

FYI - Eight FAQ's about Tax Exempt Bonds

Faith is seeking to finance a portion of Faith West through the mechanism of tax-exempt bond. This tool is available to non-profit organizations which seek to benefit the community welfare in some way. The Faith Community Center on the east campus of Faith Church was partially funded through tax exempt bonds.

Q1. Who has access to tax exempt bond financing?

A1. Any 501(c)(3) nonprofits have this opportunity under the law to use the city, town or county where they are located as a conduit bond issuer, in order to access the tax-exempt credit markets. This includes not just congregations but also private college, museums, YMCAs, K-12 private schools, etc., the big majority of which have a religious affiliation. Hundreds upon hundreds of tax-exempt bond deals have been done on this basis for decades for 501(c)(3) nonprofit entities across the nation.

The federal tax code proactively allows for not only governments to borrow tax-exempt, but also for 501(c)(3) non-profits to borrow tax-exempt as well -- so long as the nonprofit bears the sole burden to repay the debt. The Feds obviously recognize that 501(c)(3) nonprofit entities serve an important societal purpose, and should thus be afforded the same opportunity as governmental entities to borrow at tax-exempt rates for their capital projects. This has been the law in the United States for decades.

Further, if an issuer starts to pick and choose which eligible 501(c)(3) borrowers can pursue conduit bond issues, based on philosophical approval or disapproval of the borrowers' religious beliefs, the issuer actually runs a risk of religious discrimination under the Free Exercise clause of the First Amendment.

Q2. What is the role of the government in issuing bonds?

A2. The city is just acting as a conduit to facilitate Faith West's ability to access the tax-exempt credit market -- for a loan which Faith West alone will have to repay.

Q3. Does any government agency bear responsibility for the debt?

A3. Faith West is 100% responsible for this debt.

Q4. Does any money from any government agency get transferred to Faith?

A4. The city is not spending one nickel or raising one tax dollar to spend on the project.

Q5. Is the bond money being used to build Faith a church worship building or a fitness center?

A5. Since FW intends to use the community gym and various rooms on the first floor for additional purposes of ministry and worship, FW is choosing (but not required) to “carve” out the first floor and pay for the first floor with cash from the sacrificial giving of Faith Church members. Thus, the bond money (which Faith West has the sole burden to repay) is not going toward any spaces on the first floor that could be used for gathering spaces for worship or anything at all on the first floor for that matter.

The bond proceeds will be used to fund the construction of the 2nd-4th floors which consist of community housing. Note, for example, that a very significant percentage of all 501(c)(3) private colleges across the country, most of them religiously affiliated, have financed one or more of their campus dormitories using tax-exempt bonds.

Q6. Is this transaction a violation of the 1st Amendment?

A6. The courts have emphasized that, since there is no direct government payment or government subsidy in these transactions, there is no 1st Amendment issue.

At most there is an indirect governmental benefit being conveyed here – in that the purchaser of the bond (in Faith’s case—Chase Bank) won’t owe income tax on the interest payments which Faith West will make on the loan. The bond purchaser is thus willing to offer Faith West a marginally lower tax-exempt interest rate. This is an indirect governmental benefit at best, which does not involve any outlay of funds whatsoever on the part of the city or any other governmental entity.

Q7. How will Faith West relate to the West Lafayette Human rights ordinance?

A7. Faith West is exempt under the local employment law ordinance. A religious organization is, of course, allowed to take religious belief into account in hiring for certain positions. The exemption from the local employment law ordinance simply codifies this common sense notion.

Q8. Of what benefit is tax exempt bond financing?

A8. The purchaser of the bond (in Faith’s case—Chase Bank) won’t owe income tax on the interest payments which Faith West will make on the loan. The bond purchaser is thus willing to offer Faith West a marginally lower tax-exempt interest rate. This is an *indirect* governmental benefit at best, which does not involve any outlay of funds whatsoever on the part of the city or any other governmental entity.