

Tax-Exempt Financings for 501(c)(3) Organizations

Overview Sheet

Qualified 501(c)(3) Bonds

- Interest on a “Qualified 501(c)(3) Bond” excluded from gross income for Federal income tax purposes
 - State law may exempt from state income taxes
- General Requirements:
 - Ownership—bond financed project owned by 501(c)(3) organization or governmental unit
 - Qualified Use—not more than 5% of bond proceeds may be used in non-qualified private use or for unrelated trade or business
 - 120% test—weighted average maturity of the bonds cannot exceed 120% of average reasonably expected economic life of bond financed property
- Financing purpose types:
 - New money financings
 - Tax-exempt bonds for capital expenditures (buildings, equipment, land, etc.)
 - Expenditures paid within 60 days before adoption of intent/reimbursement resolution (sample form on following page) and after can be reimbursed with tax-exempt bond proceeds
 - Generally, proceeds to be spent within 3 years
 - Refunding/Refinancing bonds and other debt
 - Working capital financings (special tax rules)
 - Capitalized interest, reserve fund, issuance costs

Conduit Issuance

- Federal tax law requires tax-exempt bonds must be obligations of a State or political subdivision (Conduit Issuer)
- Conduit Issuer Types: statewide authorities, cities & counties, industrial development authorities, etc.
- Bond Counsel reviews legal authority of conduit issuer for bond issuance

Questions? Contact Bond Counsel

Please do not hesitate to call or email our G&B attorneys

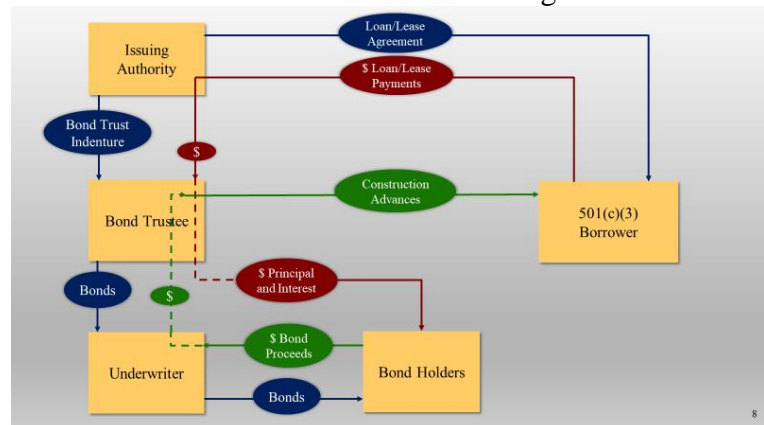
<https://www.gilmorebell.com/people/attorneys/>

Core Terms

- Interest Rates: fixed or variable for term or to maturity (daily/weekly/short/long-term/indexed)
- Financial Covenants: debt service coverage ratio, liquidity ratio, etc.
- Optional Redemption Types: non-callable, par call after no-call period, tiered premium schedule, make-whole redemption premium, etc.
- Collateral/Security Types: revenues/receivables pledges, real and personal property collateral, master trust indenture notes

Transaction Structures

- Bond trust indenture and loan agreement structure
 - Conduit issuer loans bond proceeds to 501(c)(3) borrower under loan agreement
 - Conduit issuer assigns rights including loan payments under loan agreement to bond trustee under bond trust indenture to repay bondowners
- Bond trust indenture and lease agreement structure
 - Conduit issuer applies bond proceeds to project
 - Conduit issuer leases bond financed project to 501(c)(3) borrower under lease agreement
 - 501(c)(3) borrower agrees to pay lease payments sufficient to pay debt service on bonds
 - Conduit issuer assigns rights including lease payments to bond trustee under bond trust indenture to repay bondowners
- Master Trust Indenture (with any structure above)
 - 501(c)(3) borrower’s master covenant and collateral document
 - Provides for issuance of borrower notes to evidence and secure debt including bonds



[Sample Form of Tax-Exempt Bonds Reimbursement/Intent Resolution (non-binding)]

**RESOLUTION OF THE BOARD OF [TRUSTEES][DIRECTORS] OF
 [__**insert 501(c)(3) borrower institution legal name**__]
 DETERMINING INTENT TO REIMBURSE
 FOR CERTAIN CAPITAL EXPENDITURES**

WHEREAS, [__**insert 501(c)(3) borrower institution legal name**__], a [_____] nonprofit corporation (the "Institution"), desires to borrow funds from a governmental issuer of bonds (the "Issuer") to provide funds to pay for all or a portion of the costs related to the acquisition, construction, improvement, extension, repair, equipping and furnishing of certain [educational][health][_____] facilities and related land and other related facilities, including the projects more fully described in Exhibit A hereto (collectively, the "Project").

WHEREAS, the Institution has caused to be made certain capital expenditures in connection with the Project prior to the date of this Resolution, and the Board expects additional capital expenditures for the Project in the future.

RESOLVED, that the Institution intends to reimburse itself for all or a portion of such capital expenditures made in connection with the Project with the proceeds of tax-exempt bonds or other tax-exempt obligations issued by the Issuer for the benefit of the Institution (the "Bonds").

FURTHER RESOLVED, that the estimated total cost of the Project is \$[_____] , for which the maximum principal amount of Bonds expected to be issued for the Project is not to exceed \$[_____] and equity contributions of the Institution or other entities have been or are expected to be provided to fund the remaining costs of the Project.

The undersigned hereby certify that the foregoing Resolution was duly adopted by the Board of [Trustees][Directors] of [__**insert 501(c)(3) borrower institution legal name**__] on _____, 20__.

By: _____
 Title: Secretary of the Board of [Trustees][Directors]

EXHIBIT A TO RESOLUTION

The Project includes the following components:

- Acquisition, construction, improvement, extension, repair, equipping and furnishing of [**insert project description _____**]
- Miscellaneous capital expenditures for the Institution's [educational][health][_____] facilities at its campus[es] located at [_____]

