

ADMINISTRATIVE DIVISION FINA Administration and Finance		POLICY NUMBER FINA 5.50
POLICY TITLE Administration and Finance – Tax Exempt Bonds		
SCOPE OF POLICY USC System	DATE OF REVISION December 20, 2024	
RESPONSIBLE OFFICER Executive Vice President for Finance and Chief Financial Officer	ADMINISTRATIVE OFFICE University Finance – Controller’s Office	

PURPOSE

This policy sets forth the University of South Carolina’s framework for ensuring post-issuance compliance with the federal requirements for tax-exempt bonds, including the appropriate use of University facilities and space financed by such bonds.

DEFINITIONS AND ACRONYMS

Arbitrage: The practice of taking advantage of a price differential between two or more markets to capitalize on the imbalance to derive a profit. Specifically, the issuance of tax-exempt bonds at a lower rate and the subsequent investment of the proceeds in obligations paying higher rates.

Exempt Entity: Either a state or local government entity or an entity described in Section 501(c)(3) of the Internal Revenue Code. Such entities are exempt from paying federal income tax on income generated from activities that are substantially related to the purpose for which the entity was organized.

Private Business Use: The use of tax-exempt bond-financed property in a trade or business carried on by a person other than a state or local entity for governmental purposes.

Tax-Exempt Bonds: A bond, issued by or on behalf of a state or local government, that receives preferential tax treatment and is generally used as a mechanism to raise capital needed to finance essential projects.

POLICY STATEMENT

The general policy of the University is to comply with the requirements of the Internal Revenue Code, Treasury Regulations, and State of South Carolina Code of Laws to preserve the tax-exempt status of its bond issuances. An issuer or other party’s failure to comply with any requirement in respect to tax-exempt bonds jeopardizes the preferential tax status of those bonds.

Any violations discovered by the University will be resolved on behalf of the bondholders as quickly as possible through consultation with the Bond Counsel and remedial measures (e.g., Voluntary Closing Agreement Program of the Internal Revenue Service [IRS]).

A. Authority

In accordance with state law (SC Code of Law 59-117-320), only the Board of Trustees is authorized to secure bonds on behalf of the University. The Chief Financial Officer and University Controller serve as appointed designees. All bonds require final review and approval from the Board of Trustees, the Joint Bond Review Committee, and the State Fiscal

Accountability Authority prior to issuance in coordination with the State Treasurer's Office.

B. Private Business Use

Capital projects financed with tax-exempt bonds must not be used for excessive private business use. Tax-exempt bonds lose their tax-exempt status if more than 10% of the bond issuance is used for any private business use. The costs of issuance are applied against this limit. The University's policy is to engage in private business use only to the extent that sufficient non-tax-exempt bonds can be allocated to cover the use, with exceptions permitted in certain limited circumstances. Such private business use can be created by sales, leases, special entitlements, management contracts, and sponsored research agreements, among other activities.

The Office of the Controller will regularly prepare a list of all facilities and equipment that have been financed in whole or in part with the proceeds of tax-exempt bonds. The uses of all bond-financed facilities will be reviewed to ensure such use is within permitted amounts.

C. Arbitrage

Tax-exempt bonds lose their tax-exempt status if they violate the IRS's arbitrage rules. The Internal Revenue Code contains two sets of requirements relating to arbitrage: (1) yield restriction requirements, which generally provide that bond issue proceeds may not be invested at a yield in excess of the bond yield; and (2) rebate requirements, which generally provide that when arbitrage is earned on an issue in excess of permitted amounts, the excess earnings must be paid to the U.S. Department of Treasury.

The University will coordinate with the State Treasurer's Office annually to review arbitrage and will not take any action, or fail to take any required action, that causes noncompliance with applicable requirements.

D. Allocation of Proceeds to Expenditures

All projects financed by tax-exempt bond proceeds must be owned or, under certain circumstances, leased by the University, the intended use for which must be consistent with the University's tax-exempt purpose. The spending of bond proceeds and related investment earnings toward eligible project costs must be tracked to ensure they are used for qualified purposes. Bond proceeds shall only be disbursed for eligible project costs, capitalized interest, and bond issuance costs.

The Office of the Controller is responsible for monitoring the expenditure of bond proceeds and maintaining related payment and allocation records. At the conclusion of a project, a final allocation should be compiled, documenting the use of all bond proceeds and investment earnings. This documentation will be part of the permanent records for a particular bond transaction. If any proceeds, together with investment earnings, remain after paying all expected costs of the projects finalized, consultation will occur with the State Treasurer's Office to ensure the remaining proceeds are spent as promptly as is required by law.

E. Retention and Disclosure

Sufficient records will be retained to support the continued tax-exempt status of any tax-exempt bonds issued by or on behalf of the University. Generally, the retention period ends

three years after the final redemption or final maturity date of the series of bonds, as applicable. These records include, but are not limited to, documentation evidencing:

1. basic records relating to the bonds;
2. expenditure of the bond proceeds, including any projects financed with proceeds;
3. returns submitted to the IRS;
4. all sources of payment or security for the bonds; and
5. any investment of bond proceeds.

The University is subject to continuing disclosure requirements imposed by federal and state agencies. These requirements are met by providing annual reports, other documents, and disclosure of “reportable events” to the designated entities. This includes providing annual financial information and event disclosure to the Municipal Securities Rulemaking Board, through its Electronic Municipal Market Access system.

PROCEDURES

There are no procedures for this policy. Questions may be sent to the Controller’s Office at controller@sc.edu.

RELATED UNIVERSITY, STATE AND FEDERAL POLICIES

[South Carolina Code of Laws Sections 12-2-50, 12-6-1120, and 12-13-20](#)
[South Carolina Code of Laws Title 59, Chapter 117, Article 3](#)
[SC Revenue Ruling #16-2, Interest Exempt from South Carolina Income Tax](#)
[IRS Publication 4079, Tax Exempt Governmental Bonds](#)
[IRS Section 103, Interest on State and Local Bonds](#)
[Securities Exchange Commission Rule 15c2-12 – Continuing Disclosure](#)
FINA 1.30 Records Retention

HISTORY OF REVISIONS

DATE OF REVISION	REASON FOR REVISION
December 20, 2024	Policy creation