

Tax-Exempt Governmental Bonds

Compliance Guide

from the office of
Tax Exempt Bonds

Know the
federal
tax rules
and filing
requirements
applicable to
governmental
bonds

8038-GC
Rev. November 2000
Department of the Treasury
Internal Revenue Service

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**
Under Internal Revenue Code section 149(e)
Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

Part I Reporting Authority

1 Issuer's name
2 Issuer's employer identification number
3 Number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code
4 City, town, or post office, state, and ZIP code
5 Report number
6 Name and title of officer or legal representative whom the IRS may call for more information
7 Telephone number of officer or legal representative

8038-G
Rev. November 2000
Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations
Under Internal Revenue Code section 149(e)
Caution: If the issue price is under \$100,000, use Form 8038-GC.
See separate instructions.

Part II Reporting Authority

1 Issuer's name
2 Issuer's employer identification number
3 Number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code
4 City, town, or post office, state, and ZIP code
5 Report number
6 Name and title of officer or legal representative whom the IRS may call for more information
7 Telephone number of officer or legal representative

Part III Description of Obligations

8a Issue price
8b Issue price per \$100 of face amount
9 Issue date
10 Telephone number of officer or legal representative
11 Issue price per \$100 of face amount
12 Issue date
13 Issue price per \$100 of face amount
14 Issue date
15 Issue price per \$100 of face amount
16 Issue date
17 Issue price per \$100 of face amount
18 Issue date
19 Issue price per \$100 of face amount
20 Issue date

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

21 Proceeds used for accrued interest
22 Proceeds used for bond issuance costs (including underwriters' discount)
23 Proceeds used for credit enhancement
24 Proceeds used to currently refund prior issues
25 Proceeds used to advance refund prior issues
26 Proceeds allocated to reasonable reserve or replacement fund
27 Proceeds used to refund prior issues (add lines 24 through 28)
28 Total refunding proceeds of the issue (subtract line 29 from line 27)

Part V Description of Refunded Bonds

29 Description of refunded bonds
30 Issue price
31 Issue date
32 Issue price per \$100 of face amount
33 Issue date
34 Issue price per \$100 of face amount
35 Issue date
36 Issue price per \$100 of face amount
37 Issue date
38 Issue price per \$100 of face amount
39 Issue date

OMB No. 1545-0720

Contents

Background	2
Tax-Exempt Governmental Bonds	2
Information Filing and Other Requirements Related to Issuance	3
Information Filing Requirements	3
Registration Requirement	4
Prohibition Against Federal Guarantees.....	4
Reasonable Expectations, Deliberate Actions, and the Private Activity Bond Tests	4
Reasonable Expectations	4
Deliberate Actions.....	5
Remedial Actions.....	5
Arbitrage Yield Restriction and Rebate Requirements	5
Yield Restriction Requirements	5
Reasonable Expectations.....	6
Intentional Acts.....	6
Rebate Requirements	6
The Small Issuer Exception	6
The Spending Exceptions.....	6
Arbitrage Rebate/Yield Reduction Filing Requirements – Form 8038-T.....	7
Request for Recovery of Overpayment of Arbitrage Rebate – Form 8038-R.....	7
Refunding of Governmental Bonds	8
TEB Information and Services	8
Voluntary Closing Agreement Program.....	8
Customer Education and Outreach	8
Forms	9
8038-G Information Return for Tax-Exempt Governmental Obligations	9
8038-GC Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales	13
8038-T Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.....	15
8038-R Request for Recovery of Overpayments Under Arbitrage Rebate Provisions.....	21
2848 Power of Attorney and Declaration of Representative.....	23

The office of Tax Exempt Bonds (TEB), of the Internal Revenue Service (IRS), Tax Exempt and Government Entities division, offers specialized information and services to the municipal finance community. Municipal bonds provide tax-exempt financing for the furtherance of governmental and qualified purposes including the construction of airports, hospitals, recreational and cultural facilities, schools, water infrastructure, and road improvements, as well as facilities and equipment used in providing police, fire and rescue services.

This IRS Publication 4079, *Tax-Exempt Governmental Bonds*, provides an overview for state and local governments of the key rules under the federal tax law that generally apply to municipal financing arrangements commonly known as governmental bonds. Certain exceptions or additional requirements to these rules, which are beyond the scope of this publication, may apply in different financing arrangements. All applicable federal tax law requirements must be met to ensure that interest earned by bondholders is not taxable under section 103 of the Internal Revenue Code (the “Code”). The Code is available through the IRS Web site at www.irs.gov.

For information regarding the rules applicable to qualified 501(c)(3) bonds or other qualified private activity bonds, see IRS Publications 4077, *Tax-Exempt 501(c)(3) Bonds*, and 4078, *Tax-Exempt Private Activity Bonds*, respectively. TEB also provides detailed information on specific provisions of the tax law through IRS publications (available online) and through outreach efforts as noted on the TEB Web site at www.irs.gov/bonds.

Background

Tax-exempt bonds are valid debt obligations of state and local governments, commonly referred to as “issuers” — the interest on which is tax-exempt. This means that the interest paid to bondholders is not includable in their gross income for federal income tax purposes. This tax-exempt status remains throughout the life of the bonds provided that all applicable federal tax laws are satisfied. Various requirements apply under the Code and Income Tax Regulations (the “Treasury regulations”) including, but not limited to, information filing and other requirements related to issuance, the proper and timely use of bond-financed property, and arbitrage yield restriction and rebate requirements. The benefits of tax-exempt bond financing can apply to the many different types of municipal debt financing arrangements through which government issuers obligate themselves, including notes, loans, lease purchase contracts, lines of credit, and commercial paper.

Tax-Exempt Governmental Bonds

Generally, proceeds from governmental bonds are used to finance activities or facilities owned, operated, or used by a state or local government for its own purposes. This can include financing the building, maintenance, or repair of various types of public infrastructure such as highways, schools, fire stations, libraries, or other types of municipal facilities. Ultimately, though, a tax-exempt governmental bond is a state or local bond that is neither a private activity bond, as defined in section 141 of the Code, nor an arbitrage bond within the meaning of section 148 of the Code, available at www.irs.gov.

The federal tax rules discussed in this publication which are applicable to governmental bonds fall into three general categories: information filing and other requirements related to issuance; use of proceeds and other requirements related to the private activity bond tests; and arbitrage yield restriction and rebate requirements.

In order to comply with these and any other applicable requirements, issuers must ensure that the rules are met both at the time the bonds are issued and throughout the term of the bonds. The IRS encourages issuers of tax-exempt bonds to implement procedures that will enable them to adequately safeguard against post-issuance violations that result in loss of the tax-exempt status of their bonds.

Access **FREE**
online information and services
at the
Tax Exempt Bonds
Web site at
www.irs.gov/bonds

Information Filing and Other Requirements Related to Issuance

The following is an overview of several general rules related to the issuance of governmental bonds.

Information Filing Requirements

At the time of issuance, issuers of governmental bonds must comply with certain information filing requirements under section 149(e) of the Code. The information return that an issuer is required to file is dictated by the size of the issuance.

Information Return	Due Dates	Where to File
<p>Form 8038-G, <i>Information Return for Tax-Exempt Governmental Obligations</i>, for governmental bonds with an issue price of \$100,000 or greater.</p> <p>Form 8038-GC, <i>Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales</i>, for governmental bonds with an issue price of less than \$100,000.</p> <p>(IRS Forms 8038-G and 8038-GC can be downloaded at www.irs.gov/bonds.)</p>	<p>Generally, both of these returns are required to be filed by the 15th day of the second calendar month following the quarter in which the bonds were issued. For example, the due date of the return for bonds issued on February 15th is May 15th.</p> <p>Form 8038-GC may, however, also be filed on a consolidated basis for bond issues of less than \$100,000 each.</p> <p>Consolidated returns are due by February 15th following the calendar year in which the bonds were issued.</p> <p>Example: An issuer issues three governmental bond issues as follows: Issue A issued on 3/1/00 for an issue price of \$50,000; Issue B on 6/15/00 for \$75,000; and Issue C on 10/5/00 for \$30,000. Issuer can file one consolidated return by February 15, 2001, for all three bond issues.</p>	<p>File these returns with the IRS at the following address:</p> <p>Internal Revenue Service Ogden Submission Processing Center Ogden, UT 84201-0027</p>

Requesting an Extension of Time to File:

An issuer may request an extension of time to file Forms 8038-G or 8038-GC so long as the failure to file the return on time was not due to willful neglect. To request an extension, the issuer must follow the procedures outlined in Revenue Procedure 2002-48, 2002-37 I.R.B. 531, published September 16, 2002. These procedures generally require that the issuer: 1) attach a letter to Form 8038-G or Form 8038-GC briefly explaining when the return was required to be filed, why the return was not timely submitted, and whether the bond issue is under examination; 2) enter on top of the letter "This Statement is Submitted in Accordance With Revenue Procedure 2002-48;" and 3) file this letter and the return with the IRS at the Ogden Submission Processing Center.

Registration Requirement

Section 149(a) of the Code provides that any tax-exempt bond, including governmental bonds, must be issued in registered form *if* the bonds are of a type offered publicly or issued, at the date of issue, with a maturity exceeding one year. For these purposes, “in registered form” is defined as follows:

In Registered Form — Section 5f.103-1(c) of the Treasury regulations provides that an obligation issued after January 20, 1987, pursuant to a binding contract entered into after January 20, 1987, is in registered form if:

- the obligation is registered as to both principal and any stated interest with the issuer (or its agent) *and* that the transfer of the obligation to a new holder may be effected only by surrender of the old instrument and either the reissuance by the issuer of the old instrument to the new holder or the issuance by the issuer of a new instrument to the new holder; or
- the right to the principal of, and stated interest on, the obligation may be transferred only through a book-entry system maintained by the issuer (or its agent); or
- the obligation is registered as to both principal and any stated interest with the issuer (or its agent) *and* may be transferred through both previous methods.

Prohibition Against Federal Guarantees

Section 149(b) of the Code provides that a tax-exempt bond, including a governmental bond, will not be treated as tax-exempt if the payment of principal or interest is directly or indirectly guaranteed by the federal government or any instrumentality of the federal government.

Exceptions to this general rule include guarantees by certain quasi-governmental entities administering federal insurance programs for home mortgages and student loans. Additional exceptions apply for the investment of bond proceeds in U.S. Treasury securities or investments in a bona fide debt service fund, a reasonably required reserve or replacement fund, or during a permitted initial temporary period.

Reasonable Expectations, Deliberate Actions, and the Private Activity Bond Tests

The term “governmental bond” means a bond issued as part of an issue, no portion of which consists of private activity bonds. Section 141 of the Code sets forth private activity bond tests for the purpose of limiting the volume of tax-exempt bonds that finance activities of persons other than state and local governmental entities. These tests serve to identify arrangements that actually or reasonably expect to transfer the benefits of tax-exempt financing to nongovernmental persons (including the federal government). The following is an overview of the basic rules relating to the use of bond proceeds and bond-financed property. In certain instances, additional requirements or exceptions may apply.

Reasonable Expectations

An issue is an issue of private activity bonds (and not tax-exempt governmental bonds) if the issuer reasonably expects, on the issue date, that either: 1) the private business use test *and* the private payment or security test will be met; or 2) the private loan financing test will be met.

- **Private Business Use Test:** More than 10% of the proceeds of an issue will be used in a trade or business of a non-governmental person (including the federal government).
- **Private Payment or Security Test:** More than 10% of the payment of principal or interest on the bond issue is either made or secured (directly or indirectly) by payments or property used or to be used for a private business use.
- **Private Loan Financing Test:** The amount of proceeds of the issue which is to be used (directly or indirectly) to make or finance loans to persons other than governmental units exceeds the lesser of 5% of such proceeds or \$5M.

For purposes of the private business use test stated earlier in this section, the use of financed property is treated as a use of proceeds. Any activity carried on by a *person* (including a governmental entity or corporation) other than a *natural person* (individual acting as a member of the general public) is treated as a trade or business.

Indirect uses of proceeds must also be considered in determining whether more than 10% of the proceeds of an issue will be used in a private business use. For example, a facility is treated as being used for a private business use if it is leased to a governmental person and then sub-leased to a nongovernmental person if the nongovernmental person's use is in a trade or business.

Deliberate Actions

A governmental bond issue can lose its tax-exempt status if the issuer takes a deliberate action, subsequent to the issue date, which causes the issue to become a private activity bond issue. A deliberate action is any action taken by the issuer that is within its control. Intent to violate the requirements of section 141 of the Code is not necessary for an action to be deliberate.

Remedial Actions

A deliberate action that would otherwise cause a governmental bond issue to become a private activity bond issue is not treated as a deliberate action if the issuer takes a remedial action prescribed in section 1.141-12 of the Treasury regulations. Such remedial actions include redemption or defeasance of bonds, alternative use of disposition proceeds, and alternative use of bond-financed facilities.

Issuers may also be able to enter into a closing agreement under the TEB Voluntary Closing Agreement Program described in Notice 2001-60, 2001-40 I.R.B. 304 (discussed in this publication under **TEB Information and Services**).

Arbitrage Yield Restriction and Rebate Requirements

Tax-exempt bonds, including governmental bonds, lose their tax-exempt status if they are arbitrage bonds under section 148 of the Code. In general, arbitrage is earned when the gross proceeds of an issue are used to acquire investments that earn a yield materially higher than the yield on the bonds of the issue. The earning of arbitrage does not, however, necessarily mean that the bonds are arbitrage bonds. Two general sets of requirements under the Code must be applied in order to determine whether governmental bonds are arbitrage bonds: yield restriction requirements of section 148(a); and rebate requirements of section 148(f).

An issue may meet the rules of one of the above regimes yet fail the other. Even though interconnected, both sets of rules have their own distinct requirements and may result in the need for a payment to the U.S. Department of the Treasury in order to remain compliant. The following is an overview of the basic requirements of these two general rules. Additional requirements or exceptions, beyond the scope of this publication, may apply in certain instances.

Yield Restriction Requirements

The yield restriction rules of section 148(a) of the Code generally provide that the direct or indirect investment of the gross proceeds of an issue in investments earning a yield materially higher than the yield of the bond issue causes the bonds of that issue to be arbitrage bonds. While certain exceptions may be available, when applying these rules to different investments, "materially higher" is generally as follows:

Type of Investments	Materially Higher
general rule for purpose and non-purpose investments	1/8 of one percentage point
investments in a refunding escrow	1/1000 of one percentage point
investments allocable to replacement proceeds	1/1000 of one percentage point
program investments	one and one-half percentage points
general rule for investments in tax-exempt bonds	no yield limitation

However, the investment of proceeds in materially higher yielding investments does not cause the bonds of an issue to be arbitrage bonds in the following three instances: 1) during a temporary period (i.e., generally, 3-year temporary period for capital projects and 13 months for restricted working capital expenditures); 2) as part of a reasonably required reserve or replacement fund; and 3) as part of a minor portion (investments in an amount not exceeding the lesser of 5% of the sale proceeds of the issue or \$100,000).

Reasonable Expectations — Typically, the determination of whether an issue consists of arbitrage bonds under section 148(a) is based on the issuer's reasonable expectations as of the issue date regarding the amount and use of the gross proceeds of the issue.

Intentional Acts — A deliberate, intentional action to earn arbitrage taken by the issuer or person acting on the issuer's behalf, after the issue date, will cause the bonds of an issue to be arbitrage bonds *if* that action, had it been reasonably expected on the issue date, would have caused the bonds to be arbitrage bonds. Intent to violate the requirements of section 148 is not necessary for an action to be intentional.

In many instances, issuers are allowed to make "yield reduction payments" to the U.S. Department of the Treasury to reduce the yield on yield-restricted investments when the yield on those earnings is materially higher than the yield of the bond issue. See subsequent section on **Arbitrage Rebate/Yield Reduction Filing Requirements—Form 8038-T** for information on how to file Form 8038-T to make yield reduction payments.

Rebate Requirements

The rebate requirements of section 148(f) of the Code generally provide that, unless certain earnings on non-purpose investments allocable to the gross proceeds of an issue are paid to the U.S. Department of the Treasury, the bonds in the issue will be arbitrage

bonds. The arbitrage that must be rebated is based on the excess (if any) of the amount actually earned on non-purpose investments over the amount that would have been earned if those investments had a yield equal to the yield on the issue plus any income attributable to such excess. Under section 1.148-3(b) of the Treasury regulations, the future values (as of the computation date) of all earnings received and payments made with respect to non-purpose investments are included in determining the amount of rebate due.

There are two broad exceptions to the general rebate requirements applicable to governmental bonds: the small issuer exception; and the spending exceptions.

The Small Issuer Exception — This exception provides that governmental bonds issued by certain small governmental issuers, with general taxing powers, are treated as meeting the arbitrage rebate requirement.

A governmental entity has general taxing powers if it has the power to impose taxes of general applicability which, when collected, may be used for its general purposes. An issue (other than a refunding issue) qualifies for the small issuer exception only if the issuer reasonably expects as of the issue date to issue, or in fact issues, \$5M or less in tax-exempt governmental bonds during that calendar year. The aggregation rules of section 148(f)(4)(D) of the Code should be considered when determining whether this exception applies.

The \$5M limit shall be increased when financing public school capital expenditures by the lesser of \$10M or so much of the aggregate face amount of the bonds attributable to financing the construction.

The Spending Exceptions — There are three spending exceptions to the rebate requirements as follows.

Spending Period	Spending Exception
6-month spending exception	Section 1.148-7(c) of the Treasury regulations provides an exception to rebate if the gross proceeds of the bond issue are allocated to expenditures for governmental purposes that are incurred within 6 months after the date of issuance.
18-month spending exception	Section 1.148-7(d) of the Treasury regulations provides an exception to rebate if the gross proceeds of the bond issue are allocated to expenditures for governmental purposes which are incurred within the following schedule: 1) 15% within 6 months after the date of issuance; 2) 60% within 12 months after the date of issuance; and 3) 100% within 18 months after the date of issuance.
2-year spending exception	Section 1.148-7(e) of the Treasury regulations provides that an exception to rebate is available with respect to construction issues financing property to be owned by a governmental entity or 501(c)(3) organization when certain available construction proceeds are allocated to construction expenditures within the following schedule: 1) 10% within 6 months after the date of issuance; 2) 45% within 12 months after the date of issuance; 3) 75% within 18 months after the date of issuance; and 4) 100% within 24 months after the date of issuance.

Note: Issuers may still owe rebate on amounts earned on non-purpose investments allocable to proceeds not covered by the spending exceptions, which may include earnings in a reasonably required reserve or replacement fund.

Arbitrage Rebate/Yield Reduction Filing Requirements—Form 8038-T

Issuers of tax-exempt bonds file IRS Form 8038-T, *Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate*, to make the following types of arbitrage payments: 1) yield reduction payments; 2) arbitrage rebate payments; 3) penalty in lieu of rebate payments; 4) the termination of the election to pay a penalty in lieu of rebate; and 5) penalty for failure to pay arbitrage rebate on time. This form can be downloaded from the Internet at www.irs.gov/bonds.

A yield reduction payment and/or arbitrage rebate installment payment is required to be paid no later than 60 days after the end of every 5th bond year throughout the term of a bond issue. The payment must be equal to at least 90% of the rebate amount as of the end of that 5th bond year. Upon redemption of a bond issue, a rebate payment of 100% of the rebate amount must be paid no later than 60 days after the discharge date.

A failure to timely pay arbitrage rebate will be treated as not having occurred *if* the failure is not due to willful neglect and *if* the issuer submits a Form 8038-T with a payment of the rebate amount owed, plus penalty and interest. The penalty may be waived under certain circumstances. For more information, see section 1.148-3(h)(3) of the Treasury regulations.

Request for Recovery of Overpayment of Arbitrage Rebate—Form 8038-R

In general, a request for recovery of overpayment of arbitrage rebate can be made when the issuer can establish that an overpayment occurred. An overpayment is the excess of the amount paid to the U.S. Department of the Treasury for an issue under section 148 of the Code over the sum of the rebate amount for the issue as of the most recent computation date and all amounts that are otherwise required to be paid under section 148 as of the date the recovery is requested. The request can be made by completing

and filing IRS Form 8038-R, *Request for Recovery of Overpayments Under Arbitrage Rebate Provisions*, with the IRS. This form can be downloaded from the Internet at www.irs.gov/bonds.

Refunding of Governmental Bonds

Under section 1.150-1(d)(1) of the Treasury regulations, a refunding bond issue is an issue the proceeds of which are used to pay principal, interest, or redemption price on the refunded issue (a prior issue), as well as the issuance cost, accrued interest, capitalized interest on the refunding issue, a reserve or replacement fund, or similar cost, if any, properly applicable to that refunding issue.

Governmental bonds can be current and advance refunded. However, governmental bonds issued after 1985 can only be advance refunded one time. Current and advance refunding issues are distinguished as follows:

Current Refunding Issue	A refunding issue that is issued not more than 90 days before the final payment of principal or interest (redemption) on the prior issue.
Advance Refunding Issue	A refunding issue that is issued more than 90 days before the final payment of principal or interest (redemption) on the prior issue.

TEB Information and Services

The office of Tax Exempt Bonds (TEB) offers information and services through its voluntary compliance programs (including the Voluntary Closing Agreement Program) and its education and outreach programs. You can learn about these programs through our Web site at www.irs.gov/bonds.

Voluntary Closing Agreement Program (VCAP)

In Notice 2001-60, 2001-40 I.R.B. 304, published October 1, 2001, the IRS announced the TEB Voluntary Closing Agreement Program (TEB VCAP). This program provides remedies for issuers who voluntarily come forward to resolve a violation. Closing agreement terms and amounts may vary according to the degree of violation as well as the facts and circumstances surrounding the violation.

Requests for TEB VCAP closing agreements are administered by the TEB Outreach, Planning and Review staff. To encourage issuers and other parties to voluntarily come to the IRS to resolve problems, TEB VCAP permits an issuer or its representative to initiate preliminary discussions of a closing agreement anonymously. For more information about this program or to submit a voluntary closing agreement request, contact Clifford Gannett, Manager of Tax Exempt Bonds, Outreach, Planning and Review, in Washington, DC, at (202) 283-9798. Notice 2001-60 is available through our Web site.

Customer Education and Outreach

TEB has reading materials about the tax laws applicable to municipal financing arrangements, tax forms and instructions, revenue procedures and notices, and TEB publications available on our Web site at www.irs.gov/bonds. For personal assistance, you can contact TEB directly at (202) 283-2999, or call our Customer Account Services toll-free at (877) 829-5500, Monday through Friday, 8:00 a.m. – 6:30 p.m. EST.

Part I Reporting Authority			If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name			2 Issuer's employer identification number	
3 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	4 Report number	3	
5 City, town, or post office, state, and ZIP code			6 Date of issue	
7 Name of issue			8 CUSIP number	
9 Name and title of officer or legal representative whom the IRS may call for more information			10 Telephone number of officer or legal representative	()

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule	
11 <input type="checkbox"/> Education	11
12 <input type="checkbox"/> Health and hospital	12
13 <input type="checkbox"/> Transportation	13
14 <input type="checkbox"/> Public safety	14
15 <input type="checkbox"/> Environment (including sewage bonds)	15
16 <input type="checkbox"/> Housing	16
17 <input type="checkbox"/> Utilities	17
18 <input type="checkbox"/> Other. Describe <input type="checkbox"/>	18
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box <input type="checkbox"/>	

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.				
(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)	
22 Proceeds used for accrued interest	22
23 Issue price of entire issue (enter amount from line 21, column (b))	23
24 Proceeds used for bond issuance costs (including underwriters' discount)	24
25 Proceeds used for credit enhancement	25
26 Proceeds allocated to reasonably required reserve or replacement fund	26
27 Proceeds used to currently refund prior issues	27
28 Proceeds used to advance refund prior issues	28
29 Total (add lines 24 through 28)	29
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)	
31 Enter the remaining weighted average maturity of the bonds to be currently refunded	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	years
33 Enter the last date on which the refunded bonds will be called	
34 Enter the date(s) the refunded bonds were issued	

Part VI Miscellaneous	
35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35
36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)	36a
b Enter the final maturity date of the guaranteed investment contract	
37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a
b If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the name of the issuer and the date of the issue	
38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box <input type="checkbox"/>	
39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box <input type="checkbox"/>	
40 If the issuer has identified a hedge, check box <input type="checkbox"/>	

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of issuer's authorized representative _____ Date _____ Type or print name and title _____

Instructions for Form 8038-G

(Revised November 2000)

Information Return for Tax-Exempt Governmental Obligations

Caution: If the issue price is less than \$100,000, use Form 8038-GC.
Section references are to the Internal Revenue Code, unless otherwise noted.



Department of the Treasury
Internal Revenue Service

General Instructions

Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150. Complete Parts II through VI on the basis of available information and reasonable expectations as of the issue date. If an item does not apply to the issue you are reporting, write "N/A" in the space provided for the item.

Who Must File

IF the issue price (line 21, column (b)) is...	THEN, for tax-exempt governmental obligations issued after December 31, 1986, issuers must file...
\$100,000 or more	A separate Form 8038-G for each issue
Less than \$100,000	Form 8038-GC , Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use **Form 8038-T**, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use **Form 8038**, Information Return for Tax-Exempt Private Activity Bond Issues.

When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued. Complete Form 8038-G based on the facts as of the issue date.

Late filing. An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 88-10, 1988-1 C.B. 635, if it is determined that the failure to file on time is not due to willful neglect. Enter at the top of the form "This Statement Is Submitted in Accordance with Rev. Proc. 88-10." Attach to the Form 8038-G a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust indenture or other bond documents. See **Where To File** below.

Where To File

File Form 8038-G, and any attachments, with the Internal Revenue Service Center, Ogden, UT 84201.

Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

Definitions

Tax-exempt obligation. This is any obligation, including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, **and**
- More than 10% of the payment of principal or interest of the issue is **either (a)** secured by an interest in property to be used for a private business use (or payments for such property) **or (b)** to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which **(a)** are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and **(b)** exceeds the lesser of 5% of the proceeds **or** \$5 million.

Issue price. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year **(a)** under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or **(b)** with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (e.g., under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding

sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, **and**

2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

Part I—Reporting Authority

Amended return. If you are filing an amended Form 8038-G, check the amended return box and complete Part I and only those parts of Form 8038-G you are amending. Use the same report number (line 4) as was used for the original report. Do not amend the estimated amounts previously reported once the actual amounts are determined.

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

Line 2. An issuer that does not have an employer identification number (EIN) should apply for one on **Form SS-4**, Application for

Employer Identification Number. This form may be obtained at Social Security Administration offices or by calling 1-800-TAX-FORM. If the EIN has not been received by the due date for Form 8038-G, write "Applied for" in the space for the EIN.

Line 4. After the preprinted 3, enter two self-designated numbers. Number reports consecutively during any calendar year (e.g., 334, 335, etc.).

Line 6. The date of issue is generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds. For a lease or installment sale, enter the date interest starts to accrue.

Line 7. If there is no name of the issue, please provide other identification of the issue.

Line 8. Enter the CUSIP (Committee of Uniform Securities Identification Procedure) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None" on line 8.

Part II—Type of Issue

Identify the type of obligations issued by checking the appropriate box(es) and entering the corresponding issue price (see **Issue price** under **Definitions** on page 1). Attach a schedule listing names and EINs of organizations that are to use proceeds of these obligations if different from those of the issuer.

Line 18. Check the box on this line only if lines 11 through 17 do not apply. Enter a description of the issue in the space provided.

Line 19. If the obligations are short-term tax anticipation notes or warrants (TANs) or short-term revenue anticipation notes or warrants (RANs), check the first box on this line. If the obligations are short-term bond anticipation notes (BANs), issued with the expectation that they will be refunded with the proceeds of long-term bonds at some future date, check the second box on this line.

Line 20. Check this box if property other than cash is exchanged for the obligation, e.g., acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. **Do not** check this box if the proceeds of the obligation are received in the form of cash, even if the term "lease" is used in the title of the issue.

Part III—Description of Obligations

Line 21

For column (b), see **Issue price** under **Definitions** on page 1.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each

bond issued as part of the issue. For a lease or installment sale, write "N/A" in column (c).

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)). For a lease or installment sale, enter instead the total number of years the lease or installment sale will be outstanding.

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue. For other than variable rate issues, carry the yield out to four decimal places (e.g., 5.3125%). If the issue is a lease or installment sale, enter the effective rate of interest being paid.

Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" in the space to the right of the title for Part IV.

Line 22. Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

Line 24. Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel.

Line 25. Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (e.g., bond insurance premiums and certain fees for letters of credit).

Line 27. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

Line 28. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" in the space to the right of the title for Part V.

Lines 31 and 32. The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as on line 21, column (d).

Line 34. If more than a single issue of bonds will be refunded, enter the date of issue of each issue.

Part VI—Miscellaneous

Line 36. If any portion of the gross proceeds of the issue are or will be invested in a guaranteed investment contract, as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the guaranteed investment contract.

Line 37a. Enter the amount of this issue used to fund a loan to another governmental unit, the interest of which is tax-exempt.

Line 39. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

Line 40. Check this box if the issuer identified a hedge on its books and records in accordance with Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5). These regulations permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form . 2 hr., 41 min.

Preparing, copying, assembling, and sending the form to the IRS 3 hr., 3 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this office. Instead, see **Where To File** on page 1.

**Information Return for Small Tax-Exempt
Governmental Bond Issues, Leases, and Installment Sales**

(Rev. November 2000)

▶ Under Internal Revenue Code section 149(e)

Department of the Treasury
Internal Revenue Service

Caution: *If the issue price of the issue is \$100,000 or more, use Form 8038-G.*

Part I Reporting Authority		Check box if Amended Return ▶ <input type="checkbox"/>
1 Issuer's name	2 Issuer's employer identification number	
3 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	
4 City, town, or post office, state, and ZIP code	5 Report number 5	
6 Name and title of officer or legal representative whom the IRS may call for more information	7 Telephone number of officer or legal representative ()	

Part II Description of Obligations Check if reporting: a single issue <input type="checkbox"/> or on a consolidated basis <input type="checkbox"/>	
8a Issue price of obligation(s) (see instructions)	8a
b Issue date (single issue) or calendar year (consolidated) (see instructions) ▶	
9 Amount of the reported obligation(s) on line 8a:	
a Used to refund prior issue(s)	9a
b Representing a loan from the proceeds of another tax-exempt obligation (e.g., bond bank)	9b
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box . . . ▶ <input type="checkbox"/>	
11 If any obligation is in the form of a lease or installment sale, check this box . . . ▶ <input type="checkbox"/>	
12 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box . . . ▶ <input type="checkbox"/>	

Sign Here	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.	
	▶ _____ Issuer's authorized representative	▶ _____ Date
		▶ _____ Type or print name and title

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

Form 8038-GC is used by the issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file **Form 8038-G**, Information Return for Tax-Exempt Governmental Obligations.

Filing a separate return. Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to pay a penalty in lieu of arbitrage rebate (see the line 12 instructions).

Filing a consolidated return. For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.

When To File

To file a **separate return**, file Form 8038-GC on or before the 15th day of the second calendar month after the close of the calendar quarter in which the issue is issued.

To file a **consolidated return**, file Form 8038-GC on or before February 15th of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under Section 3 of Rev. Proc. 88-10, 1988-1 C.B. 635, if it is determined that the failure to file on time is not due to willful neglect. Type or print at the top of the form, "This Statement Is Submitted in Accordance with Rev. Proc. 88-10." Attach to the Form 8038-GC a letter briefly stating why the form was not submitted to the IRS on time. Also indicate whether the obligation in question is under examination by the IRS. Do not submit copies of any bond documents, leases, or installment sale documents. See **Where To File** below.

Where To File

File Form 8038-GC, and any attachments, with the Internal Revenue Service Center, Ogden, UT 84201.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use **Form 8038-T**, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use **Form 8038**, Information Return for Tax-Exempt Private Activity Bond Issues.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

Tax-exempt obligation. This is a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and

• More than 10% of the payment of principal or interest of the issue is **either (a)** secured by an interest in property to be used for a private business use (or payments for such property) **or (b)** to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which **(a)** are to be used to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and **(b)** exceeds the lesser of 5% of the proceeds or \$5 million.

Issue. Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of a single transaction, or a series of related transactions. However, obligations issued during the same calendar year **(a)** under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or **(b)** with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (e.g., under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond is not tax exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, **and**

2. All of the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date the issue is issued. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates, supplemented by estimates made in good faith.

Part I—Reporting Authority

Amended return. If this is an amended Form 8038-GC, check the amended return box. Complete Part I and only those lines of Form 8038-GC that are being amended. Do not amend estimated amounts previously reported once the actual amounts are determined. (See the Part II instructions below.)

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. In the case of a lease or installment sale, the issuer is the lessee or purchaser.

Line 2. An issuer that does not have an employer identification number (EIN) should apply for one on **Form SS-4, Application for Employer Identification Number**. This form may be obtained at Social Security Administration offices or by calling 1-800-TAX-FORM. If the EIN has not been received by the due date for Form 8038-GC, write "Applied for" in the space for the EIN.

Line 5. After the preprinted 5, enter two self-designated numbers. Number reports consecutively during any calendar year (e.g., 534, 535, etc.).

Part II—Description of Obligations

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue, generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the calendar year during which the obligations were issued.

Lines 9a and 9b. For line 9a, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Both line 9a and 9b may apply to a particular obligation. For example, report on line 9a and 9b obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

Line 11. Check this box if property other than cash is exchanged for the obligation, e.g., acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. **Do not** check this box if the proceeds of the obligation are received in the form of cash, even if the term "lease" is used in the title of the issue.

Line 12. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form 1 hr., 58 min.

Preparing the form 3 hr., 3 min.

Copying, assembling, and sending the form to the IRS . . . 16 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **Where To File** on page 1.

Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate

Department of the Treasury
Internal Revenue Service

▶ Under Sections 143(g)(3) and 148(f)
and Sections 103(c)(6)(D) and 103A(i)(4) of the Internal Revenue Code of 1954

Part I Reporting Authority Check box if Amended Return

1 Issuer's name	2 Issuer's employer identification number	
3 Number and street (or P.O. box no. if mail is not delivered to street address) Room/suite	4 Report number 7	
5 City, town, or post office, state, and ZIP code	6 Date of issue	
7 Name of issue	8 CUSIP number	
9 Name and title of officer or legal representative whom the IRS may call for more information	10 Telephone number of officer or legal representative ()	
11 Type of issue ▶	Issue price ▶	11 \$
12 Amount of arbitrage rebate previously paid for this issue		12 \$
13 If Form 8038, Form 8038-G, or Form 8038-GC was not filed, check here ▶ <input type="checkbox"/>		
14 Date of most recently filed Form 8038-T for this issue (MMDDYYYY)		
15 Is this the final Form 8038-T for this issue? ▶ <input type="checkbox"/> Yes <input type="checkbox"/> No		

Part II Yield Reduction, Arbitrage Rebate, and Penalty in Lieu of Arbitrage Rebate

Yield Reduction	
16 Amount of yield reduction payment (see instructions)	16 \$
Arbitrage Rebate	
17 Amount of rebate paid for the period (MMDDYYYY) from ▶ to ▶	17 \$
18 Penalty for failure to pay arbitrage rebate on time (attach statement)	18 \$
19 Interest on underpayment of arbitrage rebate (see instructions)	19 \$
Penalty in Lieu of Arbitrage Rebate	
20 Number of months since date of issue, check the box: <input type="checkbox"/> 6 mos <input type="checkbox"/> 12 mos <input type="checkbox"/> 18 mos <input type="checkbox"/> 24 mos <input type="checkbox"/> Other. No. of mos ▶	
21 Available construction proceeds ▶ \$ Unspent ▶ \$	
22 If you elected to terminate the election to pay the penalty in lieu of arbitrage rebate, check one of the following (see instructions): <input type="checkbox"/> A <input type="checkbox"/> B Date of termination (MMDDYYYY)	
23 Penalty in lieu of rebate	23 \$
24 Penalty upon termination	24 \$
25 Penalty for failure to pay on time (attach statement)	25 \$
26 Interest on underpayment of penalty in lieu of rebate or upon termination (see instructions)	26 \$
27 Total payment. Add lines 16, 17, 18, 19, 23, 24, 25, and 26. Enter total here ▶	27 \$

Part III Elections by the Issuer Check "Yes" or "No" for each question (see instructions)

		Yes	No
A. Elections made under the 1992 regulations. Did you elect to:			
28 Apply the rules under section 148 to determine if the bond complies with section 103(c)(6)(D) of the 1954 Code?	28		
29 Treat the last day of the bond year on a variable yield issue as the computation date?	29		
30 Treat a transitioned variable yield issue as a fixed yield issue?	30		
31 Treat a variable yield bond that is not a tender bond as a fixed yield bond after it converted to a fixed rate?	31		
32 Continue treating an issue as a variable yield issue after all the bonds in the issue converted to a fixed rate?	32		
33 Recompute the yield on a transitioned fixed yield issue?	33		
B. Elections made under the 1993 regulations. Did you elect to:			
34 Identify a hedge?	34		
35 Use an actual facts analysis?	35		
36 Exclude earnings on a reasonably required reserve or replacement fund from available construction proceeds?	36		
37 Treat the different purposes of a multipurpose issue as separate issues for purposes of the 2-year exception?	37		
38 Treat each loan of a pooled financing issue as a separate issue for purposes of applying the spending exception?	38		
39 Apply certain provisions of section 1.148-11(b) before the effective date?	39		
40 Apply certain provisions of section 1.148-11A(i) before the effective date?	40		

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

▶ Signature of officer	▶ Date	▶ Type or print name and title
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Instructions for Form 8038-T



Department of the Treasury
Internal Revenue Service

(Rev. January 2002)

Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate

Section references are to the Internal Revenue Code of 1986 unless otherwise noted.

General Instructions

Note: In general, the 1993 regulations apply to bonds sold after July 7, 1997. For the 1993 regulations, see T.D. 8476, 1993-2 C.B. 13 and T.D. 8538, 1994-1 C.B. 26. However, if the 1992 regulations apply, see T.D. 8418, 1992-1 C.B. 29.

Note: Use a separate Form 8038-T for each issue.

Purpose of Form

Under section 148(f), interest on a state or local bond is not tax exempt unless the issuer of the bond rebates to the United States on Form 8038-T arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments.

Note: For *Who Must File and When To File* see page 2.

Qualified mortgage bonds and qualified veterans' mortgage bonds.

Section 143(g)(3) and section 103A(i)(4) of the 1954 Code provide the arbitrage rebate rules for qualified mortgage bonds and qualified veterans' mortgage bonds issued after August 15, 1986. Under these special rules, issuers may pay the rebate either to mortgagors, or if an election is made before issuance of the bond, to the United States. Use this form only if you have elected to pay the rebate to the United States.

Industrial development bonds.

Obligations that are part of an issue of industrial development bonds issued before 1986 (other than housing obligations described in section 103(b)(4)(A) of the 1954 Code or section 11(b) of the Housing Act of 1937) are subject to the rebate requirements of section 103(c)(6)(D) of the 1954 Code. However, see the instructions for line 28 on page 4.

Arbitrage Rebate

Computation of arbitrage rebate. The amount of the rebatable arbitrage is:

1. The excess of the amount earned on all nonpurpose investments over the amount which would have been earned if the nonpurpose investments were invested at a rate equal to the bond yield, plus

2. Any income attributable to the excess described in 1.

For rules on computing the arbitrage rebate for bonds subject to section 148(f), see the regulations under section 148.

The 1993 regulations, as amended, are generally effective for bonds sold after July 7, 1997. Generally, an issuer may apply these regulations to bonds that are outstanding on July 8, 1997, and to which certain prior regulations apply. Moreover, the 1997 amendments to the 1993 regulations, redesignating the temporary rules as sections 1.148-1A through 1.148-6A and 1.148-9A through 1.148-11A, together with the applicable provisions of the original 1993 regulations, continue to apply to bonds issued before July 8, 1997. The 18-month spending exception to the rebate requirement cannot be applied to any bond sold before July 1, 1993.

For rules on computing the arbitrage rebate for bonds subject to section 143(g)(3) or section 103A(i)(4) of the 1954 Code, see Temporary Regulations section 6a.103-2(i)(4). For rules on computing the arbitrage rebate for bonds subject to section 103(c)(6)(D) of the 1954 Code, see Temporary Regulations section 1.103-15AT, T.D. 8005, 1985-1 C.B. 39, if the issuer has not applied the later regulations. Also, see line 28 and its instructions as well as the 1992 and 1993 regulations.

Exceptions. There is no rebate requirement under section 148(f) if the exception for temporary investments under section 148(f)(4)(B) applies or the exception for governmental units issuing \$5 million or less of bonds under section 148(f)(4)(D) applies.

Note: The exception under section 148(f)(4)(D) is modified as follows: a governmental issuer may issue up to \$10 million in bonds after 1997 (\$15 million after 2001) per calendar year (aggregate face amount of bonds other than private activity bonds), if no more than \$5 million is used to finance expenditures other than public school capital expenditures.

Also, the rebate requirement does not apply to "available construction proceeds" of a construction issue if certain spending requirements are met; or if those spending requirements are not met, an election is made to pay a penalty in lieu of arbitrage rebate. See section 148(f)(4)(C).

The arbitrage rebate exception for a construction issue only applies to "available construction proceeds." Other proceeds of a construction issue do not qualify for this exception.

Further, the rebate requirement generally does not apply to bond proceeds that are invested in certain

tax-exempt bonds, certain tax-exempt mutual funds, or certain demand deposit securities purchased directly from the United States Treasury.

Failure To Pay Arbitrage Rebate on Time

Failure to pay the proper amount of arbitrage rebate on time may cause the bond to be treated as not being, and as never having been, tax exempt.

Under the regulations effective prior to July 1, 1993. Generally, if the failure is an innocent failure, the failure will be treated as not having occurred if the issuer pays a correction amount to the United States. Detailed rules relating to innocent failures, the correction amount, and the time to pay the correction amount are contained in Regulations section 1.148-1(c) (1992 regulations).

Even if the failure is not innocent or not so treated, the failure will be treated as not having occurred if the failure is not due to willful neglect and the issuer pays a correction amount and a penalty to the United States. Detailed rules relating to willful neglect, the correction amount, and the penalty and interest are contained in Regulations section 1.148-1(c) (1992 regulations).

Under the regulations effective after July 7, 1997. If the failure is not due to willful neglect, the failure will be treated as not having occurred if, in addition to payment of the proper arbitrage rebate amount, the issuer pays a penalty and interest to the United States. Detailed rules relating to the penalty and interest are contained in Regulations section 1.148-3(h).

Penalty in Lieu of Arbitrage Rebate

In the case of a construction issue, an exception from the rebate requirement is provided under section 148(f)(4)(C) for the available construction proceeds of the issue if certain spending requirements are met. Since this exception only applies to available construction proceeds, other proceeds of a construction issue do not qualify for this exception. Thus, rebatable arbitrage may be owed for proceeds other than available construction proceeds even if this exception is satisfied for the available construction proceeds. The issuer may have elected to pay a penalty in lieu of rebating arbitrage for the available construction proceeds if the spending requirements of section 148(f)(4)(C) are not satisfied. The penalty, if any, is payable for each applicable

6-month period after the date the bonds are issued. For detailed rules concerning these provisions see Regulations section 1.148-7.

A “construction issue” is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds of such issue are to be used for construction expenditures for property to be owned by a governmental unit or a 501(c)(3) organization, **and**
2. All bonds that are part of such issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization.

Generally, the “available construction proceeds” means the amount equal to the issue price of the construction issue:

1. Increased by earnings on the issue price, earnings on amounts in any reasonably required reserve or replacement fund not funded from the issue, and earnings on all of the foregoing earnings, **and**
2. Reduced by the amount of the issue price in any reasonably required reserve or replacement fund and the issuance costs financed by the issue. See section 148(f)(4)(C)(vi).

The penalty in lieu of arbitrage rebate is equal to 1½% of the amount of the available construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and Regulations section 1.148-7 for the rules for construction proceeds, available construction proceeds, and spending requirements needed to compute the penalty in lieu of arbitrage rebate.

Penalty for the Termination of Election To Pay a Penalty in Lieu of Arbitrage Rebate

You may terminate the election to pay a penalty in lieu of arbitrage rebate by paying a 3% penalty. Generally, compute the penalty for the termination election under section 148(f)(4)(C)(viii) with reference to the end of the initial temporary period. See section 148(c) and Regulations section 1.148-2(e) for definitions of a temporary period. Compute the amount of the penalty for the termination election under section 148(f)(4)(C)(ix) with reference to the date of the election. See section 148(f)(4)(C)(viii) and (ix) for the rules for terminating an election to pay a penalty in lieu of rebate.

Failure To Pay Timely the Penalty in Lieu of Arbitrage Rebate or the Termination Penalty

Failure to pay the proper amount of penalty and interest on time (after an appropriate election either to pay penalty in lieu of arbitrage rebate or to pay a

termination penalty) may cause the bond (or any refunding bond with respect thereto) to be treated as not being, and as never having been, tax exempt. In general, the rules discussed in **Failure To Pay Arbitrage Rebate on Time**, on page 1, also apply to these penalties. See Regulations section 1.148-6(n) (1992 regulations) and 1.148-3(h) (1993 regulations).

Who Must File

Issuers of tax-exempt bonds must file Form 8038-T to pay:

1. Any yield reduction payments in accordance with Regulations section 1.148-5(c).
2. The arbitrage rebate to the United States under section 143(g)(3), section 148(f), or the corresponding provisions of the 1954 Code. Payments may be made by a person acting for the issuer for bonds subject to section 103(c)(6)(D) of the 1954 Code.
3. The penalty:
 - In lieu of arbitrage rebate, or
 - To terminate the election to pay a penalty in lieu of arbitrage rebate.

Note: *Issuers must also use Form 8038-T to pay any penalties and interest on the failure to pay on time amounts due in 2 and 3 above.*

When To File

Yield Reduction Payments

File Form 8038-T when paying yield reduction payments to the United States in accordance with Regulations section 1.148-5(c). In general, an amount is paid under Regulations section 1.148-5(c) if it is paid to the United States at the same time and in the same manner as rebate amounts are required to be paid.

A yield reduction overpayment may also be recovered. For details, see Regulations section 1.148-3(i) and **Recovery of Overpayment** below.

Arbitrage Rebate

File Form 8038-T when paying the arbitrage rebate to the United States. Under section 148(f), the installments are due 60 days after the end of every 5th bond year during the term of the issue. The final installment is due 60 days after the date the last bond of the issue is discharged.

Under Regulations section 1.148-1(b) (1992 regulations), each installment must be in an amount that equals at least 90 percent of the rebatable arbitrage as of the computation date (i.e., the end of the 5-year period). In addition, under Regulations section 1.148-1(b) (1992 regulations), the final installment must include all of the rebatable arbitrage as of the last computation date, plus any income attributable to the rebatable arbitrage.

Under Regulations section 1.148-3(f), each installment must be in an amount that, when added to the future value as of the computation date (i.e., the end of the 5-year period) of previous rebate payments made for the issue, equals at least 90 percent of the rebatable arbitrage as of the computation date. In addition, under Regulations section 1.148-3(f), the final installment must include an amount that, when added to the future value of previous rebate payments made for the issue, equals 100 percent of the rebate amount as of that date. See Regulations sections 1.148-3(f)(3) and 1.148-3(c) for detailed rules determining future value for these purposes.

Special rules. For a tax and revenue anticipation bond, you need not make the last installment of arbitrage rebate until at least 8 months after the bond issue date. See also section 143(g)(3) and section 103A(i)(4) of the 1954 Code for rules concerning qualified mortgage bonds and qualified veterans’ mortgage bonds. See Temporary Regulations section 1.103-15AT(e) (1992 regulations) for rules concerning industrial development bonds.

Penalties

Under section 148(f)(4)(C), the payment of a penalty in lieu of arbitrage rebate must be made no later than 90 days after the end of each 6-month period relating to the penalty.

Payment of the 3% penalty to terminate the penalty in lieu of arbitrage rebate must be made to the United States no later than 90 days after **(a)** the end of the initial temporary period if the termination election was made under section 148(f)(4)(C)(viii), or **(b)** the date of the termination election if it was made under section 148(f)(4)(C)(ix).

See the instructions for line 25 for paying a penalty for failure to pay on time either of the penalties described above.

See the instructions for line 18 for paying a penalty for failing to pay the arbitrage rebate to the United States on time.

Recovery of Overpayment

In general, an issuer may recover an overpayment of rebate for an issue of tax-exempt bonds by establishing to the Internal Revenue Service that the overpayment occurred. To request recovery of amounts paid under rebate provisions, including yield reduction payments, see new **Form 8038-R**, Request For Recovery of Overpayments Under Arbitrage Rebate Provisions.

Where To File

File Form 8038-T with the Internal Revenue Service Center, Ogden, UT 84201.

Signature

Form 8038-T must be signed by an authorized representative of the issuer.

Also type or print the name and title of the person signing Form 8038-T.

Specific Instructions

Part I—Reporting Authority

Amended Return. If you are filing an amended Form 8038-T, check the amended return box. Complete Part I and only those parts of Form 8038-T you are amending. Use the same report number (line 4) that was used in the original report.

Line 1. Enter the name of the governmental entity that issued the bonds, not the name of the entity receiving the benefit of the financing.

Line 4. After the predesignated 7, enter two self-designated numbers. Number reports consecutively during any calendar year (e.g., 734, 735, etc.).

Line 6. Enter the date of issue. This is generally the first date on which there is a physical exchange of the bonds for the purchase price.

Line 7. Enter the name of the issue. If there is no name, please provide other identification of the issue.

Line 8. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, enter "None."

Line 11. Enter the type of issue as was checked for this issue on Form 8038 or Form 8038-G. For bonds previously reported on Form 8038-GC, enter "Small Governmental Bond." Also enter the total issue price that was listed on Form 8038, 8038-G, or 8038-GC filed for this issue.

Line 14. Enter the date of the most recently filed (previous) Form 8038-T for this issue.

Line 15. In case of a rebate of arbitrage, check the box marked "Yes" only if the issue has been discharged (redeemed, called, etc.). In the case of the payment of a penalty in lieu of arbitrage rebate, check the box marked "Yes" only if the spending provisions of section 148(f)(4)(C) have been fully complied with or if a termination penalty payment is made with this form. In all other cases, check the box marked "No."

Part II—Yield Reduction, Arbitrage Rebate, and Penalty in Lieu of Arbitrage Rebate

Under limited circumstances, you may be rebating arbitrage **and** paying a penalty in lieu of rebating arbitrage.

Yield Reduction

Line 16. To determine the yield reduction payment to which Regulations section 1.148-5(c) applies, treat any amount paid to the United States, including a rebate amount, as a payment for that investment which reduces the yield.

Arbitrage Rebate

Line 17. Enter the period of time relating to this rebate payment. For any installment other than the final installment, the period of time should reflect the bond years selected.

Line 18. If the issuer failed to make the appropriate arbitrage rebate payment with Form 8038-T, see **Failure To Pay Arbitrage Rebate on Time** on page 1. Compute the penalty for failure to pay on time and enter the total on line 18.

In addition, whichever is applicable, attach a statement to this Form 8038-T explaining why there was (1) an innocent failure or (2) no willful neglect in the issuer's failure to pay the arbitrage rebate due. Submit the statement relating to an innocent failure according to the format and procedure of Section 4, Rev. Proc. 90-11, 1990-1 C.B. 469. Submit the statement relating to why there was no willful neglect according to the format and procedure of Section 3, Rev. Proc. 88-10, 1988-1 C.B. 635.



*Follow the procedures for each of the revenue procedures except use the mailing address under **Where To File** on page 2.*

Line 19. If the issuer failed to make the appropriate rebate payment with Form 8038-T, see **Failure To Pay Arbitrage Rebate on Time** on page 1. Compute the interest on the underpayment of arbitrage rebate and enter the total on line 19.

Penalty in Lieu of Arbitrage Rebate

If you are completing this section, you must have made a timely election under section 148(f)(4)(C)(vii). See also section 148(f)(4)(C)(xv).

Line 20. The expenditure requirements for available construction proceeds change at the end of each 6-month period following the date the bonds are issued. Check the appropriate box for the number of months between the date that the bonds were issued and the end of the reporting period for which this Form 8038-T is being filed. If the period is over 24 months (2 years), or is other than that given for the labeled boxes, check the box marked "Other" and give the number of months since the date of issue.

Note: *File a separate Form 8038-T for each different time period associated with a checked box.*

Line 21. Indicate the available construction proceeds and the unspent available construction proceeds as of the end of the 6-month period for which this Form 8038-T is filed.

Line 22. Check Box A if:

1. The election to terminate the 1½% penalty in lieu of arbitrage rebate was made not later than 90 days after the earlier of the end of the initial temporary period or the date the construction is substantially completed,

2. The issuer pays with this Form 8038-T an amount equal to 3% of the available construction proceeds of the issue that have not been spent for the governmental purpose of the issue as of the close of the initial temporary period multiplied by the number of years (including fractions) in the initial temporary period,

3. The amount of the available construction proceeds of the issue that is not spent for the governmental purposes of the issue as of the close of the initial temporary period is invested at a yield not exceeding the yield on the issue or which is invested in any tax-exempt bond which is not investment property, **and**

4. The amount of the available construction proceeds of the issue that is not spent for the governmental purposes of the issue as of the earliest date on which bonds may be redeemed is used to redeem bonds on that date.

Check Box B if:

1. The election to terminate the 1½% penalty in lieu of arbitrage rebate was made before the end of the initial temporary period, and not later than 90 days after the date the construction was substantially completed,

2. The construction financed by the construction issue has been substantially completed before the end of the initial temporary period,

3. The issuer has identified on its records an amount of available construction proceeds that will not be spent for the governmental purposes of the issue, **and**

4. The issuer pays with this Form 8038-T an amount equal to 3% of the available construction proceeds of the issue that have not been spent for the governmental purpose of the issue as of the close of the temporary period (shortened as if the temporary period ended as of the date the election was made), multiplied by the number of years (including fractions) in the initial temporary period.

Line 25. If the issuer failed to make the appropriate penalty payment with Form 8038-T, see **Failure To Pay Timely the Penalty in Lieu of Arbitrage Rebate or the Termination Penalty** on page 2. Compute the penalty for failure to pay on time and enter the total on line 25. See the instructions for line 18 for the applicable statement to attach to Form 8038-T.

Line 26. If the issuer failed to make the appropriate penalty payment with Form 8038-T, see **Failure To Pay Timely the Penalty in Lieu of Arbitrage Rebate or the Termination Penalty** on page 2. Compute the interest on the underpayment of the penalty in lieu of arbitrage rebate, or penalty upon termination, and enter the total on line 26.

Line 27. Combine all payment amounts on lines 16, 17, 18, 19, 23, 24, 25, and

26. Enclose a check or money order for this total amount made payable to the "United States Treasury." Include the issuer's name, address, EIN, "Form 8038-T," and the date on the payment.

Part III—Elections by the Issuer

This part applies only if the bonds are subject to the requirements of the regulations under section 148.

For rules relating to elections, see Regulations section 1.148-8(h) (1992 regulations) and 1.148-1(d). See the instructions for lines 39 and 40 on applying the 1993 regulations retroactively.

A. Elections made under the 1992 regulations

Line 28. This election applies to a bond subject to section 103(c)(6)(D) of the 1954 Code. You may elect to apply the rules under the regulations for section 148 to determine if the bond complies with section 103(c)(6)(D) of the 1954 Code.

Line 29. You may elect to treat the last day of any bond year on a variable yield issue as a computation date. If you make this election, the yield on the issue may be computed for periods shorter than 5 years. This election is revocable under certain conditions. See Regulations section 1.148-3(b)(2)(ii)(B).

Line 30. You may elect to treat any variable yield issue sold on or before May 15, 1989, and issued on or before June 14, 1989, as a fixed yield issue. If you make this election, the yield on the issue is computed over the term of the issue rather than period-by-period. See Regulations section 1.148-3(b)(1)(ii).

Line 31. If you make this election, a variable yield bond that is not a tender bond is treated as a fixed yield bond after the close of business on the first day the bond would be a fixed yield bond if issued immediately after the close of business on that day. See Regulations section 1.148-3(b)(3)(i).

Line 32. If you make this election, a variable yield issue that has been converted to a fixed yield issue will continue to be treated as a variable yield issue. See Regulations section 1.148-3(b)(3)(ii).

Line 33. You may elect to recompute the yield on certain fixed yield issues sold on or before May 15, 1989, and issued on or before June 14, 1989. Otherwise, you must use the yield computed as of the issue date for such purposes. See Regulations section 1.148-3(c)(5).

B. Elections made under the 1993 regulations

Line 34. Regulations section 1.148-4(h)(2)(viii) permits an issuer of tax-exempt bonds to identify a hedge for

the hedge to be included in yield calculations that are necessary to compute arbitrage profits. Under Regulations section 1.148-4(h)(5), hedges can be entered into prior to the issuance of the tax-exempt bonds.

Line 35. Regulations section 1.148-7(f)(2) permits an issuer to use an "actual facts" analysis for a construction issue under Regulations sections 1.148-7(e) through (m) rather than an analysis based on reasonable expectations. This election does not apply for purposes of determining whether an issue is a construction issue under Regulations section 1.148-7(f)(1) if the election for the 1½% penalty in lieu of arbitrage rebate is made under Regulations section 1.148-7.

Line 36. Regulations section 1.148-7(i)(2) permits an issuer to elect to exclude earnings on a reasonably required reserve or replacement fund from the definition of available construction proceeds. Earnings on any reasonably required reserve or replacement fund are available construction proceeds only to the extent that those earnings accrue before the earlier of the date construction is substantially completed or the date that is 2 years after the issue date. If the election is made, the rebate requirement applies to the excluded amounts from the issue date.

Line 37. Regulations section 1.148-7(j) permits an issuer to elect to treat the different purposes of a multipurpose issue as two, and only two, separate issues for purposes of the 2-year exception if certain conditions are present. See Regulations section 1.148-7(j)(1).

Line 38. Regulations section 1.148-7(b)(6) permits an issuer of a pooled financing issue to apply the spending exceptions separately to each conduit loan. Detailed rules relating to this election are contained in Regulations section 1.148-7(b)(6)(ii).

Line 39. Regulations section 1.148-11(b) permits issuers to apply certain provisions of the regulation before the effective date. Regulations section 1.148-11 permits an issuer to retroactively apply the 1993 regulations in whole—but not in part—to issues that were outstanding before July 8, 1997, and that are subject to section 148(f) or sections 103(c)(6) or 103A(i) of the Internal Revenue Code of 1954. Also, the issuer has the option to apply individual provisions of Regulations sections 1.148-1 through 1.148-11 to bonds issued before July 1, 1993. The 18-month spending exception to the rebate requirement cannot be retroactively applied before July 1, 1993. Regulations section 1.148-11 also contains several specific application transition rules.

If a bond was issued after July 7, 1997, check the "No" box. If a bond was issued before July 8, 1997, and the issuer has electively applied the finalized 1993 regulations, check the "Yes" box. All other filers should check the "No" box.

Line 40. Regulations section 1.148-11 permits issuers to apply certain amendments to Regulations sections 1.148-1 through 1.148-11 and Regulations sections 1.148-1A through 1.148-6A and 1.148-9A through 1.148-11A before the effective date of the 1993 regulations.

Check the "No" box unless:

1. A bond was issued before June 6, 1994, and before July 8, 1997, the issuer electively applied the above regulations (for example, on a previously filed Form 8038-T), and
2. The issuer intends to continue with that elective application while filing this Form 8038-T.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to collect the right amount of arbitrage rebate, yield reduction payments, and penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	11 hr., 57 min.
Learning about the law or the form	8 hr., 44 min.
Preparing, copying, assembling, and sending the form to the IRS	9 hr., 19 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **Where To File** on page 2.

Request for Recovery of Overpayments Under Arbitrage Rebate Provisions

▶ File a separate form for each issue. ▶ See instructions on back.

Part I Reporting Authority

1 Issuer's name		2 Issuer's employer identification number	
3 Number and street (or P.O. box if mail is not delivered to street address)		Room/suite	4 Report number
5 City, town, or post office, state, and ZIP code		6 Date of issue	
7 Name of issue		8 CUSIP number	
9 Name and title of officer or legal representative whom the IRS may call for more information		10 Telephone number of officer or legal representative ()	

Part II Request for Refund of Amounts Paid Under Rebate Provisions (see instructions)

11 If the issue is outstanding on June 30, 1993, and the issuer elects **not** to apply the 1992 regulations, check here (see instructions)

12 Total amount paid under rebate provisions	12		
13 Rebate amount as of the most recent computation date	13		
14 Amounts (not included in line 12) required to be paid under section 148 as of the date the recovery is requested	14		
15 Add lines 13 and 14	15		
16 Amount of overpayment. Subtract line 15 from line 12	16		

17 Computations and relevant facts that led to overpayment (see instructions). Attach additional sheets if necessary.

18 Schedule of payments (see instructions). Attach additional sheets if necessary.

Part III Other Information (see instructions)

Check the "Yes" or "No" box for each question below.

	Yes	No
19 Was the overpayment paid as penalty in lieu of rebate under section 148(f)(4)(C)(vii)?		
20 Has the final computation date for the issue occurred?		
21 Is the issue comprised of qualified redevelopment, qualified small issue, or exempt facilities bonds? If "Yes," provide name and EIN of the primary private user. Name ▶ EIN ▶		

Under penalties of perjury, I declare that I have examined this request for recovery of overpayment, including accompanying schedules and statements, and to the best of my knowledge and belief, the facts represented in support of the request are true, correct, and complete.

Sign Here

▶ _____ Date _____ ▶ _____ Type or print name and title

Signature of issuer's authorized representative

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Note: Use a separate Form 8038-R for each issue.

Purpose of Form

Form 8038-R is used by issuers of state and local bonds to request a refund of amounts paid with **Form 8038-T**, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.

Note: Form 8038-R replaces the letter procedure of Rev. Proc. 92-83, 1992-2 C.B. 487.

Payments made with Form 8038-T that may be recoverable include:

1. Yield reduction payments,
2. The arbitrage rebate to the United States,
3. A penalty in lieu of rebating arbitrage to the United States, or
4. A penalty to terminate the election to pay a penalty in lieu of rebating arbitrage.

Recovery of Overpayment

In general, an issuer may recover an overpayment of rebate for an issue of tax-exempt bonds by establishing to the Internal Revenue Service that the overpayment occurred. An overpayment is the excess of the amount paid to the United States for an issue under section 148 over the sum of the rebate amount for the issue as of the most recent computation date and all amounts that are otherwise required to be paid under section 148 as of the date the recovery is requested.

An overpayment may be recovered only to the extent that a recovery on the date that it is first requested would not result in an additional rebate amount if that date were treated as a computation date.

Except for overpayments of penalty in lieu of rebate under section 148(f)(4)(C)(vii) and Regulations section 1.148-7(k), an overpayment of less than \$5,000 may not be recovered before the final computation date. See Regulations section 1.148-3(i).

Processing the Request

Generally, the information requested on Form 8038-R will be sufficient to determine whether a refund is appropriate. However, if additional information is necessary, the IRS will contact the issuer or its representative. Processing of the request will then be suspended and the issuer will have 30 calendar days to submit the requested information. If all the requested information is not timely received, a letter will be sent explaining that the request for recovery is deficient and that its processing is terminated. This letter may also be sent instead of a request for additional information if the initial request for recovery is severely deficient.

Any proposed adverse determination may be appealed. See Rev. Proc. 99-35, 1999-2 C.B. 501, for details.

Where To File

File Form 8038-R, and any attachments, with the Internal Revenue Service Center, Ogden, UT 84201.

Signature

Form 8038-R must be signed by an authorized representative of the issuer. Also type or print the name and title of the person signing Form 8038-R.

Specific Instructions

Part I—Reporting Authority

Line 1. Enter the name of the governmental entity that issued the bonds, not the name of the entity receiving the benefit of the financing.

Line 6. Enter the date of issue. This is generally the first date on which there is a physical exchange of the bonds for the purchase price.

Line 7. Enter the name of the issue. If there is no name, please provide other identification of the issue.

Line 8. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. Enter "None" if the issue does not have a CUSIP number.

Part II—Request for Refund

Line 11. Current Regulations sections 1.148-1 through 1.148-11 apply to issues outstanding after June 30, 1993. If the issue was outstanding prior to July 1, 1993, the 1992 regulations apply (i.e., Regulations sections 1.148-1 through 1.148-12 effective May 18, 1992 (T.D. 8418, 1992-1 C.B. 29)). However, check the box if the issue was outstanding prior to July 1, 1993, and the issuer has elected **not** to apply the 1992 regulations; the current Regulations sections 1.148-1 through 1.148-11 apply.

Line 17. Provide the computations of the overpayment paid as part of a rebate payment, penalty in lieu of rebate, or to terminate the penalty in lieu of rebate. Also, include the computations for interest (if any). If relevant, a description of the facts that led to the overpayment may also be included.

Line 18. Provide a schedule showing amounts and dates that payments were made to the United States for the issue. Do not attach copies of Form(s) 8038-T that accompanied payments to the United States; doing so may delay your request.

Part III—Other Information

Line 20. The final computation date is the date the issue is discharged. For details, see Regulations section 1.148-3(e)(2).

Line 21. Check the "Yes" box if:

The issue is comprised of...	As described in section...
Qualified redevelopment bonds	144(c)
Qualified small issue bonds	144(a)
Exempt facilities bonds	142(a)(4) through 142(a)(11) and 142(a)(13)

If one of the above applies, then enter the name and employer identification number (EIN) of the primary private user. A "private user" is the nongovernmental entity that meets the private business tests of section 141(b) or private loan financing test of section 141(c).

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: **Recordkeeping**, 5 hr., 44 min.; **Learning about the law or the form**, 3 hr., 10 min.; **Preparing, copying, assembling, and sending the form to the IRS**, 3 hr., 24 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send the form to this address. Instead, see **Where To File** above.

Power of Attorney and Declaration of Representative

OMB No. 1545-0150
For IRS Use Only
 Received by: _____
 Name _____
 Telephone _____
 Function _____
 Date / /

▶ See the separate instructions.

Part I Power of Attorney (Type or print.)

1 Taxpayer information. Taxpayer(s) must sign and date this form on page 2, line 9.

Taxpayer name(s) and address	Social security number(s) : : : : : : : :	Employer identification number
	Daytime telephone number ()	Plan number (if applicable)

hereby appoint(s) the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>
Name and address	CAF No. _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>
Name and address	CAF No. _____ Telephone No. _____ Fax No. _____ Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/>

to represent the taxpayer(s) before the Internal Revenue Service for the following tax matters:

3 Tax matters

Type of Tax (Income, Employment, Excise, etc.) or Civil Penalty (See the instructions for line 3.)	Tax Form Number (1040, 941, 720, etc.)	Year(s) or Period(s)

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific uses not recorded on CAF.** ▶

5 Acts authorized. The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative, the authority to execute a request for a tax return, or a consent to disclose tax information unless specifically added below, or the power to sign certain returns. See the instructions for **Line 5. Acts authorized.**

List any specific additions or deletions to the acts otherwise authorized in this power of attorney: _____

Note: In general, an unenrolled preparer of tax returns cannot sign any document for a taxpayer. See Revenue Procedure 81-38, printed as Pub. 470, for more information.

Note: The tax matters partner of a partnership is not permitted to authorize representatives to perform certain acts. See the separate instructions for more information.

6 Receipt of refund checks. If you want to authorize a representative named on line 2 to receive, **BUT NOT TO ENDORSE OR CASH**, refund checks, initial here _____ and list the name of that representative below.

Name of representative to receive refund check(s) ▶ _____

7 Notices and communications. Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2 unless you check one or more of the boxes below.

- a If you want the first representative listed on line 2 to receive the original, and yourself a copy, of such notices or communications, check this box
- b If you also want the second representative listed to receive a copy of such notices and communications, check this box.
- c If you do not want any notices or communications sent to your representative(s), check this box

8 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here.

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

9 Signature of taxpayer(s). If a tax matter concerns a joint return, **both** husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

▶ IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.

Signature	Date	Title (if applicable)
Print Name		
Signature	Date	Title (if applicable)
Print Name		

Part II Declaration of Representative

Caution: *Students with a special order to represent taxpayers in Qualified Low Income Taxpayer Clinics or the Student Tax Clinic Program, see the separate instructions for Part II.*

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;
- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;
- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified there; and
- I am one of the following:
 - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
 - c Enrolled Agent—enrolled as an agent under the requirements of Treasury Department Circular No. 230.
 - d Officer—a bona fide officer of the taxpayer's organization.
 - e Full-Time Employee—a full-time employee of the taxpayer.
 - f Family Member—a member of the taxpayer's immediate family (i.e., spouse, parent, child, brother, or sister).
 - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Service is limited by section 10.3(d)(1) of Treasury Department Circular No. 230).
 - h Unenrolled Return Preparer—an unenrolled return preparer under section 10.7(c)(1)(viii) of Treasury Department Circular No. 230.

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.

Designation—Insert above letter (a–h)	Jurisdiction (state) or Enrollment Card No.	Signature	Date

Through the TEB Web site www.irs.gov/bonds, you can access tax-exempt bond-related materials and information on TEB programs and services including:

- IRS news releases, publications, notices and announcements
- basic and advanced student text for training purposes
- articles (on technical topics, best practices, compliance initiatives and current developments) issued as part of our continuing professional education (CPE) technical instruction program
- the tax-exempt bonds tax kit that includes return and election forms and instructions; IRM materials; Treasury regulations; and revenue procedures, all of which relates specifically to tax-exempt bonds
- private letter rulings and memoranda that are taxpayer-specific rulings furnished by the IRS in response to requests made by taxpayers and/or Service officials
- information about TEB voluntary closing agreement program

In addition to these materials, the TEB staff is available to provide outreach and educational services relating to tax exempt bonds. Services may include delivering speeches, participating in panel discussions, conducting training sessions, and assisting in preparation of newsletter articles. The Web site posts contacts, email addresses, and telephone numbers for personal assistance.

Picture Them Home



Kensey Abdo Grand Junction CO
Date Missing: 04/24/2000
She has dark blond hair.



Jarkeius Adside Midwest City OK
Date Missing: 10/18/2001
He has brown eyes and black hair.



Lamoine Allen Woodville MS
Date Missing: 05/10/1992
He has a scar on his left knee.



Aqueda Arias Longview WA
Date Missing: 11/26/2001
Commonly referred to as Elizabeth.

ONE IN SIX MISSING CHILDREN IS

recovered because someone like you takes the time to look at their **picture**, spots **them**, and notifies the authorities to get them **home**. The Internal Revenue Service (IRS) has joined the National Center for Missing and Exploited Children in their search for America's missing children, and we need your help.

As a proud sponsor of the **Picture Them Home** campaign, the IRS features images and information about missing children in many IRS tax publications. Join us by taking the time to look at pictures of missing children. And please, maintain high quality photos of your own children for use in case of emergency.



1-800-THE-LOST

www.missingkids.com

Joshua Bryant Deltona FL
Date Missing: 05/12/2001
He has a mark on the left side of his face.



Shoshana Black Holbrook MA
Date Missing: 08/01/1997
She has brown eyes and blonde hair.



Teckah Lewis Tacoma WA
Date Missing: 01/23/1999
She has a skin discoloration on her face.



Nicolas Zavala Oxford IN
Date Missing: 08/04/2002
He has a scar on his right earlobe.



Department of the Treasury
Internal Revenue Service

www.irs.gov

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