

Client Alert

Current Issues Relevant to Our Clients

October 17, 2014

IRS Releases Additional Information Concerning Sequester

The Internal Revenue Service Office of Tax Exempt Bonds (the “IRS”) has announced a new sequester reduction in amounts paid to issuers of direct pay bonds for which issuers elected to receive a direct payment from the U.S. Treasury pursuant to Section 6431 of the Internal Revenue Code. The reduction applies to certain direct pay bonds, including: Build America Bonds (BABs) (which includes Recovery Zone Economic Development Bonds (RZEDBs)); Qualified Zone Academy Bonds (QZABs); Qualified School Construction Bonds (QSCBs); Qualified Energy Conservation Bonds (QECBs); and New Clean Renewable Energy Bonds (NCREBs). The reduction does not apply to tax credit bonds for which the holder of the bonds receives a tax credit.

The sequester reduction for the federal fiscal year 2015 (October 1, 2014 through September 30, 2015) will be 7.3 percent. The current reduction percentage differs from the 7.2 percent reduction applied to direct pay bond payments for federal fiscal year 2014, which ended on September 30, 2014. The reduction for the federal fiscal year 2013 was 8.7 percent. This means that payments processed by the IRS on or after October 1, 2014 and on or before September 30, 2015 will be reduced by the sequestration rate of 7.3 percent, regardless of when the amounts claimed by an issuer on any Form 8038-CP was filed with the IRS. The sequestration reduction rate will be applied unless and until a law is enacted that cancels or otherwise impacts the sequester, at which time the sequestration reduction rate is subject to change.

The IRS announcement states that issuers should complete Form 8038-CP in the manner provided by the Form 8038-CP instructions, and that affected issuers will be notified by the IRS through correspondence that a portion of their requested payment was subject to the sequester reduction. Issuers should use this correspondence to identify the portion(s) of amounts that were subject to the sequester reduction.

Issuers with any questions about the status of refunds claimed on Form 8038-CP, including any sequester reduction, should contact IRS Customer Service Account Services at 1-877-829-5500.

For More Information

To discuss any of the topics covered in this client alert, please contact a member of our Public Finance Group or visit us online at chapman.com.

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To the extent that any part of this summary is interpreted to provide tax advice, (i) no taxpayer may rely upon this summary for the purposes of avoiding penalties, (ii) this summary may be interpreted for tax purposes as being prepared in connection with the promotion of the transactions described, and (iii) taxpayers should consult independent tax advisors.

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