



Volume Cap

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Bonds are divided into two major categories:

1. *Governmental bonds; and*
2. *Private activity bonds.*

Governmental Bonds

Governmental Bonds are used to finance facilities that are owned, controlled and or operated by a state or local government. There is no specific definition of a governmental bond in the tax code. Rather, it is the definition of a **private activity bond** and the application of various rules and tests that determine whether a bond is governmental or private activity. The private activity bond rules are designed to insure that entities other than states and local governments will not benefit from tax-exempt financing except for certain preferred types. Thus, the Code provides that **private activity bonds** are taxable unless they are also “**qualified private activity bonds**”.

Private Activity Bonds

Private Business Tests and ***Private Loan Test***.

The bond will be a private activity bond if it exceeds the limits set forth in either of the private activity bonds tests:

- **Private business tests** of section 141(b) of the Code which consist of the **private use test** and the **private security and payment test**;
or
- **Private loan test** under section 141(c) of the Code.

Qualified Private Activity Bonds

Congress allows the use of tax-exempt financing for private activity bonds, but it restricts the types of issues to certain “**qualified private activity bonds**” and it uses an **annual state volume cap** to limit the amount of tax exempt financing.

The types of “**qualified private activity bonds**” are:

- (i) Exempt Facility Bonds;*
- (ii) Qualified Mortgage Bonds and Qualified Veterans’ Mortgage Bonds;*
- (iii) Qualified Small Issue Bonds;*
- (iv) Qualified Student Loan Bonds;*
- (v) Qualified Redevelopment Bonds; and (v) Qualified 501(c)(3) Bonds.*

State Volume Cap

State Volume Cap is a ceiling on the aggregate amount of tax-exempt private activity bonds that can be issued in a calendar year. The annual cap has increased from \$150m and \$50 per capita in 1986 to the greater of **\$305,315,000 or \$100 per capita in 2017**.

State volume cap **does not apply** to qualified veterans' mortgage bonds, qualified §501(c)(3) bonds or qualified exempt facility bonds issued to finance airports, docks and wharves, and government-owned solid waste facilities, and a few other exceptions. All other tax-exempt, private-activity bond programs must compete with each other for volume cap allocations.

Public Finance Management Board

Each state has a procedure and administrating agency to allocate volume cap. In Rhode Island, it's the **Public Finance Management Board** created by statute in 1986 in connection with the Tax Reform Act of 1986 when Congress instituted many of these rules and concepts. Those seeking to issue qualified private activity bonds that require a cap allocation apply to this Board for an allocation.

State Volume Cap Carryforward

State Volume Cap that is not used by the end of the year may be carried forward for use in one of the next three years. Otherwise, it is abandoned.

However, carryforwards are only allowed for

- *Qualified Mortgage Bonds or Mortgage Credit Certificates;*
- *Qualified Student Loan Bonds;*
- *Qualified Redevelopment Bonds and*
- *A portion of Exempt Facility Bonds.*

Rhode Island Housing

2010	\$ 149,445,000	Allocation
	\$ 149,445,000	Carryforward
	\$ 75,000,000	Single Family Mortgage Credit Certificates, 2013
	\$ 43,520,000	Multifamily Development Bonds, 2013 Series 1, February 20, 2013
	\$ 7,410,000	Multifamily Mortgage Revenue Bonds, Series 2013, December 19, 2013
	\$ 5,950,000	Multifamily Development Bonds, 2013 Series 3, December 24, 2013
	\$ 17,565,000	2010 Carryforward Balance Expired on December 31, 2013

Rhode Island Student Loan Authority

2010	\$ 100,000,000	Allocation
	\$ 100,000,000	Carryforward
	\$ 69,270,831	Student Loan Program Revenue Bonds, 2013 Senior Series A 4/9/2013
	\$ 30,729,169	2010 Carryforward Balance Expired on 12/31/2013