

RULES AND REGULATIONS INTERPRETING BOARD POLICY
POST –ISSUANCE TAX-LAW COMPLIANCE PROCEDURES – 627.2
(FOR OBLIGATIONS)

This Administrative Regulation relates to Policy No. 627 on compliance procedures for tax exempt obligations required by the Internal Revenue Code of 1986 (the “Code”).

Background

The District has an obligation to satisfy certain requirements under the Code to preserve the tax-exempt status of District Obligations.

Compliance Officer’s Responsibilities

When Tax–Exempt Obligations are issued, the Compliance Officer is responsible for the following:

1. **Closing Documents.** Obtaining and storing a closing book, binder, CD, or electronic copy of the closing documents for the Obligations.
2. **Information Return.** Confirming that the District, or Bond Counsel¹ or another party acting on behalf of the District, has filed the applicable federal tax information return with respect to the Obligations (such as US Treasury Form 8038, 8038-G, 8039-GC, or 8038-CP) on a timely basis,² and filing a copy of US Treasury Notice CP-152 (confirming the filing of the tax information return) with the closing documents, as and when such Notice is received by the District.
3. **Record Retention.** Maintaining (1) the closing documents, (2) all records relating to the investment and use of the proceeds of the Obligations, and (3) all records related to compliance with arbitrage yield restrictions and arbitrage rebate calculations and payments, for six (6) years beyond the final maturity date of the original Obligations or of any Obligations issued to refund, directly or in a series of refundings, the original Obligations.
4. **Use and Investment of Proceeds Compliance.**
 - a. Consulting with Bond Counsel and/or the District’s financial advisor to gain an understanding of the arbitrage yield restrictions which apply or may apply to the Obligations.

¹ References to “Bond Counsel” in these administrative regulations shall mean nationally recognized bond counsel which may be, but need not be, the attorney or firm of attorneys which issued or is issuing an approving legal opinion as to the tax-exempt status of interest on the Obligations to which consideration is being given.

² As of the date of adoption of these administrative regulations, an information return is required to be filed by the 15th day of the second calendar month after the close of the calendar quarter in which the Obligation is issued, may not be filed before the issue date and must be completed based on the facts as of the issue date.

- b. Assuring that the proceeds of the Obligations, including any investment earnings on such proceeds, are used as indicated in the original debt (borrowing) resolution or ordinance and closing documents or, with the advice of Bond Counsel, as may be otherwise permitted by law and the terms of the financing documents.
- c. Coordinating the receipt and retention of relevant receipts, statements, books and records with respect to the investment and expenditure of proceeds of the Obligations. Such documentation shall include the assets or types of facilities financed with the proceeds of the Obligations.

5. Arbitrage Yield Limitation Compliance.

- a. Consulting with Bond Counsel and/or the District's financial advisor to gain an understanding of the arbitrage yield restrictions which apply or may apply to money constituting proceeds of the Obligations.
- b. Maintaining appropriate record of any and all investment of proceeds of the Obligations.
- c. Assuring that any and all investment of such proceeds is made at fair market value, and establishing and maintaining records with respect to each purchase and sale of an investment, including, if applicable, the "trade date," "settlement date", purchase or sale price and, if applicable, copies of any investment bid specifications and bids received.
- d. Monitoring the investment of proceeds of the Obligations to assure compliance with applicable arbitrage yield restrictions and engaging, when appropriate and subject to approval by the governing board of the District, an independent accountant, municipal financial advisor or arbitrage rebate consultant to assist the District in complying with the arbitrage yield restriction.

6. Arbitrage Rebate Compliance.

- a. Engaging, when appropriate and subject to approval by the governing board of the District, an independent accountant, municipal financial advisor or arbitrage rebate consultant to assist the District in complying with the arbitrage rebate requirements and to provide the District with periodic reports of any arbitrage rebate liability with respect to the Obligations. Preferably such reports shall be annual, but such reports shall be not less frequent than once every 5 years, unless the Obligations have been determined to be exempt from the arbitrage rebate requirement.
- b. Determining, in consultation with the retained professional and/or Bond Counsel, whether the Obligations are eligible for any exemption from the arbitrage rebate requirement contained in the Internal Revenue Code or applicable Treasury Regulations, such as the "small issuer" exemption or any of the 6-month expenditure, 18-month expenditure or 2-year construction expenditure exemptions.

- c. Assuring that any arbitrage rebate liability is properly accounted for in the District's books and records and annual financial statements.
- d. Assuring that any arbitrage rebate liability is calculated in compliance with federal tax rules and regulations, which presently provide that (1) the first installment of arbitrage rebate is due within 60 days following the fifth (5th) anniversary of the date of issuance of the Obligations (or any earlier arbitrage rebate calculation date elected by the District), and (2) succeeding installments of arbitrage rebate are to be calculated every five (5) years thereafter and upon final redemption of the Obligations.
- e. Assuring that any arbitrage rebate payment is made no later than 60 days after the requisite rebate calculation date and is accompanied by the appropriate form, properly completed.³
- f. Assuring that a final calculation of arbitrage rebate is made and, if necessary, a final arbitrage rebate payment is made no later than 60 days after the last of the Obligations are paid, whether upon stated maturity or upon prior redemption or prepayment.

7. Restricted Private Business Use Compliance.

- a. Consulting with Bond Counsel to gain an understanding of the "private business use" restrictions that may apply to the assets financed or refinanced by the Obligations.
- b. Assuring that the District consults with Bond Counsel before entering into any arrangement for the use of facilities financed or refinanced in whole or in part with Obligations which could be construed as "private business use." Examples of possible private use are:
 - Sale of financed facilities
 - Lease of financed facilities
 - Nonqualified management or service contracts for the use of financed facilities
 - Contracts granting "special legal entitlements" (such as naming rights or exclusive provider arrangements) with respect to financed facilities

8. Changes in Use.

- a. Consulting with Bond Counsel regarding any proposed or actual change in use or ownership of the assets or facilities financed in whole or in part with proceeds of the Obligations to determine whether such change in use will affect, or has affected, adversely, the tax-exempt status of the Obligations.

³ As of the date of adoption of these administrative regulations, arbitrage rebate payments are to be accompanied by a completed Treasury Form 8038-T.

9. Compliance with “Bank-Qualified” Bond Limitations.

- a. Monitoring, and consulting with Bond Counsel regarding, the issuance or expected issuance of any other tax-exempt obligations (whether in the form of notes, bonds, other obligations or leases) in the same calendar year of issuance as the Obligations, to assure that (1) that the District may, if desired, designate the Obligations as “bank-qualified” obligations under Section 265 of the Internal Revenue Code, and (2) if the Obligations have been so designated, the issuance of any other tax-exempt obligations during the same calendar year does not adversely affect the “bank-qualified” status of the Obligations.

Procedures in the Event of Non-Compliance; Remedial Actions

If at any time it is determined that the District has failed to comply, or appears to have failed to comply, with the federal tax laws and regulations applicable to the Obligations, the District shall promptly implement the following procedures:

- a. Engage Bond Counsel or another independent professional person, firm or corporation to examine the facts and circumstances to determine whether there has, in fact, been a failure to comply and, if so, to provide advice and counsel as to what actions can be taken to remedy the noncompliance;
- b. If applicable, take appropriate and timely remedial action with respect to all nonqualified bonds according to Treasury Regulation Section 1.141-12 (relating to remedial actions if bonds become “private activity bonds” in whole or in part); and
- c. If applicable, utilize the Internal Revenue Service’s voluntary closing agreement program (VCAP) in order to reach a settlement which preserves the tax-exempt status of interest on the Obligations.

Continuing Education and Training

The Compliance Officer shall determine if Business Office employees responsible for implementation of any of the above procedures should seek training to perform the above duties.

It shall be the policy of the District that the Compliance Officer and any other Business Office employees responsible for implementing these administrative regulations shall periodically attend conferences, seminars, or webinars discussing compliance with the rules of the Internal Revenue Code applicable to tax-exempt obligations.

Adopted:
08/11/16