Department of the Treasury
Internal Revenue Service

Instructions for Form 8038-G

(Rev. May 1995)

Information Return for Tax-Exempt Governmental Obligations

A separate Form 8038-G must be filed for each issue of obligations.

(Note: *Use Form 8038-GC if the issue price is under $100,000.)*

Section references are to the Internal Revenue Code unless otherwise noted.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form . . . . . 2 hr., 29 min.

Preparing, copying, assembling, and sending the form to the IRS . . . . 2 hr., 51 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the **Internal Revenue Service,** Attention: Tax Forms Committee, PC:FP, Washington, DC 20224. **DO NOT** send the form to this address. Instead, see **Where To File** below.

General Instructions

Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150. Complete Parts II through VI on the basis of available information and reasonable expectations as of the date the issue is issued. If an item does not apply to the issue you are reporting, write “N/A” in the space provided for the item.

Who Must File

Issuers must file a Form 8038-G for each issue of tax-exempt governmental obligations issued after December 31, 1986, if the price (line 20, column (c)) of the issue is $100,000 or more. If the issue price is less than $100,000, issuers must file **Form 8038-GC,** Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales. Issuers use **Form 8038-T,** Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate, to pay the arbitrage rebate to the United States, and to pay a penalty in lieu of arbitrage rebate.

When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued. Complete Form 8038-G based on the facts as of the issue date.

Late filing.—An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 88-10, 1988-1 C.B. 635, if it is determined that the failure to file on time is not due to willful neglect. Send a late Form 8038-G to: Internal Revenue Service, Philadelphia Service Center, Statistics of Income Unit, P:DA:Unit F-SOI, Philadelphia, PA 19255, Stop #335. Type or print at the top of the form, “This Statement Is Submitted in Accordance with Rev. Proc. 88-10.” Attach to the Form 8038-G a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust indenture or other bond documents.

Where To File

File Form 8038-G with the Internal Revenue Service Center, Philadelphia, PA 19255.

Rounding Off to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 cents through 99 cents to the next higher dollar.

Definitions

- A “tax-exempt obligation” is an obligation on which the interest is excluded from income under the Internal Revenue Code. A tax-exempt obligation is not limited to the formal issuance of bonds. It also includes installment purchase agreements and financial leases.
- A “tax-exempt governmental bond” is a tax-exempt bond that is not a private activity bond.
- A “private activity bond” is generally an obligation issued as part of an issue of which **(a)** more than 10% of the proceeds are to be used for any private business use; and **(b)** more than 10% of the payment of principal or interest of the issue is either secured by an interest in property to be used for a private business use (or payments in respect of such property), or is to be derived from payments in respect of property (or borrowed money) used for a private business use. An obligation is also considered a private activity bond if the amount of the proceeds to be used to make or finance loans (other than loans described in section 141(c)(2)) to certain persons exceeds the smaller of 5% of the proceeds or $5 million. Private activity bonds should be reported on **Form 8038,** Information Return for Tax-Exempt Private Activity Bond Issues.

Issue.—Generally, do not treat separate obligations as part of the same issue unless the obligations are issued by the same issuer, on the same date, and pursuant to a single transaction (or series of related transactions). In cases of **draw-down loans,** all amounts reasonably expected to be advanced within 3 years of the date of the first draw may be treated as part of the same issue if the draws are equally and ratably secured by the same loan agreement and are pursuant to a common financing arrangement. All obligations that are issued under a single **finance lease** or **installment purchase agreement** may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate.—Generally, interest on a state or local bond is not tax exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue.—A construction issue is an issue of tax-exempt bonds if **(1)** at least 75% of the available construction proceeds of the issue are to be used for construction expenditures with respect to property that is to be owned by a governmental unit or a 501(c)(3) organization, and **(2)** all of the bonds that are part of the issue are qualified 501(c)(3) bonds; bonds that are not private activity bonds; or private activity bonds issued to finance property to be owned by a governmental unit or a 501(c)(3) organization. In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C).

Specific Instructions

Part I—Reporting Authority

Amended Return.—If you are filing an amended Form 8038-G, check the amended return box and complete Part I and only those parts of Form 8038-G you are amending. Use the same report number (line 4) as was used for the original report. Do not amend the estimated amounts previously reported once the actual amounts are determined.

Line 1.—The issuer’s name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

Line 2.—An issuer that does not have an EIN should apply for one on **Form SS-4,** Application for Employer Identification Number. This form may be obtained from most IRS and Social Security Administration offices. File Form SS-4 according to the instructions on that form. If the EIN has not been received by the due date for Form 8038-G, write “Applied for” in the space for the EIN.

Line 4.—Number reports consecutively based on the filing date (not the date of issue). For example, if the issuer filed two Forms 8038-G in the 1995 calendar year, the “report number” for the third Form 8038-G would be “G1995-3.” If an issuer (e.g., a state) issues obligations through many departments or agencies, the issuer may assign a letter of the alphabet to each department or agency, and each may separately number its reports by indicating both the report number and letter (e.g., G1995-5-C, G1995-2-D).

Line 6.—Enter the date of issue. This is generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds. For a lease or installment sale, enter the date interest starts to accrue.

Line 7.—Enter the name of the issue. If there is no name, please provide other identification of the issue.

Line 8.—Enter the CUSIP (Committee of Uniform Securities Identification Procedure) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None."

Part II—Type of Issue

Identify the type of obligations issued by checking the appropriate box(es) and entering the corresponding issue price. The issue price does not include interest from the date the obligations are dated to the date of issue (if payable at regular intervals of one year or less).

Lines 9 and 10.—Attach a schedule listing names and employer identification numbers (EINs) of organizations that are to use proceeds of these obligations if different from those of the issuer.

Line 16.—Check the box on this line only if lines 9 through 15 do not apply. Enter a description of the issue in the space provided.

Part III—Description of Obligations

Line 19.—Enter the maturity date, the interest rate (or coupon rate), the issue price, and the stated redemption price at maturity. **(a)** If there is more than one maturity date for bonds that are part of the issue, enter the information for the bonds with the latest maturity date. **(b)** Interest rates should be carried out to three decimal places. If the interest rate is a variable rate, write "VR" in column (b). **(c)** If the bonds are reoffered to the public, the issue price should be based on the reasonably expected reoffering price. The issue price does not include interest from the date the bonds are dated to the date of issue (if payable at regular intervals of one year or less). **(d)** The stated redemption price at maturity is the amount payable (without regard to optional redemptions) at maturity (excluding interest payable at regular intervals of one year or less).

For a lease or installment sale, write "N/A" on line 19, columns (a) through (d).

Line 20.—Enter in columns (c), (d), and (e) the issue price, stated redemption price at maturity, and weighted average maturity in years (e.g., 8.7 years) for the entire issue. **(d)** The stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue. For a lease or installment sale, write "N/A" on line 20, column (d). **(e)** The weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 20, column (c)).

For a lease or installment sale, enter the total number of years the lease or installment sale will be outstanding.

(f) Enter the yield, as defined in section 148(h), in column (f) only if it has been computed. The yield is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue.

If the issue is a lease or installment sale, enter the effective rate of interest being paid.

(g) Enter the net interest cost percentage (NIC) in column (g) if the yield is not entered in column (f). The NIC for an issue may be determined by dividing the total interest payments for the issue (increased by any discount and reduced by any premium or accrued interest) by the product of the issue price from line 20, column (c), and the weighted average maturity from line 20, column (e).

$$\text{NIC} = \frac{a + b - c}{x\,y}$$

a = total interest payments

b = discount

c = premium or accrued interest

x = issue price

y = weighted average maturity

If the issue is a variable rate issue, write "VR" as the NIC of the issue.

For other than variable rate issues, carry the yield or the NIC out to four decimal places (e.g., 5.3125%).

Example 1: An issue is made up of four bonds, each with an issue price of $1. One bond matures at each of the four annual anniversary dates after the date of issue. The weighted average maturity (WAM) is calculated as follows:

$$\text{WAM} = \frac{\$1\text{X}1 + \$1\text{X}2 + \$1\text{X}3 + \$1\text{X}4}{\$4} = \frac{\$10}{\$4} = 2.5$$

Example 2: If in Example 1, the bond maturing at the end of the first year had an issue price of $1.1 (reflecting a premium) the WAM would be calculated as follows:

$$\text{WAM} = \frac{\$1.1\text{X}1 + \$1\text{X}2 + \$1\text{X}3 + \$1\text{X}4}{\$4.1} = \frac{\$10.1}{\$4.1} = 2.46$$

Example 3: Assume that the bonds described in Example 2 pay 5% interest at the end of each year that they are outstanding. Using the above formula, NIC is calculated as follows:

a = .20 + .15 + .10 + .05 = .50

b = 0

c = .1

x = 4.1

y = 2.46

$$\text{NIC} = \frac{.50 + 0 - .1}{4.1 \text{ X } 2.46} = \frac{.40}{10.086} = .039659 = 3.9659\%$$

Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" on Part IV.

Line 21.—Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

Line 23.—Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel.

Line 24.—Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (e.g., bond insurance premiums and certain fees for letters of credit).

Line 26.—Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

Line 27.—Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" on Part V.

Lines 30 and 31.—Enter the remaining weighted average maturity of the bonds being refunded. Determine the remaining weighted average maturity without regard to the refunding. The weighted average maturity is determined in the same manner as on line 20, column (e).

Line 33.—Enter the date of issue of the bonds being refunded. If more than a single issue of bonds will be refunded, enter the date of issue of each issue.

Part VI—Miscellaneous

Line 36.—If any portion of the gross proceeds of the issue are or will be invested in a guaranteed investment contract, as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the guaranteed investment contract.

Line 37a.—Enter the amount of this issue used to fund a loan to another governmental unit, the interest of which is tax exempt.

Line 38.—Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

Line 39.—Check this box if the issuer identified a hedge on its books and records in accordance with Regulations sections 1.148-4T(h)(2)(ix) and 1.148-4T(h)(5)(ii)(A). These regulations permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.