



Tax-Exempt Bonds & Research Contracts

April 15, 2021 3:15 - 4:30 PM ET



Moderator
Kevin Byrne
TUFF



Terri Finister
Murray Barnes
Finister



Jilda Garton
UIDP



Matt Owens
AAU



Strengthening
University-Industry
Partnerships

The session will begin shortly.



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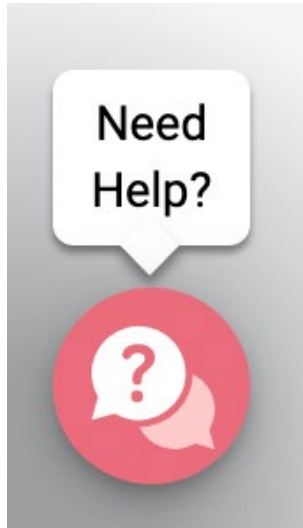


Matt Owens
AAU



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REMO TECH SUPPORT



Having technical problems?

- Please use the pink “Need Help?” button at the bottom left of your screen for live chat support.

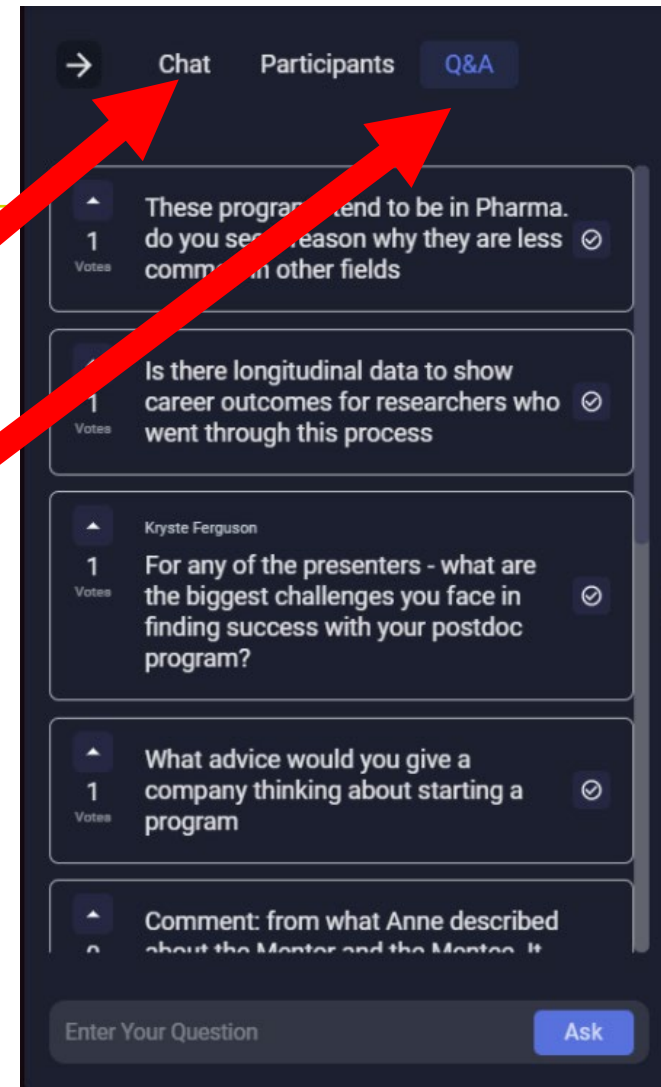


how to PARTICIPATE

Live Chat and Q&A

At the top right of the screen

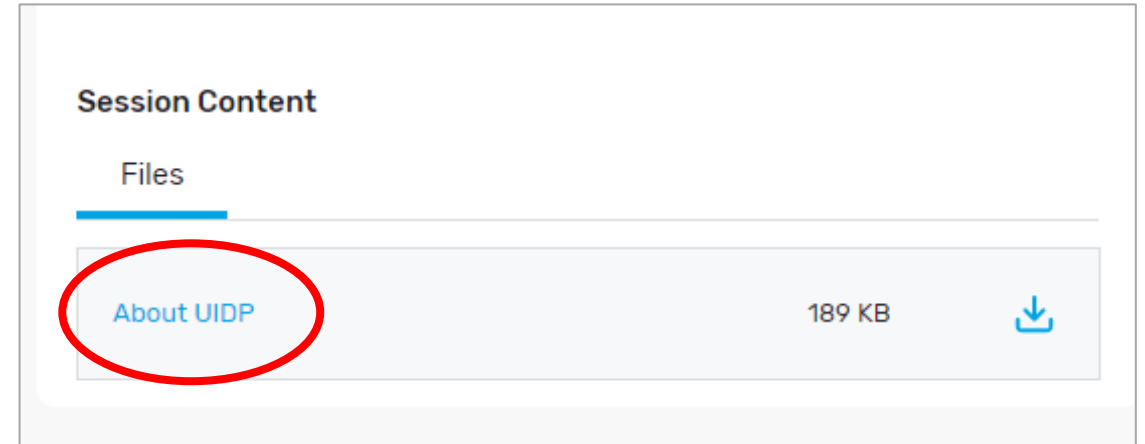
- Chat with one another.
- Submit questions using the Q&A tab at the top right of your screen.
- Upvote the questions you're most interested in



how to PARTICIPATE

Handouts and Recordings

- Available handouts can be downloaded from the Session Content tab in the Attendee Hub.
- Session recordings will be posted in the Attendee Hub. You will be notified via email when they are available at uidp.org.





Tax Exempt Bonds and Research Contract

April 15, 2021

315pm to 430pm



Kevin Byrne
President and Chief Executive Officer
The University Financing Foundation
(TUFF)



Jilda Garton
Senior Fellow
UIDP



Terri Finister
Partner
Murray Barnes Finister



Matt Owens
Executive Vice President and
Vice President for Federal
Relations
Association of American
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Goals

- Bond financing: What to know and what's new
- Explore when, why, and how tax-exempt bond financing of research facilities can have an impact on the terms and conditions of research agreements
- Discuss the safe harbors that allow academic and industry research engagement to proceed
- Review emerging topics in tax legislation and bond financing

Key Questions

- What is underlying authority related to research contracts and tax-exempt financing?
- What are the implications for use of facilities under this authority?
- Is there a difference between corporate sponsored research and federal sponsored research?
- What are a sampling of approaches used to manage and mitigate tax restrictions?

Panel – Tax Exempt Bonds and Research Contracts

- Moderator

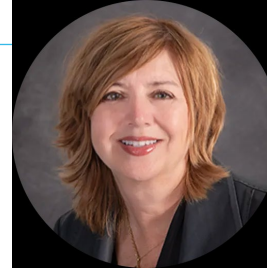


Kevin Byrne
President and Chief Executive Officer
The University Financing Foundation
(TUFF)

- Panelists



Jilda Garton
Senior Fellow
UIDP



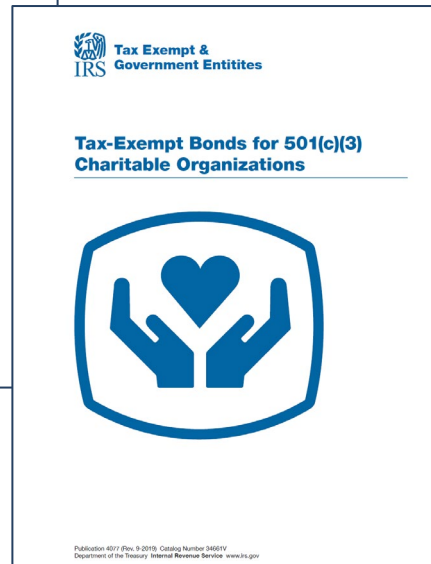
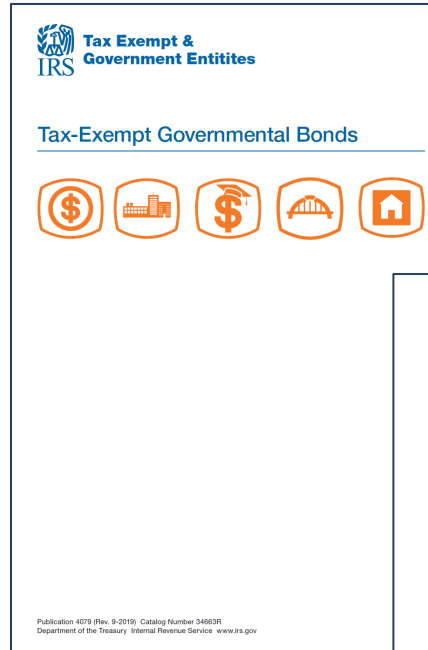
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Key Rules

<https://www.aau.edu/sites/default/files/AAU-Files/Key-Issues/Taxation-Finance/Tax-Exempt-Financing.pdf>



Key Rules for Qualified 501(c)(3) Bonds

There are two basic requirements for a bond to constitute a qualified 501(c)(3) bond:

1. Ownership Requirement [IRC Section 145(a)(1)]

All property financed by the net proceeds of qualified 501(c)(3) bonds must be owned by a nonprofit or entity throughout the term of the bond.

2. Use Requirement [IRC Section 145(a)(2)]

At least 95 percent of the proceeds of the bond must be used by a 501(c)(3) organization engaged in exempt activities or by a state or local governmental unit. Use of bond proceeds in an “unrelated trade or business” [IRC Section 513(a)] violates this provision.

Tax Issues in Industry-University Relationships

(COGR 2007. <http://206.151.87.67/docs/UniversityIndustryBrochure.doc>)

The conditions that provide a safe harbor for research sponsored by a single company are that the “license or other use of resulting technology by the sponsor is permitted only on the same terms as the recipient would permit that use by” any other person or entity. In other words, the sponsor must pay an arm’s length price for the use and such price should be determined at the time the technology is available for use.

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Interest paid on the bonds is exempt from income tax. Under the Tax Reform Act of 1986, Congress provided that some subject to income tax. For most public institutions, under Section 171(3) of the tax code, the limit is 5%.

Revenue procedure, Rev. Proc. 97-14, which establishes

by the sponsor is permitted only on the same terms and such price should be determined at the time the

Bayh-Dole Act for inventions made with federal support

making the bond holders whole for the additional interest. There have been no cases that establish how the price should be determined in agreements for each building and bond issuance, many times the price is set outside the safe harbor, bond or tax counsel should

From the perspective of some companies, the issue of private business use is an argument that is used by academia even when not appropriate. For example, if the research is occurring in a facility that has no tax-exempt bonding or whose bonding has been retired (paid off), the research occurring in that building is not subject to the private business use test. Industry commonly manages complex administrative activities and might argue that, if universities are genuine about cultivating industrial sponsors, they would resolve any private business use issues, and apply the concept only when necessary. However, it should also be recognized that due to refinancing strategies, there may indeed be very little facility space that is not affected by private use requirements.



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What do they look for?

Did you follow the rules:

- Safe Harbors
 - IRS Rev. Proc. 97-14
 - IRS Rev. Proc. 2007-47
 - Publication 557



IRS Revenue Procedure 2007-47

SECTION 6. OPERATING GUIDELINES FOR RESEARCH AGREEMENTS

.01 *In general.* If a research agreement is described in either section 6.02 or 6.03 of this revenue procedure, the research agreement itself does not result in private business use. In applying the operating guidelines under section 6.03 of this revenue procedure to federally sponsored research, the special rules under section 6.04 of this revenue procedure (regarding the effect of the rights of the Federal Government and its agencies under the Bayh-Dole Act) apply.

*Corporate-sponsored research.....*if any license or other use of resulting technology by the sponsor is permitted only on the same terms as the recipient would permit that use by any unrelated, non-sponsoring party (that is, the sponsor must pay a competitive price for its use), and the price paid for that use must be determined at the time the license or other resulting technology is available for use.....[T]he recipient need not permit persons other than the sponsor to use any license or other resulting technology.....

or is described in this section 6.02 if any unrelated, non-sponsoring party or other resulting technology is available for use, the price paid by the sponsor must be no less than the price that would be paid by the sponsor for the use of the technology.

For a research arrangement that is a federally-sponsored research arrangement is described in section 6.03 of this revenue procedure in the case of federally sponsored research, the special rules under section 6.04 of this revenue procedure apply.

of the research agreement, the personnel to perform the research; and the nature of any license granted to the Federal Government or the sponsoring Federal agency (or to any third party nongovernmental person) to use the product of the research is no more than a nonexclusive, royalty-free license.

Research agreements under section 6.03 of this revenue procedure will not cause a research agreement to result in private business use to any party other than the qualified user, and the rights or other special rights of the qualified user under the requirements of section 6.03 of this revenue procedure, provided that the qualified user determines the subject and manner of the research in accordance with section 6.03(2), the qualified user retains exclusive title to any patent or other product of the research in accordance with section 6.03(3), and the nature of any license granted to the Federal Government or the sponsoring Federal agency (or to any third party nongovernmental person) to use the product of the research is no more than a nonexclusive, royalty-free license.

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IRS Revenue Procedure 2007-47

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Industry or federally-sponsored research agreements. A research agreement...requirements...

- A single sponsor agrees, or multiple sponsors agree, to fund governmentally performed basic research;
- The qualified user determines the research to be performed and the manner in which it is to be performed (for example, selection of the personnel to perform the research); Title to any patent or other product incidentally resulting from the basic research lies exclusively with the qualified user; and
- The sponsor or sponsors are entitled to no more than a nonexclusive, royalty-free license to use the product of any of that research.

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agreements under section 6.03 of this will not cause a research agreement to any party other than the qualified ts or other special rights of the e requirements of section 6.03 of this the qualified user retains exclusive government or the sponsoring Federal e.



Tax Exempt Status for Your Organization

Publication 557
(Rev. June 2008)
Cat. No. 46573C

Scientific Organizations

Scientific Organizations

You must show that your organization's research will be carried on in the public interest.

Scientific research will be considered to be in the public interest if the results of the research (including any patents, copyrights, processes, or formulas) are made available to the public on a nondiscriminatory basis; if the research is performed for the United States or a state, county, or municipal government; or if the research is carried on for one of the following purposes.

1. Aiding in the scientific education of college or university students.
2. Obtaining scientific information that is published in a treatise, thesis, trade publication, or in any other form that is available to the interested public.
3. Discovering a cure for a disease.
4. Aiding a community or geographical area by attracting new industry to the community or area, or by encouraging the development or retention of an industry in the community or area.

Scientific research, does not include activities of a type ordinarily incidental to commercial or industrial operations *such* as the ordinary inspection or testing of materials or products, or the designing or constructing of equipment, buildings, etc.



Strengthening
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Thank You Panelists

- Moderator



Kevin Byrne
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- Panelists



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What is next

On behalf of UIDP, thank you for joining us for this session of Virtual 2021.

**We'll hope you join us for the
Serendipity Session Happy Hour
at 430pm**

Please rate the session! On the home page of the Attendee Hub, click on the Feedback prompt to offer a star rating. And at the end of this week, please respond to the UIDPVirtual 2021 survey so we better meet your needs.



Bayer Case Study: Leveraging an Open Innovation Platform to Streamline Collaboration

April 15, 2021 5:30 - 6:00 PM ET



Moderator:
Kevin Leland
Halo



Phil Taylor
Bayer

THANK YOU!



- Did you enjoy the session? Rate it in the Attendee Hub!
- You'll receive a survey via email about UIDPVirtual at the end of the week. Please give us your feedback.



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