

TEB and EOCA Partner in Qualified 501(c)(3) Bonds Compliance Project

Tax Exempt Bonds (TEB) and the Exempt Organizations Compliance Area (EOCA) have initiated a joint effort to evaluate the policies and procedures used by 501(c)(3) exempt organizations to ensure the post-issuance tax compliance of their tax-exempt debt obligations. The project uses compliance check questionnaires to be sent to more than 200 exempt organizations indicating an outstanding balance of tax-exempt liabilities on their 2005 Form 990 (Return of Organization Exempt From Income Tax form).

Exempt organizations may use the proceeds of tax-exempt bonds to further their charitable purpose if the bonds are qualified 501(c)(3) bonds. In general, a qualified 501(c)(3) bond is a bond at least 95 percent of the net proceeds of which are to be used by no person other than an organization described in section 501(c)(3) or a governmental unit. However, under section 145(a)(2), a bond is not a qualified 501(c)(3) bond if more than 5 percent of the net proceeds of the issue of which it is a part are to be used by a 501(c)(3) exempt organization in an unrelated trade or business under section 513(a). These requirements must be satisfied both at the time of issuance of the bonds and for so long as the bonds remain outstanding – potentially as long as 30 years.

The project measures several aspects of post-issuance compliance knowledge and practices. The questionnaire includes questions relating to: 1) record retention requirements; 2) qualified use of bond-financed property requirements; 3) arbitrage yield restriction and rebate requirements; 4) debt management policies and procedures; and, 5) awareness of voluntary compliance and educational resources.

The project was designed by TEB in cooperation with EOCA. The project consists of EOCA mailing a cover letter explaining the questionnaire to the taxpayers, and collecting the data for TEB to analyze. TEB expects to analyze the data to become more familiar with the post-issuance compliance policies and practices of charities. TEB will then issue a Report publicizing its findings and describing any recommendations with respect to the development of follow-up outreach or compliance initiatives.