

# MONTANA BOARD OF INVESTMENTS TAX-EXEMPT BOND PROGRAM

**This file was created in Microsoft Word and contains the following items:**

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**Bond Application Use:**

The Tax-Exempt Bond Application is primarily designed for tax-exempt Small Issue Bonds. However, the application can be used for any of the other 6 qualifying categories as defined by the Tax Reform Act of 1986.

**Utilizing The Electronic Application:**

Application is Microsoft Word document with field codes where data and checkmarks are entered.

If the field codes are visible on screen press Alt F9 - **codes should not be visible.**

If field codes print, select "Tool", "Options", "Print" and uncheck "Field Codes"

The F11 key will locate the first entry field in the application form.

The F11 key will locate the next data or check field in the electronic application form.

Shift F11 will locate the preceding data or check field in the electronic forms.

With the cursor on Page H1, the F11 key will locate the first entry field in the fee form.

The purpose of the overview of tax-exempt bonds is to provide some **general** information regarding the criteria that must be met to qualify under the federal and state laws governing tax-exempt bonds. Each of the seven qualifying categories of tax-exempt bonds has its own set of rules, regulations and criteria of the Internal Revenue Code that must be met to qualify for tax-exempt status. Potential applicants are strongly encouraged to consult with competent legal council regarding the circumstances and appropriateness of their specific application.

**For additional forms and assistance call or E-mail:**

(406) 444-1365

Geri Burton

[gburton@mt.gov](mailto:gburton@mt.gov)

## GENERAL OVERVIEW OF ALL TAX-EXEMPT BONDS

The distinguishing feature of state and local municipal bonds is that the interest earned is exempt from federal and state income taxes. The tax-exempt feature makes these bonds particularly attractive to individuals and other buyers in higher marginal tax brackets. The tax-exemption feature also makes it possible for state and local municipalities to borrow funds at a significantly lower rate than possible with taxable bonds.

The Tax Reform Act of 1986 distinguishes between two types of municipal bonds: Governmental Bonds and Private Activity Bonds (PABs). The essential difference is that governmental bonds are used to fund an “essential government function” while Private Activity Bonds are used for the benefit of private (non-government) persons. Given the same ratings, security, etc., for a variety of reasons Private Activity Bonds tend to trade at a higher interest rate, generally 5 – 20 basis points.

The Tax Reform Act of 1986 also placed a number of restrictions on the use of tax-exempt Private Activity Bonds. To meet the tax-exempt status the bonds must fall under one of the following 7 “qualifying” categories.

### 1. Exempt Facility Bonds

- Airports
- Mass-commuting facilities
- Sewage facilities
- Solid waste disposal facilities
- Facilities for the local furnishing of electric energy or gas
- Qualified hydroelectric generating facilities

### 2. Qualified Mortgage Bond

This is the single-family mortgage revenue bond program for first-time homebuyers.

### 3. Qualified Redevelopment Bonds

Infrastructure projects that do not meet the requirements of governmental bonds may qualify if they meet several tests of “qualified redevelopment bonds” e.g., use of proceeds in blighted areas.

### 4. Qualified 501(c)(3) Bonds

Bonds used to finance projects owned and operated by private non-profit 501 (c)(3) organizations, e.g., hospitals, group homes, mental health facilities.

### 5. Qualified Exempt Small Issue Bonds

Bonds issued under this category include Industrial Development Bonds (IDBs) for qualified manufacturing projects and first-time farmers. Described in more detail below.

### 6. Qualified Student Loan Bonds

Bonds issued by qualified governmental or scholarship organizations.

### 7. Enterprise Zone Bonds

Bonds issued for projects in designated enterprise or empowerment zone communities.

Each of the above categories has its own set of rules, regulations and criteria of the Internal Revenue Code that must be met to qualify for tax-exempt status. For example, Qualified Small Issue Bonds have a \$10 million cap per issue while Qualified Exempt Facility Bonds have no such cap. Because of the legal complexity of the bond issue, Bond Counsel becomes a very important participant in the issuing process.

## TAX-EXEMPT SMALL ISSUE BONDS

Qualified Exempt Small Issue Bonds are a financing tool for enhancing economic development. These bonds are commonly referred to as Industrial Development Bonds (IDBs) and are subject to the state's volume cap allocation. Since the Tax Reform Act of 1986, the type of small issue borrowing with tax-exempt bonds has been limited to manufacturing facilities.

Generally, IDBs are not secured by the credit of the issuer (e.g. the Montana Board of Investments). Most are structured and sold as "conduit" issues under which bond payments are secured solely by the corporation and any credit enhancements are provided through bond insurance or letters of credit. This means that investors have no recourse to the issuer if the bonds default.

In addition to limiting the IDBs (with some exceptions) to manufacturing facilities, federal tax law places a number of restrictions on exactly what the IDBs may be used for.

**Guidelines Defining Manufacturing.** Manufacturing generally includes nearly every type of processing that results in a change in the condition of tangible property. If the applicant's business is classified under one of the manufacturing Standard Industrial Development Codes (SICs 20-39), the business will probably qualify as a manufacturer. Some examples include processing paper into bags, fruit ripening, whisky aging, grain handling (storage, aeration, mixing with proteins) food processing, printing. Cafeterias and fast food restaurants, wholesaling, retailing, repair services, recreational services (snow making) do not qualify. Unfortunately, the tax codes do not provide much guidance regarding Information Technology (IT) businesses. Ultimately, bond counsel will have to make the final determination of whether or not a business qualifies as a manufacturer.

**Core Manufacturing and Related or Ancillary Facilities.** The portion of a project dedicated to "core manufacturing" (i.e., the production line where the product is made or processing occurs) may be financed with bond proceeds without limitations. This generally includes all of the machinery, equipment, and facilities associated with the production line. Additionally an allocable portion of the land and building necessary to house the production line is eligible. Facilities that are located on the same site and are directly related and ancillary to the core manufacturing are also eligible for funding but the funding is limited to not more than 25% of the net bond proceeds. Related and ancillary facilities include short-term warehousing of raw materials, on-site office space, loading docks or rail spurs, and forklifts and other equipment integral to the core manufacturing. Trucks or vans used to deliver or distribute the final product are not eligible nor is office space used for marketing and accounting work for products produced at other locations.

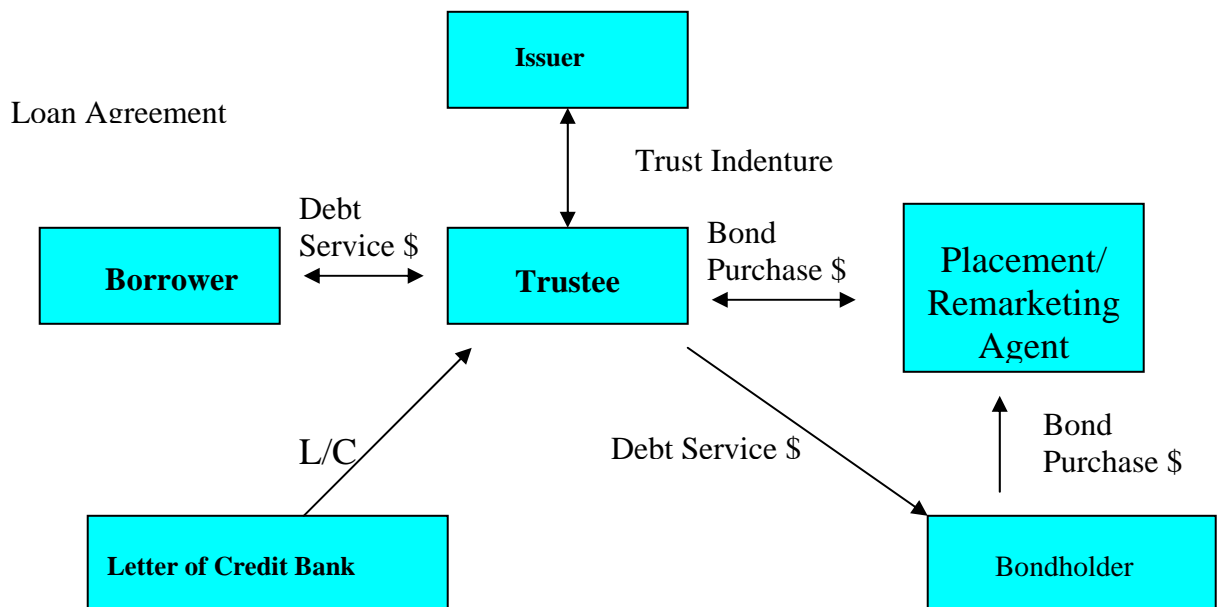
**Other Limitations on Facilities.** The maximum amount of the net bond proceeds that can be used for the acquisition of land, whether for core or ancillary facilities cannot exceed 25% of the net bond proceeds. Existing or used buildings may be purchased, including used equipment contained in the existing building, provided at least 15% of the acquisition cost minus the land cost is spent to rehabilitate the property. Used equipment not contained in the acquired facility is not eligible for funding regardless if such equipment has been 100% remanufactured or rebuilt.

**Dollar Limits on the Amount of Bonds Issued.** There are two categories of small issue bonds: \$1 million or less, and more than \$1 million but not exceeding \$10 million. The rules governing the \$1 million or less are much simpler and more flexible than those governing the \$1 - 10 million issue. To determine if the issue qualifies under the \$1 million issue the issuer must first assess the amount of any currently outstanding tax-exempt obligations to fund facilities located in the same jurisdiction allocable to the borrower and any principal users or related persons. If the sum of all currently outstanding issues

plus the proposed amount of the new issue is less than \$1million, the new issue is not required to meet the more stringent criteria of the \$1 – 10 million issue. If the issue is a \$1 – 10 million issue, there is an absolute \$20 million cap on all capital expenditures by the business over a six year period – three years prior to the proposed issue and three years after the new issue. Capital expenditures used in this calculation include all capitalized costs whether funded with bond proceeds or otherwise. If the aggregate \$20 million cap is exceeded, the bonds become taxable. Therefore, applicants for small issue bonds must carefully consider the consequences of any capital expenditures they might anticipate during the three years following the issuance.

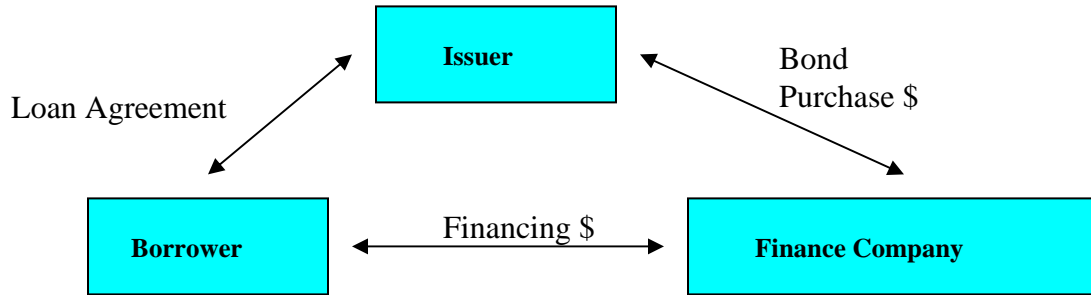
**BANK ENHANCED VS. PRIVATE PLACEMENT**

A major impediment to selling small issue tax-exempt bonds in the past has been finding buyers willing to purchase the bonds at a competitive interest rate. Because issuing tax-exempt bonds is a very complex legal process the cost of issuance can be very high and may include the costs of Bond counsel, Company counsel, Trustee counsel, Letter of Credit counsel and Underwriter’s counsel in addition to other routine closing costs. Additionally, because most of the small issues are for unrated manufacturing companies credit enhancements are often necessary to improve the marketability of the bonds. This can also significantly increase costs. The most common enhancement is a Letter of Credit which is an unconditional pledge by a bank or corporation to make principal and interest payments of a specified amount of the issuer’s debt for a specified period of time. Bank Letters of Credit for small issue IDBs can add .50% to 2.00% to the final all-in rate. Compounding the problem in Montana is the fact that many of the Montana banks are not rated and therefore can not provide the level of enhancement required. The following chart presents a typical bank enhanced IDB structure.



Another approach is through private placement of the small issue bonds. Private placements are bond sales transacted directly between an investor and the issuer. In recent years, several non-bank financial institution investors (Commercial Finance Companies, such as GE Capital) have facilitated the process of small issue IDBs by providing standardized documentation and terms that are generally lower than possible using the typical bank enhanced IDB structure. In effect, these investors purchase bonds at a

somewhat higher yield than an IDB secured by a letter of credit. However, savings on the letter of credit fee, placement agent fees, and trustee fees may significantly reduce the costs of the issuance despite the somewhat higher yield. Private placement is particularly attractive for equipment only transactions that would probably otherwise require a letter of credit to make the bonds marketable. The following chart presents a typical direct placement IDB.



(Shaded Area For Board Use Only)

**Send Application and Exhibits To:**

Tax Exempt Revenue Bond Program  
 Montana Board of Investments  
 P.O. Box 200126 Helena, Mt. 59620-0126  
 Phone (406) 444-0001 Fax (406) 449-6579

Board Loan #
Approved Lender #
Date Received:
By:

All Sections of the Application must be completed

**BORROWER SECTION**

**SECTION A: BORROWER INFORMATION**

Legal Business Name→		Business Rep→	
Business SIC Number→		Title→	
Employer I. D. #→		Phone→	
RMA Code→		Address→	
Date Established→		City/State/ZIP→	

Borrower is:	*	Bond proceeds will be used for:	*	Term of Loan	*
Individual		Existing Business		0-5 years	
Partnership		New Business		6-10 years	
Limited Liability Company (LLC)		Existing business purchase		11-20 years	
Non-Profit Corporation		Landlord Properties		Over 20 years	
Individual dba sole proprietorship		Other (Explain) →			
Limited Partnership/LLP					
Corporation		State of incorporation		Date of Incorporation	

List the names and residences of those persons with ownership interest in the business.

Name→		Title→		City/State→		% Ownership→	
Name→		Title→		City/State→		% Ownership→	
Name→		Title→		City/State→		% Ownership→	
Name→		Title→		City/State→		% Ownership→	

Generally describe business history, products, services, and current business plans.

**SECTION B: ECONOMIC IMPACTS**

Provide brief description of estimated overall potential economic impacts of the project.

Business Type→		Annual Payroll With Benefits→	\$
Project Location, City/County→		Average Salary With Benefits→	\$
Annual Gross Revenues→	\$	Annual State Fuel Tax→	\$
# New Jobs Created→		Annual Property Tax→	\$
# New Jobs Filled by Montanans→		Annual State Income Tax→	\$
# Existing Jobs Retained→		Annual Purchase of Montana Services/Goods→	\$
% Of Business Products/Services Estimated To Be Sold Out-Of-State or to Out-Of-State Residents→			%

**SECTION C: ENVIRONMENTAL IMPACTS**

If existing business, is business in compliance with all Federal/State environmental and health standards→	
If governmental environmental permits are required, have the permits been obtained→	
Describe below the potential environmental impacts caused by the proposed project. If none, check here→	

**SECTION D: PURPOSE OF BOND AND USE OF BOND PROCEEDS**

Describe project and uses of bond proceeds. Examples of use would be for personnel, manufacturing equipment, facility, warehouse, or welding shop. If facility is to be leased, list the name of the lessee(s) and a description of the uses of the project by all the principal lessees→


If real property, provide appropriate addresses complete legal description; if non-mobile personal property, give legal description and location where personal property will be installed and used.

Street/City/County/State→	
Legal Description→	

Use of Bond Proceeds		Collateral Summary			
Land Acquisition→	\$	If loan collateral required consists of Land/Buildings, Accounts Receivables, or Inventory, fill in the appropriate blanks. If collateral is Machinery, Equipment, Furniture, Fixtures, or Other, fill in the appropriate blanks and provide an itemized list containing serial and identification numbers for all articles with an original value greater than \$1,000 labeled as <b>Exhibit K</b> .			
New Plant or Building→	\$				
Building Expansion/Repair→	\$				
Machinery and Equipment→	\$				
Inventory Purchase→	\$				
Working Capital→	\$				
Acquire Existing Business→	\$		<b>Collateral Type</b>	<b>Market Value</b>	<b>Unpaid Balance</b>
Existing Debt→	\$		Land and Buildings→	\$	\$
Other→	\$		Machinery & Equipment→	\$	\$
<b>Total Proceeds→</b>	\$		Furniture & Fixtures→	\$	\$
<b>Other Financing→</b>	\$	Accounts' Receivables→	\$	\$	
<b>Total Project Costs→</b>	\$	Inventory→	\$	\$	
		Other→	\$	\$	
		<b>Total Collateral→</b>	\$	\$	

List other sources of equity and debt financing accounting for the difference between bond request and total project cost.

Source→		Collateral/Security Position→		Amount→	\$
Source→		Collateral/Security Position→		Amount→	\$
Source→		Collateral/Security Position→		Amount→	\$
Source→		Collateral/Security Position→		Amount→	\$

**SECTION E: CURRENT BORROWER DEBT**

List below all Borrower installment debts, contracts, notes, and mortgages payable. Asterisk (\*) debt to be paid by bond proceeds and reason for paying same. (If present balance does not agree with latest balance sheet, please explain.)

To Whom Payable	Original Amount	Original Date	Present Balance	Interest Rate	Maturity Date	Monthly Payment	Collateral/Security	Current Y	N
	\$		\$	%		\$			
	\$		\$	%		\$			
	\$		\$	%		\$			
	\$		\$	%		\$			
	\$		\$	%		\$			

**SECTION F: PARTICIPATION BORROWER CHECKLIST**

Please submit the following information and exhibits on separate sheets. **All exhibits must be signed and dated by the appropriate Borrower representative.**

**Exhibit A.** Describe in detail the number of jobs created or retained, salaries paid, and the estimated time period for job creation.

**Exhibit B.** Does Borrower, principal owners, key employees, or directors operate any closely related affiliates, subsidiaries or branches? If yes, please provide their names and relationship to the business along with the most recent balance sheet and operating statement for each. If not, check here →

**Exhibit C.** Has Borrower or Borrower's officers/owners ever been involved in bankruptcy or insolvency proceedings? If so, please provide details. If not, please check here →

**Exhibit D.** Is there pending or threatened litigation/administrative proceeding/investigations involving the Borrower, its officers, directors, management, or guarantors, that if adversely decided would affect the Borrower's/guarantors' ability to perform obligations required by this loan or to operate the business? Has Borrower, officers, directors, management, or Guarantors ever been convicted of a felony? If yes, provide details. If not, check here →

**Exhibit E.** Provide copies of real estate, major equipment leases, and franchise agreements in effect. If a franchise, include a copy of the FTC disclosure statement supplied by franchiser. If none, check here →

**Exhibit F.** Include a business plan.

**Exhibit G.** List approvals of public agencies, or other conditions, which have been obtained or satisfied or which are required prior to the financing, acquisition, construction or use of the project (i.e. licenses, regulatory agency approvals, etc.) If none required, check here →

**Exhibit H.** If the project involves construction, provide:

- A. Detailed construction cost estimates and specifications to include architects plans and specifications, contractor's bids or estimates, invoices, etc.;
- B. Names and addresses of architects and contractors selected;
- C. Date and manner in which any contracts will be awarded;
- D. Proposed schedule for construction, completion, and occupancy;
- E. Manner in which the construction will be managed;
- F. If construction has been completed, check here →

**Exhibit I.** If loan is for the purchase of real or personal property, provide:

- A. USPAP appraisal report as per the Board's In-State Investment Policy or other valuation required by Lender;
- B. Copy of the purchase agreement(s) including name(s) of seller(s);
- C. Copies of earnest money receipt and agreement, option to purchase, contract to purchase, and invoice(s) or estimate(s) of cost for purchase of land, improvements, or tangible personal property related to the project;
- D. Does the owner of the subject property during the previous five years have a relationship with the borrower? (Spouse, Blood relative, tenant, or other business relationship). If yes, explain. If not, check here →

**Exhibit J.** If applicable, an Environmental Assessment (EA), Phase I E.A. or Environmental Questionnaire

**The Board may request additional information to assist in the evaluation of the loan application.**

**SECTION M: BORROWER CERTIFICATIONS**

1. Borrower agrees to comply with Section 4, Article II of the Montana Constitution that prohibits discrimination based on race, color, sex, culture, social origin or condition or political or religious ideas.
2. If bond is approved, the Board may use project photographs in its Annual Report or other publications.
3. If bond is approved, Borrower grants the Board the right to inspect the project funded by the bond proceeds.
4. All information in this application and exhibits is true and complete to the best of Borrower's knowledge. Borrower certifies that the bond proceeds shall be used solely for the purposes stated herein.
5. Borrower agrees to pay for or reimburse Board for the cost of any surveys, title or mortgage examinations, appraisals etc., performed by non-Board personnel whether or not this bond is actually issued provided borrower has given consent.
6. The Borrower agrees that any contracts to construct the project will require all contractors to give preference to the employment of bona fide Montana residents as defined in 18-2-401(4), MCA, in the performance of the work on the project if their qualifications are substantially equal to those of non-residents. Substantially equal qualifications means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other person(s).

**If Borrower is a sole-proprietor or general partner, sign below:**

Party One	Date	Party Two	Date
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**If Borrower is a corporation, sign below:**

Corporate Name	By	Title	Attested By	Date
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Signature of Preparer if Other Than Borrower

Print Preparer Name

Preparer Address