

## Tax Exempt Bonds Voluntary Closing Agreement Program Request

The Tax Exempt Bonds Voluntary Closing Agreement Program (TEB VCAP), described in Notice 2008-31, 2008-11 I.R.B. 592, provides remedies for issuers of tax-advantaged bonds who voluntarily come forward to resolve a violation of the federal tax requirements applicable to a bond issue which cannot be corrected under self-correction programs described in the Income Tax Regulations (Regulations) or other published guidance. For this purpose, references to "tax-advantaged bonds" are references to tax-exempt bonds, qualified tax credit bonds, and direct pay bonds, which are specified tax credit bonds, build America bonds and recovery zone economic development bonds. Section 7.2.3 of the Internal Revenue Manual (IRM) provides additional procedural guidance on how to submit a TEB VCAP request. TEB VCAP is administered by the office of Tax Exempt Bonds (TEB) within the Tax Exempt & Government Entities division.

**Purpose of this form**

This form is to assist issuers in organizing their TEB VCAP submission requests and in ensuring that their submissions are complete in accordance with the requirements under Notice 2008-31 and IRM 7.2.3. This form will also facilitate the process for accepting requests and assigning requests to a specialist. This form does not alter the requirements of section 7121 of the Internal Revenue Code (Code), Notice 2008-31, or IRM 7.2.3 applicable to TEB VCAP.

**Who may use this form**

An issuer of tax-advantaged bonds may submit a TEB VCAP submission request to resolve a violation or other tax matter jeopardizing the tax-advantaged status of its bonds. While other parties (e.g., conduit borrower, trustee) may participate in a TEB VCAP request with the permission of the issuer, only the issuer may use this form to submit a request and provide all required information under penalties of perjury as to the truth, accuracy and completeness of such information. See IRM 7.2.3 for information on how to submit a TEB VCAP request on an anonymous basis.

**How to use this form**

Answer each question by filling in the requested information in the corresponding box. If the question relates to information to be included in the request, check the appropriate Yes or N/A option. When a question contains a place for a page number, insert the page number(s) of the request that correspond to the information called for by a "Yes" answer to a question. Sign the form under penalty of perjury, date the form, and include it at the beginning of your request.

**Issuer Information**

Unless otherwise noted, see IRM 7.2.3.2.1(2)(A) for more information

1. Issuer's name	2. Issuer's Employer Identification Number (EIN)
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3. Is the Issuer's name and EIN above different than that reported on the Form 8038 Series information return filed upon the issuance of the bonds

Yes                       N/A

If Yes, please provide the name and EIN reported on the return

Name	EIN
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4. Issuer's address (*number, street*)

City	State	ZIP code
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5. Name and title of official of issuer who may be contacted for additional information

6. Telephone number of official of issuer listed on line 5

**Note:** With respect to a violation that affects multiple issuers or issues of bonds, such as a composite issue, each issuer of an affected issue must join in the request and provide the information required in lines 1-6 in an attached schedule.

**Additional Party Information**

If the issuer proposes to include additional parties to the closing agreement please provide

7. Additional party's name	8. Additional party's EIN
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9. Address (*number, street*)

City	State	ZIP code
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10. Name and title of official of additional party who may be contacted for additional information

11. Phone number of official listed on line 10

12. Role of additional party (*e.g., conduit borrower, trustee*)

13. Is Form 8821, *Tax Information Authorization*, attached for the additional party to inspect and/or receive information about the issuer? IRM 7.2.3.2.1(6)

Yes Page number \_\_\_\_\_  N/A

14. Is Form 8821 attached for the issuer to inspect and/or receive information about the additional party? IRM 7.2.3.2.1(6)

Yes Page number \_\_\_\_\_  N/A

**Note:** If more than one additional party, provide the information and Forms 8821 required in lines 7 through 14 for each additional party on an attached schedule.

**Authorized Representative Information**

15. Is Form 2848, *Power of Attorney and Declaration of Representative*, for each authorized representative attached? IRM 7.2.3.2.1(6)

Yes Page number \_\_\_\_\_  N/A

16. Name and title of authorized representative	17. PTIN of authorized representative
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18. Telephone number of authorized representative

19. Address (*number, street*)

City	State	ZIP code
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**Note:** If more than one authorized representative, provide the information and Forms 2848 required in lines 15 through 19 for each additional representative on an attached schedule.

**Bond Information**

See IRM 7.2.3.2.1(2)(B) for more information

20. Name of bond issue	21. Issue date of bond issue
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22. CUSIP number (*if any*) reported on Form 8038 Series information return filed in connection with the issuance of the bond issue(s)

23. Issue price

24. Is a full debt service schedule for the issue showing principal maturities and interest rates (*for variable rate issues include a description of how the rate is set and the interest payments to the date of the request*) attached

Yes Page number \_\_\_\_\_  N/A

25. Is a copy of the Form 8038 Series information return filed in connection with the issuance of the bond issue(s) and submitted to the IRS attached? IRM 7.2.3.2.1(5)

Yes Page number \_\_\_\_\_  N/A

26. If the request relates to a direct pay bond issue, is a copy of any Forms 8038-CP related to the bond issue(s) and submitted to the IRS attached? IRM 7.2.3.2.1(5)

Yes Page number \_\_\_\_\_  N/A

27. If the violation relates to the requirements of section 148 of the Code, is a copy of any Forms 8038-T and Forms 8038-R related to the bond issue(s) and submitted to the IRS attached? IRM 7.2.3.2.1(5)

Yes Page number \_\_\_\_\_  N/A

## Violations

See IRM 7.2.3.2.1(2)(C) for more information

28. Which section(s) of the Code relates to the violation described in the request

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29. Is a clear statement of the specific federal tax requirement which provides a basis for finding a violation included

Yes Page number \_\_\_\_\_  N/A

30. Is a description of the identified violation(s) as well as the facts and circumstances pertaining to the nature of the identified violation and its occurrence included

Yes Page number \_\_\_\_\_  N/A

31. Is a statement as to when and how the facts surrounding the identified violation were discovered included

Yes Page number \_\_\_\_\_  N/A

32. In the event that the issuer identifies a violation but requests TEB to consider as a factor in determining an appropriate resolution that certain legal questions apply, has the issuer included the following information in its request

a) a description of established law supporting a determination that there is a credible basis for finding that a violation occurred

Yes Page number \_\_\_\_\_  N/A

b) a description of such legal questions, and their application to the facts of the submission, supporting why TEB should consider such legal questions as a factor in the appropriate resolution of the violation

Yes Page number \_\_\_\_\_  N/A

33. If the issuer is submitting a request to resolve a violation pursuant to a resolution standard described under IRM 7.2.3.4.2 (*Tax Exempt Bonds*) or IRM 7.2.3.4.3 (*Certain Direct Pay Bonds*), has the issuer additionally supplied any information required under the relevant Identified Violation section

Yes Page number \_\_\_\_\_  N/A

## Settlement Terms

See IRM 7.2.3.2.1(2)(D) for more information

34. Has the issuer included a description of the issuer's proposed settlement terms for resolving the identified violation

Yes Page number \_\_\_\_\_  N/A

35. If the proposal includes the payment of a closing agreement amount, has the issuer included

a) an identification of the computation methodology described in IRM 4.81.6 used to determine the amount or a description of an alternative computation methodology including a discussion of why such an alternative is appropriate under the facts and circumstances

Yes Page number \_\_\_\_\_  N/A

b) an identification of the source of funds to be used to pay the closing agreement amount

Yes Page number \_\_\_\_\_  N/A

36. If the proposal includes the redemption, defeasance, tender, or purchase of any amount of the bonds comprising the bond issue, has the issuer identified the source of funds to be used to effectuate such action and the maturities of the bonds subject to such action

Yes Page number \_\_\_\_\_  N/A

## Statements of Good Faith

See IRM 7.2.3.2.1(2)(E) for more information

37. Has the issuer included a statement that the bond issue is not under examination or under consideration by the IRS Office of Appeals

Yes Page number \_\_\_\_\_  N/A

38. Has the issuer included a statement that the tax-advantaged status of the bonds is not at issue in any federal court

Yes Page number \_\_\_\_\_  N/A

39. Has the issuer included a statement as to whether the bonds are under review in any court (*other than a federal court*), *administrative agency, commission, or other proceeding (and identified the proceeding)*

Yes Page number \_\_\_\_\_  N/A

40. Has the issuer included a statement as to whether the issuer knew or reasonably expected on the issue date that the violation might occur

Yes Page number \_\_\_\_\_  N/A

41. Has the issuer included a description of the policies or procedures which have been or will be implemented to prevent this type of violation from recurring with this or any other bond issues

Yes Page number \_\_\_\_\_  N/A

42. Has the issuer included a statement that the request for a closing agreement was promptly undertaken upon the discovery of the identified violation, including the date(s) of the violation, the date and circumstances surrounding the discovery of the violation, and the date and nature of any actions taken in response to the discovery of violation (*e.g., redemption, defeasance*)

Yes Page number \_\_\_\_\_  N/A

### Identification of Previous TEB VCAP or Private Letter Ruling Requests

See IRM 7.2.3.2.1(2)(F)&(G) for more information

43. Has the issuer identified any previous and contemporaneous TEB VCAP requests (*including anonymous requests*) submitted either: (1) with respect to the bond issue that is the subject of the request; or (2) pertaining to a violation that is of the same type as the subject of the request provided that such request was submitted within the past five years, including the name(s) of the related bond issue(s), brief summaries of the violation(s) identified and resolution thereof; or, if no previous or contemporary request has been submitted, has the issuer included a statement to that effect

Yes Page number \_\_\_\_\_  N/A

44. Has the issuer identified all previous or contemporaneous private letter ruling requests submitted by the issuer with respect to the bonds and relating to the violation which is the subject of the TEB VCAP request, including a brief summary of the matters addressed therein; or, if no previous or contemporaneous private letter ruling request has been submitted, has the issuer included a statement to that effect

Yes Page number \_\_\_\_\_  N/A

### Conflicts, Disclosure, 3rd Party Fault, Other

See IRM 7.2.3.2.1(2)(H) through (K) for more information

45. Has the issuer described any explanation the representative(s) or other professionals have made to the issuer regarding conflicts of interests relating to the bonds that might exist under Circular 230

Yes Page number \_\_\_\_\_  N/A

46. Has the issuer identified a violation that has been disclosed on the Municipal Securities Rulemaking Board's Electronic Municipal Market Access System (EMMA) or to any state or local taxing jurisdiction that grants tax-advantaged treatment to the issuer's bonds, including a statement describing the disclosure and how it was made; or, if no disclosure has been made, a statement to that effect

Yes Page number \_\_\_\_\_  N/A

47. If the issuer wishes to assert that the violation was caused by another party and requests TEB to consider this as a factor in determining an appropriate resolution, has the issuer included a statement that the violation was due to the acts or omissions of a person or persons other than the issuer, together with a description of the circumstances surrounding the violation thereof, and any information that the issuer has regarding such acts or omissions (*including an identification of the person or persons whose acts or omissions caused the violation*)

Yes Page number \_\_\_\_\_  N/A

48. Has the issuer attached an explanation of any other information relevant to the matters contained in or resolution of the TEB VCAP request

Yes Page number \_\_\_\_\_  N/A

### Written Post-Issuance Compliance Monitoring Procedures

49. Has the issuer included an affirmative or negative statement as to whether the issuer has adopted comprehensive written procedures intended to promote post-issuance compliance with, and to prevent violations of, the federal tax requirements for tax-advantaged bonds? IRM 7.2.3.2.1(3)

Yes Page number \_\_\_\_\_  N/A

50. If the issuer has included an affirmative statement for line 49, has the issuer included a detailed description of the portion of such comprehensive procedures which relate to the violation which is the subject of the TEB VCAP request identifying: 1) the authorized person(s) that adopted the procedures; 2) the officer(s) with responsibility for monitoring compliance; 3) the frequency of compliance check activities; 4) the nature of the compliance check activities undertaken; 5) and the date such procedures were originally adopted and subsequently updated (*if applicable*)? IRM 7.2.3.2.1(3)

Yes Page number \_\_\_\_\_  N/A

51. If the issuer has included an affirmative statement for line 49, has the issuer submitted information demonstrating that the issuer had, either prior to the date of the violation, adopted "sufficient written procedures", to ensure post-issuance compliance with federal tax law requirements; or, after the violation, implemented such procedures and both timely identified the violation following such implementation and submitted its request no later than 90 days after such identification? For purposes of this question, "sufficient written procedures" must specify: the official with monitoring compliance responsibility; the frequency of at least annual compliance checks; the nature of the compliance activities required to be undertaken; the procedures used to timely identify and elevate resolution of a violation when it occurs, or is expected to occur; procedures for the retention of records material to substantiate federal tax law compliance; and, an awareness of the availability of TEB VCAP and other remedial actions to resolve violations. A mere reference to the bond documents is generally insufficient. IRM 7.2.3.4.4

Yes Page number \_\_\_\_\_  N/A

**Issuer Approval & Signature**

Under penalties of perjury, I declare that I have examined this submission, including accompanying documents and statements, and to the best of my knowledge and belief, the submission contains all the relevant facts relating to the request, and such facts are true, correct, and complete

Signature of Official of Issuer	Name of Official of Issuer	Date signed

**Note:** TEB will only accept facts submitted by a party other than the issuer (*e.g. conduit borrower, trustee*) under penalties of perjury if the issuer also certifies under penalties of perjury that to the best of the issuer's knowledge that such facts are true and accurate. If the issuer wishes to have another party submit facts under penalty of perjury, attached a separate penalty of perjury statement. IRM 7.2.3.1.2(4)