



### **About GilmoreBell**

GilmoreBell was established in 1979 and is one of the leading public finance law firms in the United States with more than 60 attorneys nationwide. The Firm primarily represents states, counties, school districts and other governmental and quasigovernmental entities as bond counsel in public finance transactions. Complementing its core practice, GilmoreBell also acts as underwriter's counsel and bank counsel in public finance transactions. The Firm has an extensive tax and arbitrage rebate compliance practice that has grown in response to increased complexity of Federal tax laws, regulations and IRS audit examinations. In addition, the Firm provides continuing disclosure compliance services to issuers of municipal securities.

## **COMPLIANCE SERVICES GROUP**

### **What is Post-Issuance Compliance?**

State and local bond issuers and borrowers spend a great deal of time, energy and money issuing tax-exempt bonds. This effort is generally worthwhile because it can result in significant cost savings when compared to borrowing in the taxable debt market. However, municipal issuers of tax-exempt bonds have responsibilities after the bonds are issued and must comply with an increasingly complex range of Federal income tax, disclosure and bond record-keeping matters. Failure to attend to these responsibilities, referred to as "post-issuance compliance," can have serious Federal tax or securities law consequences.

### **How Can GilmoreBell Help?**

GilmoreBell has been providing arbitrage rebate computation services to clients for over 25 years. Today our Compliance Services Group — consisting of tax attorneys, tax and disclosure analysts and specialized administrative staff — helps municipal issuers comply with post-issuance compliance requirements that apply to tax-exempt bonds. Navigating through the post-issuance compliance requirements can be overwhelming, but we can assist in actively monitoring and fulfilling the compliance responsibilities throughout the period tax-exempt bonds are outstanding.

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# How GilmoreBell Compliance Services Group Can Help

## Compliance Services Available

- Draft and provide updates for compliance procedures
- Complete arbitrage computations
- Prepare final allocations
- Review annual compliance checklists, leases, management/operating agreements, research contracts or other agreements entered into for use of bond financed property
- Assist with the preparation and filing of annual reports and other material event filings with the MSRB through EMMA
- Create compliance tracking system and provide email notifications of key dates
- Prepare IRS Form 990, Schedule K for 501(c)(3) borrowers
- Prepare IRS Form 8038-CP to assist municipal issuers to receive interest subsidy payments
- Process requests through the IRS Voluntary Closing Agreement Program (VCAP)
- Respond to IRS Questionnaires or IRS Examinations

## Investment of Bond Proceeds & Arbitrage Computations

For most bond issues the Federal tax laws require that an arbitrage computation and payment to the Federal Government, if applicable, be made at least every 5 years and upon final redemption or maturity of the bonds. GilmoreBell tracks the investment of bond proceeds and related funds and completes annual arbitrage computations as long as necessary to determine whether a payment is required.

## Expenditure & Allocation of Bond Proceeds

The IRS expects municipal issuers to keep contemporaneous records of the expenditure of bond proceeds and other sources of funds and to make a timely allocation to qualified project expenditures (a "final allocation"). Generally, this allocation must be completed within 18 months of the date the project is placed in service, but no later than 5 years from the issue date of the bonds. GilmoreBell compiles the expenditure detail necessary to complete a final allocation for a bond issue and identifies the bond financed property that must be tracked on an ongoing basis.

## Annual Compliance Check and Use of Bond Financed Property

The Federal tax laws limit the amount of bond financed property that may be used in a "non-qualified use." For example, non-qualified use may result if a municipal issuer sells or leases bond financed property or enters into a management or service contract with a non-governmental entity. GilmoreBell prepares annual checklists to monitor the direct and indirect uses of bond financed property. We also review arrangements that may result in non-qualified use and perform computations of non-qualified use, if necessary.

## Continuing Disclosure

Municipal issuers are required to make certain financial information available to investors when bonds are sold in the open market, including (1) annually filing audited financial statements and specified operating data and (2) providing immediate notice of certain "material events." We help municipal issuers determine the appropriate information to disclose, compile the required information, and file the information via the Municipal Securities Rulemaking Board's EMMA website.



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