

Qualified Improvement Exception

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Introduction and Purpose

The University utilizes bond financing for many of its buildings. Federal bond laws limit the amount of certain non-University private business use (PBU) of such bond financed buildings. The Treasury Regulations contain key exceptions to the PBU characterization. One of the exceptions is the Qualified Improvement Exception. The University of Minnesota utilizes the Qualified Improvement Exception to the extent allowed.

Qualified Improvement Exception

Tax-exempt debt proceeds used for University capital projects that meet the requirements of the Qualified Improvement Exception are deemed to have no PBU. Treasury Regulation § 1.141-3(d)(6) sets forth the Qualified Improvement Exception:

Proceeds that provide a governmentally owned improvement to a governmentally owned building (including its structural components and land functionally related and subordinate to the building) are not used for a private use if -

- i. The building was placed in service more than 1 year before the construction or acquisition of the improvement is begun;*
- ii. The improvement is not an enlargement of the building or an improvement of interior space occupied exclusively for any private business use;*
- iii. No portion of the improved building or any payments in respect of the improved building are taken into account under § 141(b)(2)(A) (the private security test); and*
- iv. No more than 15 percent of the improved building is used for a private business use.*

One area in which the University uses the Qualified Improvement Exception is with respect to Higher Education Asset Preservation and Renovation (HEAPR) projects. The State of Minnesota provides tax-exempt debt in the form of HEAPR Funds to the University for making improvements and repairs to existing University buildings. If all the above criteria are met, the Qualified Improvement Exception can be applied when HEAPR funds are used to improve University buildings with less than 15% of private use in the building, allowing zero PBU to be allocated back to the HEAPR funding. The Qualified Improvement Exception is not limited in application to only the HEAPR funds, but that is the most common funding source to which it is applied at the University.