

MONTANA BOARD OF REGENTS OF HIGHER EDUCATION
Policy and Procedures Manual

SUBJECT: FINANCIAL AFFAIRS
Policy 950.3 – Tax-Exempt Debt Compliance
Adopted: January 19, 2012

I. Policy

The Internal Revenue Service (IRS) limits the extent of private (tax-exempt) activities that may be conducted in facilities constructed with tax exempt debt proceeds and also limits the private use of property and equipment acquired with tax-exempt debt proceeds. Additionally, the IRS limits the amount of earnings that may be derived from unexpended tax-exempt debt proceeds. This policy is adopted to provide procedures for campuses to appropriately monitor and report private (non-tax exempt) activities, expenditures and earnings over the life of tax-exempt borrowings.

II. Procedures

The units of the Montana University System shall follow written procedures approved by the commissioner of higher education which ensure that interest on tax-exempt bonds, notes or other obligations (“bonds”) of the Board of Regents (the “Board” or the “Issuer”) or its campuses remain excludable from gross income under Section 103 of the IRS Code of 1986, as amended (the “code”). Such written procedures are intended to formally memorialize certain practices and procedures of the board and its campuses previously followed in connection with its issuance of bonds, and provide guidance for future practices and procedures. The board authorizes the commissioner to use discretion as necessary and appropriate to make exceptions to these procedures as facts and circumstances warrant. Such procedures must address the following compliance topics as well as other topics as may be revised from time to time through amendments to the code:

- a. Timely Expenditure/Use of Debt Proceeds
- b. Use, Sale or Transfer of Debt-Financed Property
- c. Investments of Debt Proceeds
- d. Record Management and Retention

III. Overall Responsibility

A. The board appoints the vice president of administration and finance at Montana State University and the same official at The University of Montana to be responsible for monitoring post-issuance compliance issues at their respective institutions (each, a “university designee”). The unit presidents shall be responsible for ensuring an adequate succession plan for transferring post-issuance compliance responsibility when changes in officers occur.

B. Review of compliance with the procedures shall be undertaken periodically.

C. The board understands that failure to comply with these policies and procedures could result in the retroactive loss of the exclusion of interest on bonds from federal gross income and, thus, it would be advisable to consult with counsel and other professionals in advance regarding deviations from the facts and expectations as set forth in any bond documents.

D. Any violations or potential violations of federal tax requirements shall promptly be reported to the university designee, and the university designee will engage qualified consultants and counsel to further investigate potential violations or recommend appropriate remedial actions, which actions shall be approved by the board.

History:

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