

TAX-EXEMPT BONDS, POST-ISSUANCE COMPLIANCE & MANAGEMENT CONTRACTS

Alan Bond, BLX Group



Victoria Ozimek, Bracewell LLP

BRACEWELL

Edward J. Jennings, University of Michigan



Kyle Richard, University of Washington



1

Discussion Outline

- I. Post-Issuance Compliance Overview
- II. Management Contracts
- III. Measuring and Managing Private Business Use
- IV. Benefits of an Effective Post-Issuance Compliance Program

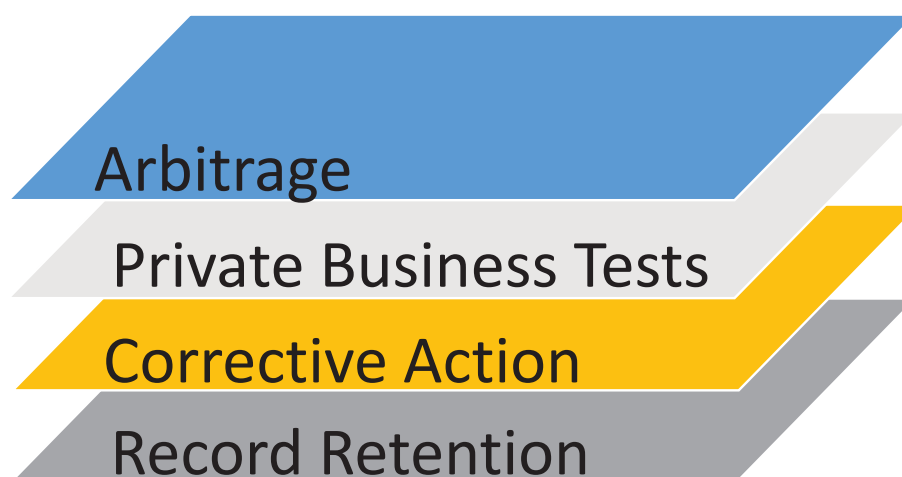
2

Post-Issuance Compliance Overview

Why should organizations care? Mitigation of Risk

- There has been increased IRS examination activity focused on tax-exempt debt
- Defending tax-exempt status of bonds in an IRS audit is expensive, stressful, and time consuming
- Financial settlement to protect bondholders can be costly
- Adverse outcomes give rise to disclosure requirement

Tax Compliance Has Many Layers



Post-Issuance Compliance Overview

Requirements for Ongoing Compliance Monitoring

- 1. Yield Restriction:** Bond proceeds may not be invested at a yield that is “materially higher” than the bond yield, except for a “minor portion” and any proceeds held during a temporary period or in a reasonably required reserve
- 2. Rebate:** Any investment earnings above the bond yield must be rebated to the federal government, unless the issuer meets a rebate exception; Generally, this must be calculated every 5 years

Post-Issuance Compliance Overview

Requirements for Ongoing Compliance Monitoring

- 3. Use of Bond Financed Facilities:** Requires monitoring the various direct and indirect uses of bond financed property over the life of the bonds and calculations of the percentage of private business use (PBU)

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Tax-Exempt Bonds, Post Issuance Compliance, and Management Contracts

Also available as part of the eCourse

[2022 Higher Education Taxation eConference](#)

First appeared as part of the conference materials for the
10th Annual Higher Education Taxation Institute session

"Tax-Exempt Bonds, Post Issuance Compliance, and Management Contracts"