Answer this question only for the tax year applicable to this schedule.

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. 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, 2007-29 I.R.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 your organization, another section 501(c)(3) organization, or a state or local government. Enter the yearly average percentage rounded 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 a research agreement identified on line 3b that the organization has determined meets the safe harbor under Rev. Proc. 2007-47, 2007-29 I.R.B. 108.

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. (Optional for 2008)

Complete for each bond issue listed in rows A through E. 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, 3b, and 3c. 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 hedge may be entered into before, at the same time as, or after the date of issue. See Regulations section 1.148-4(h). 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 entity's books and records. If the answer to line 3a is "Yes":

- Enter the name of the provider of the hedge on line 3b, and
- Enter the term of the hedge rounded to the nearest tenth of a year (for example, 2.4 years) on line 3c.

Lines 4a–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, and 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). See Regulations section 1.148-2(e).

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.