

02-13-2019 Town Council Meeting
Responses to Council Questions #1

ITEM #12: Open the Public Hearing and Consider Proposed Issuance of Educational Facilities Revenue Bonds by the Public Finance Authority to Benefit The Educational Foundation, Inc. or an Affiliate Thereof

Council Question: Our materials say that tax law requires approval by the elected legislative body of the governmental unit that has jurisdiction over the area. Why is the state not required to grant approval, instead of the town?

Response from The Educational Foundation's Counsel: *The borrower for this financing is The Educational Foundation, Inc. (i.e. the Rams Club) rather than the University itself. When the University borrows, it is indeed borrowing through the University of North Carolina, which is a separate, state wide borrowing entity. In this instance, however, it is the separate nonprofit borrowing the money rather than the University.*

Both the federal tax code and the issuer's statute require approval from elected officials of the jurisdiction where the project is physically located. That requirement applies to all nonprofit borrowings, whether a supporting foundation such as the Rams Club, a medical facility, a nonprofit school or university, or other nonprofit organization such as a YMCA. While technically approval from the State itself would be possible to meet that requirement, such approval would require either action of the General Assembly after a public hearing, or action by the Governor after a public hearing. As a practical matter, and also as a way to be sure that the local elected officials do not have an objection to the project being financed, the local elected body has been used to provide these approvals.

02-13-2019 Town Council Meeting
Responses to Council Questions #2

ITEM #12: Open the Public Hearing and Consider Proposed Issuance of Educational Facilities Revenue Bonds by the Public Finance Authority to Benefit The Educational Foundation, Inc. or an Affiliate Thereof

Council Question: Is any of the land owned by the university to which the Town would have jurisdiction subject to town property taxes, or are they all exempt?

Response: *University property is not subject to Town property taxes.*

*“Based on the language of Article V, Section 2(3) of our Constitution, which exempts State owned property from taxation without qualification, we adopt as the law of this jurisdiction the majority rule in States which have by constitution, as does North Carolina, unqualified tax exemption for State owned property. That is: State owned property is exempt from ad valorem taxation solely by reason of State ownership, regardless of the property's use.” **Appeal of University of North Carolina**, 268 S.E.2d 472,481, 300 N.C. 563 (North Carolina Supreme Court 1980)*