

Volume Cap Overview

Volume Cap is federally authorized and refers to the maximum amount of tax-exempt private activity bonds that can be issued annually in each state (cap or state ceiling). Tax-exempt, private-activity bonds facilitate public and private sector collaboration in providing financing for eligible projects at interest rates below those of the conventional market. The interest that bondholders earn is not subject to federal taxes and may not be subject to state and local income tax, depending on the type of bond issuer. Each state establishes rules for allocating the state ceiling among those governmental units and authorities in the state that have the authority to issue tax-exempt private activity bonds (i.e., counties, cities, port authorities, housing authorities, quasi-state agencies, as well as some states). Annually, each state receives an allocation of Volume Cap that is referred to as the “state ceiling”. This ceiling is based upon an IRS Inflation Adjustment and IRS Calendar Year Resident Population Estimates. For 2025, the IRS Inflation Adjustment is \$130 per capita. Ohio’s state ceiling for calendar year 2025 is \$1,520,118,210

The program intends to assist with industrial development projects, redevelopment projects, agricultural projects, homeownership financing projects, multi-family housing development, and various other special project uses, such as solid waste disposal, mass commuting, and environmental enhancement projects commonly referred to as exempt facilities.

2025 Allocations of State Ceiling

Set-Aside Categories	Set-Aside Amounts
Single Family Housing	\$300,000,000
Multi-Family Housing	\$120,000,000
Qualified Small Issue	\$100,000,000
Qualified Student Loan	\$120,000,000
Exempt Facilities	\$100,000,000
Director’s Discretionary	\$780,118,210
Total	\$1,520,118,210

- For multi-family, exempt facilities, and qualified small issue categories, if the allocation is not used by a certain date (defined in the Ohio Administrative Code), then the remaining volume cap can be deposited into the Director’s Discretionary Fund to be used by projects in other categories.
- Any remaining volume cap unused at the end of the calendar year can be given to an issuer for use sometime in the subsequent three calendar years (known as a “carryforward” allocation). If volume cap is not carried forward or used during the calendar year, it expires.

Bond Types

- A tax-exempt bond is a bond for which the interest earned by bondholders is not subject to federal and/or state and local income tax. Entities or individuals investing in tax-exempt bonds are willing to accept a lower interest rate because they are saving on their income tax expense. This results in a lower cost of capital for the borrower who finances with tax-exempt bonds.
- A municipal bond is issued by the state, a political subdivision, a state agency, or authority and is used to finance a public project (highways or school building). Municipal bonds are tax-exempt, but public entities can also issue bonds on behalf of private businesses, these bonds are known as **Private Activity Bonds (PAB’s)** and are subject to federal income tax.

Benefits

Private Activity Bonds are used to attract private investment for projects that have public benefits. The tax-exemption enables projects to access capital at lower interest rates, facilitating a larger more secure project. Private Activity Bonds have historically provided financing for energy facilities, housing, manufacturing facilities, airports, and many other private and public projects.

How to Apply: Application Process

The State of Ohio accepts applications for the allocation of Volume Cap from authorized bond issuers or bond counsel. In addition, the Director of the Ohio Department of Development is authorized with a set-aside of Volume Cap for allocation on a discretionary basis.

Initial Step:

- The project owner engages bond counsel who specializes in the category that is being sought.
- The bond counsel helps determine how much volume cap allocation can be requested.

Second Step:

- Bond counsel submits a notice of intent application, a \$1,000 non-refundable application fee, and a fee in an amount equal to the lesser of $\frac{3}{4}$ of 1% of the requested volume cap allocation or \$150,000 refundable deposit to the Ohio Department of Development, Business Services Division made payable to the Treasurer of the State of Ohio.
- Upon review and approval, a notice of intent confirmation is provided.

Third Step:

- Bond counsel, project owner, bond issuer, and underwriters work together to get the bonds issued.
- Bond counsel and the project owner must submit a notice of issuance to the Ohio Department of Development within 120 days of the notice of intent confirmation.
- If determined by all parties that the bonds will not be issued within 120 days, the bond counsel can submit to the Department of Development, Business Services Division, a 60-day extension request. A request must be accompanied by a \$1,000 non-refundable extension application fee and an additional fee in an amount equal to the lesser of $\frac{3}{4}$ of 1% of the requested amount of the original confirmation or \$150,000. This fee will be refunded after a notice of issuance of an effective confirmation is received, along with the original refundable deposit fee for the original confirmation of volume cap allocation.

Note: A confirmation so extended will cease to be effective if the applicable bonds have not been issued and a notice of issuance has not been filed within 180 days after the date of the original confirmation (120 days after the original confirmation date plus a 60-day extension period).

Final Step:

- Bond counsel submits to the Ohio Department of Development, Business Services Division, a notice of issuance for the bonds that have been issued.
- Upon review and approval, a notice of issuance confirmation is provided to the Bond Counsel, and the deposit refund is provided.

For those qualified Multi-Family Housing, Qualified Small Issue, and Exempt Facility bond requests below \$20 million in allocation, please note the “Notice of Intent-Set Aside” application form under the Applications menu to the right. Please use these versions of the application form for allocations below the \$20 million threshold. For those Notice of Intent applications greater than \$20 million, please use the “Notice of Intent-Director’s Discretionary” application.

Note: Those interested should consult with bond counsel and the federal tax codes governing private-activity bonds before applying for Volume Cap.

Application Fees

In accordance with the Ohio Administrative Code Rules 122-4-05 (A)(3) and 122-4-06 (D), project owners and bond counsel will need to comply with the following filing fees during each stage of acquiring Volume Cap allocation:

- A filing of a Notice of Intent for allocation will not be deemed to be filed until and unless a refundable fee in an amount equal to the lesser of $\frac{3}{4}$ of 1% of the amount requested in the Notice of Intent or \$150,000 plus \$1,000 non-refundable filing fee is received by the Director of Ohio Department of Development.
- A confirmation request for a 60-day extension will not be deemed to be filed until accompanied by a \$1,000 non-refundable extension application fee and an additional refundable fee in an amount equal to the lesser of $\frac{3}{4}$ of 1% of the amount requested in the original confirmation or \$150,000.
- A filing of a Notice of Intent for carryforward must be accompanied by a refundable fee in an amount equal to the lesser of $\frac{3}{4}$ of 1% of the amount requested in the Notice of Intent or \$500,000 plus a \$1,000 non-refundable fee.

For assistance, contact:

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