

6th Annual Higher Education Taxation Institute
The University of Texas At Austin, School of Law
June 3-5, 2018
Austin, TX

Tax-Exempt Bond Compliance Strategies

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Overview

- New Rev Proc 17-13 for Management Contracts
- Yale's Strategies for Tax-Exempt Bond Compliance
- Impact of Tax Cuts and Jobs Act of 2017 on Tax-Exempt Bonds
- Building a Post-Issuance Compliance Program



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Tax-Exempt Bonds

- Tax-exempt bonds (TEBs) must not be used for “private business use” (PBU) beyond a *de minimis* amount.
- PBU for public universities is limited to 10% or \$15 million, whichever is less, of a bond series.
- PBU for private universities is limited to 5% or \$15 million, whichever is less, of a bond series.



Potentially PBU Activities

Ownership	Material transfer agreements
Lease of University property	Corporate researchers working at the University
Use of University property	Technology Transfer and Licensing Agreements
Management contracts	Unrelated trade or business activities (for 501(c)(3)s)
Utility output contracts	Naming rights
Sponsored research agreements	Joint venture, partnership and limited liability company agreements
Clinical trial agreements	Other actual or beneficial use of, or economic benefit from, University property



Management Contracts

- Definition: A management, service, or incentive payment contract between a governmental or 501c3 entity and a service provider under which the service provider provides services involving all, a portion of, or any function of, a facility.
- Management contracts in TEB-financed properties can potentially be a “private business use” (PBU).



Management Contracts

Typical University examples include management of:

- Childcare Center
- Mailroom
- Dining Hall
- Parking Garage
- Bookstore
- Entire Building



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First appeared as part of the conference materials for the
6th Annual Higher Education Taxation Institute session
"Tax-Exempt Bond Compliance Strategies"