

Chapman Client Alert

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Current Issues Relevant to Our Clients

Modifications of Tax-Exempt Bond Provisions May Cause a Reissuance of Bonds

In these uncertain times, parties to bond documents (including documents such as continuing covenant agreements) may wish to waive, modify or renegotiate certain provisions, including the forbearance and deferral of debt service, the waiver of provisions or the exercise of certain options.

Although not all modifications create a tax concern, issuers and borrowers should be aware that certain modifications to bond documents could cause a reissuance of the bond for federal income tax purposes. Such a reissuance, if it occurs, would cause the modified bond to be treated as a newly reissued bond that currently refunds the unmodified bond. The newly reissued bond would need to qualify for tax-exemption.

Issuers and borrowers should timely consult bond counsel when considering such modifications to determine whether a bond will be reissued for federal income tax purposes. If the bond is considered to be reissued, bond counsel can assist the issuer and the borrower in preserving the tax-exempt status of the reissued bond and determining whether any gain or loss is recognized by the investor on the deemed exchange arising from the reissuance. Issuers and borrowers should also have counsel review modifications to the bond documents to determine whether the modifications involve other legal or regulatory issues.

[For More Information](#)

If you would like further information concerning the matters discussed in this article, please contact the Chapman attorney with whom you regularly work.

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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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