

Rebate Help

You likely know what to expect when it comes to preparing for the arrival of your auditors. Financial advisors and underwriters are there to help you through debt refunding transactions.

Preparing to meet your arbitrage rebate requirements may be a less familiar task. The first installment computation date can be any date not later than five years from the anniversary date of the issuance of the bonds. The financing team that helped structure and close the issue may not be easily accessible to provide assistance with arbitrage rebate questions years later. Whether you choose to calculate arbitrage rebate in-house or decide to outsource the task, the following hints will improve your chances for a positive experience.

Be sure you have a full set of bond documents. Locate the Arbitrage or Non-arbitrage certificate. It may also be called a Tax Compliance Certificate. Also find the IRS Form 8038 or 8038-G, Official Statement, accountants verification report for refunding issues and the Bond Resolution. These documents contain information about sources and uses of proceeds, arbitrage yield, issue date, expiration of the temporary period and other information vital to the process of calculating arbitrage rebate. This should be done as soon as possible after the closing. It will save time in the long run. If you have difficulty locating the documents, bond counsel should be able to provide them.

Determine if you meet the small issuer exception. If you meet the small issuer exception, you are exempt from arbitrage rebate. But be careful! In rare circumstances you may still end up owing a yield reduction payment. This occurs if there are unspent gross proceeds remaining after the temporary period expires that are earning a yield .125% greater than the arbitrage yield. Of course, debt service reserve funds do not have to be spent. If in doubt, call Dufresne & Associates, CPA, PA for assistance in analyzing the information.

Determine if you meet the six-month spending exception. You are exempt from rebate if you meet the six-month spending exception. It may be apparent that the exception has been met by looking at the documents specified above. In the case of a current refunding, for example, when there are no transferred proceeds and no reserve fund, you may be able to ascertain that all funds will be spent prior to six months from the issue date. Dufresne & Associates, CPA, PA would be glad to answer any questions you may have in this regard.

Assemble a file and add the issue to your arbitrage rebate schedule matrix. A spreadsheet or other similar tool is an excellent way to organize information vital to the calculation of arbitrage rebate. Consider including fields for issue name, issue date, arbitrage yield, elections made, installment computation date, trustee contact and account numbers (if applicable), general ledger account numbers (if the entity invested the funds without using a trustee), and yields on investments if available.

Be aware of other spending exceptions. In addition to the Small Issuer and Six Month exceptions, an Eighteen Month exception is available for most issues, and a Two Year exception is available for certain governmental construction issues. However, calculations must be done to determine if the specific conditions have been met by your issue. There are thresholds that must be met throughout the eighteen months or two years, as the case may be. Dufresne & Associates, CPA, PA determines if your issue has met a spending exception when calculating arbitrage rebate.

Don't forget about yield restriction. It is possible to have negative arbitrage but owe a yield reduction payment. This occurs if there are unspent gross proceeds remaining after the temporary period expires ("Restricted Proceeds") that are earning a yield .125% greater than the arbitrage yield. You could have overall negative arbitrage because unrestricted funds (such as a Debt Service Reserve Fund) could be offsetting the positive arbitrage of the Restricted Proceeds. However, for yield restriction purposes, the unrestricted funds cannot be offset against the Restricted Proceeds. This could result in an overall negative arbitrage position for all unspent gross proceeds, but you still owe a yield reduction payment to bring the yield on the Restricted Proceeds down to .125% above the arbitrage yield. Confusing? Dufresne & Associates, CPA, PA would be pleased to help you understand these complex rules.

It's best to keep your calculations up to date. In order to manage your bond proceeds successfully, it is helpful to know your arbitrage rebate position. It is very unsettling to get to the installment computation date and have difficulty locating the information necessary to complete the calculations. You may find the bond proceeds are all spent but you have to pay some amount to the U.S. Treasury and must determine the source of the funds to make the payment. These situations take time to resolve. If you find you've missed a reporting deadline, our CPA firm is well equipped to assist you in communicating with the IRS.

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