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

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Discussion Outline

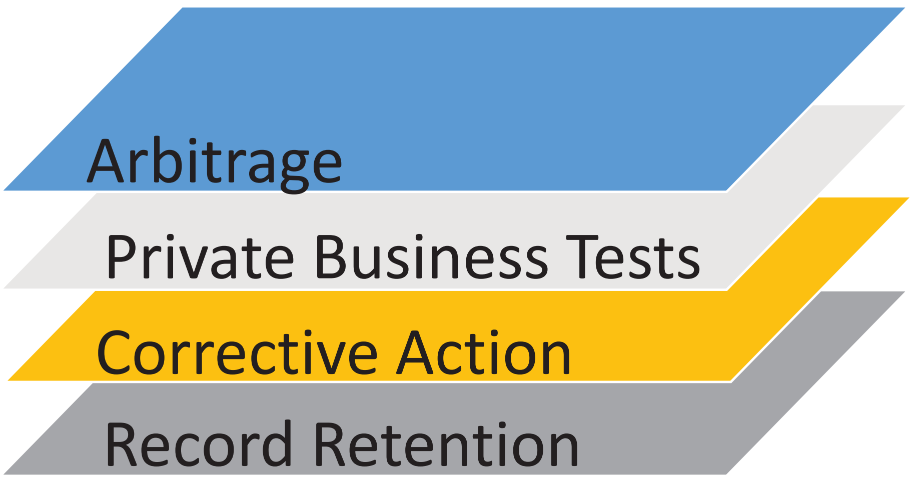
I. Post-Issuance Compliance Overview
II. Management Contracts
III. Measuring and Managing Private Business Use
IV. Benefits of an Effective Post-Issuance Compliance Program

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 <u>Ongoing</u> 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

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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)

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

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