

A Field Guide to Quasi-Governmental Entities

Type of Entity	Can issue tax-advantaged bonds	Can use bond proceeds without causing private business use	Is a "related party" to a State or political subdivision under Reg. 1.150-1 ¹	Is exempt from federal income tax	Can receive contributions that donors can deduct as charitable contributions	Is exempt from filing an income tax return or Form 990	Test for Status
State or Political Subdivision	x	x		x ²	x ³	x	More than an insubstantial amount of tax or police or eminent domain power; division status (?)
Integral Part of State or Political Subdivision ⁴	x ⁵	x	Very likely ⁶	x	x ²	x	Government control and substantial financial commitment
"Constituted Authority" of a State or political subdivision	x ⁷		Likely ⁸	Likely ⁹		Only if entity has a Code §501(a) ruling that references §115 ¹⁰	6-factor test in Rev. Rul. 57-187 ¹¹
Instrumentality of State or Political Subdivision		x	Likely ¹²	Likely ¹³	x ¹⁴	Only if entity has a Code §501(a) ruling that references §115 ¹⁵	6-factor test in Rev. Rul. 57-128
Section 115(1) Entities ¹⁶				x		Only if entity has a Code §501(a) ruling that references §115 ¹⁷	E.G.F. (almost anything); Assets revert to state/PS on dissolution; No private benefits

¹ One consequence of a State or a political subdivision being a “related party” to an entity is that a transfer of tax-advantaged proceeds to that entity is not treated as an allocation of those proceeds to an expenditure, so that the bond proceeds must still be tracked for arbitrage purposes.

² Rev. Ruls. 71-131, 71-132, 87-2.

³ More generous 50% deduction limit applies because contributions are treated as being “to” (rather than “for the use of”) a State or local government.

⁴ These are often entities with close connections to a State or local government, but that do not have sovereign powers.

⁵ E.g., PLR 200427016.

⁶ “Control” and “financial commitment” tests under related party rules are similar to control and financial commitment tests for integral part status.

⁷ Rev. Ruls. 57-187, 60-248.

⁸ One must double-check the “financial control” requirement in Reg. 1.150-1(e); this is not among the factors in Rev. Rul. 57-187.

⁹ The Rev. Rul. 57-187 requirements include elements that are very similar to the test for Section 115(1) entity status.

¹⁰ See, e.g., PLR 200214026. If the ruling does not mention that the entity falls under Code Section 115, then if the entity has a ruling under Code Section 501(a) ruling (albeit one that doesn’t reference Code Section 115), it must file Form 990. If the entity does not have a Code Section 501(a) ruling at all, then it must file Form 1120.

¹¹ The number of factors in this test fluctuates between 6-8, but the factors generally cover the same territory.

¹² Board control and financial control tests in Reg. 1.150-1(e) are essentially embodied in the 6-factor Rev. Rul. 57-128 test.

¹³ Most instrumentalities will also meet the requirements of Section 115(1).

¹⁴ Less generous 30% limit applies.

¹⁵ See, e.g., PLR 200214026. If the ruling does not mention that the entity falls under Code Section 115, then if the entity has a ruling under Code Section 501(a) ruling (albeit one that doesn’t reference Code Section 115), it must file Form 990. If the entity does not have a Code Section 501(a) ruling at all, then it must file Form 1120.

¹⁶ These are entities that meet the requirements of Code Section 115(1), which are often entities with close connections to a State or local government, but that do not have sovereign powers, and that do not meet the “control” element of the integral part tests. (Note that the tests under Code Section 115(1) do not necessarily require governmental control over the entity.)

¹⁷ See, e.g., PLR 200214026. If the ruling does not mention that the entity falls under Code Section 115, then if the entity has a ruling under Code Section 501(a) ruling (albeit one that doesn’t reference Code Section 115), it must file Form 990. If the entity does not have a Code Section 501(a) ruling at all, then it must file Form 1120.