Tax-Exempt Bond Expenditure Allocation Rules

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Introduction and Purposes

Accounting for the expenditure of bond proceeds is at the heart of any tax-exempt bond analysis. The regulations provide allocation and accounting rules dealing with the allocation of proceeds to expenditures. The University does not "spend" its bond proceeds, it "allocates" them to expenditures. "Allocation" is the formal action of the University by which it declares which expenditures are to be deemed made with bond proceeds. There is no prohibition against using a different accounting method for different issues, as long as the particular method is reasonable and consistently applied.

Allocation of Gross Proceeds to Expenditures

Reasonable Methods

Reasonable accounting methods for allocating funds from different sources to expenditures for the same governmental purpose include any of the following methods, if consistently applied:

- Specific tracing - This method requires a direct tracing of bond proceeds to expenditures.
- Gross proceeds spent first - Under this method, other funds (non-bond funds) spent on the purpose of the tax-exempt issue are treated as if the expenditure was actually made from bond proceeds.
- First In, First Out - Where there is more than one bond issue, this method would permit the University to treat the proceeds of the first issue as spent first, the proceeds of the second issue next, and so on.
- Ratable Allocation method - Where the University commingles bond funds and non-bond funds, proceeds are allocated proportionately as expenditures are made.
- Gross Proceeds Spent Last –All other project proceeds are spent prior to spending bond proceeds. This methodology is required for expenditures of working capital, defined generally as operating expenses.

If the University fails to maintain books and records sufficient to establish the accounting method for an issue and the allocation of the proceeds of that issue, then the accounting method applied will be the specific tracing method.

Cash Outlay

An allocation of gross proceeds to an expenditure must involve a current outlay of cash. A current outlay of cash means an outlay reasonably expected to occur within five banking days after the date of the allocation. In the case of a check, the outlay under the regulations appears to occur when the check is issued and paid.

Timing

The University must account for the allocation of proceeds to expenditures not more than 18 months after the later of:

- the date the expenditures is paid or
- the date the project is placed in service.

In any event, the allocation must be made by the date 60 days after the 5th anniversary of the issue date.

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Placed in Service

The placed in service date with respect to a facility is the date on which, based upon all the facts and circumstances – (a) the facility has reached a degree of completion which would permit its operation at substantially its design level and (b) the facility is, in fact, in operation at such level. [Treasury Regulation 1.150-2(c)] It will never be earlier than the date of the Certificate of Occupancy; however, it could be later, when the building is substantially at a level of use for which it was designed.

Reimbursement Bonds

An issue becomes a reimbursement bond when a portion of the issue is allocated to reimburse an original expenditure before the issue date. The general rule of the regulations is that before making the expenditure, the University must "declare" an "official intent" to reimburse the expenditure later with bond proceeds. The allocation for reimbursement, under these circumstances, is then treated as an expenditure of proceeds of the issuance.

In addition to the general allocation rules laid out above, three additional requirements must be met in order for a reimbursement allocation to qualify as an expenditure of bond proceeds.

1. The "Official Intent" Requirement

The purpose of the official intent requirement is to provide evidence that the University intended to reimburse an expenditure at the time it made such expenditure. Requisite "official intent" must meet the following requirements.

- Before making the initial expenditure, or within sixty days afterwards, the University must declare an official intent to reimburse the expenditure with bond proceeds.
- The declaration of official intent must be made in any reasonable form.
- The declaration must describe the project for which the expenditure is being paid.
- The declaration must indicate the maximum principal amount of debt expected to be issued for the project.
- The University must reasonably expect to reimburse the expenditure with proceeds of the borrowing.

2. Nature of Expenditure Requirement

In general, the regulations require that a reimbursed expenditure be a "capital expenditure". A capital expenditure is any cost that is properly chargeable to a capital account (or would be so chargeable with a proper election) under general federal income tax principles. Thus, costs incurred to acquire, construct or improve land, buildings and equipment generally are capital expenditures. The determination is made at the time the expenditure is paid, not at the time the reimbursement bonds are issued.

3. Reimbursement Period Requirement

The reimbursement allocation must occur no later than 18 months after the later of:

- the date on which the original expenditure is paid, or
- the date on which the property is placed in service or abandoned.

In any event, the reimbursement allocation cannot be more than 3 years after the date on which the original expenditure is paid. [See placed in service definition above.]

Exception for Issuance and De Minimis Costs

The official intent requirement and the reimbursement period requirement for a reimbursement certificate may not apply for any cost of issuance of any bond or to an amount not in excess of the lesser of $100,000 or 5 percent of the bond proceeds.

Special Exception for Preliminary Expenditures

The official intent requirement and the reimbursement period requirement do not apply to "preliminary expenditures" which include architectural costs, engineering costs, surveying costs, soil testing cost, costs of issuance of the reimbursement bonds, and similar costs that are incurred prior to commencement of construction, rehabilitation or acquisition of a project. Preliminary costs do not include land acquisition, site preparation, and similar costs incident to the commencement of construction. Preliminary expenditures may not exceed 20% of the issue price of the related reimbursement bond issue.

Contact

If you have questions, please contact the Tax Management Office at taxhelp@umn.edu or 612-624-1053.