

# Chapman Client Alert

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Current Issues Relevant to Our Clients

## Tax Cuts and Jobs Act Would Eliminate Advance Refunding Bonds, Tax Credit and Direct Pay Bonds, Would Retain Private Activity Bonds and Stadium Bonds

On Friday, December 15, 2017, House and Senate conferees reached an agreement on the Tax Cut and Jobs Act (the "Bill") and released the final version of the Bill, which is expected to be voted on this week in the House and Senate. According to various reports, the Bill, if passed by Congress, will be sent to be signed by the President before Christmas. The provisions in the Bill directly affecting the issuance of tax-advantaged bonds are discussed below, as well as the differences between the Bill and the original provisions in the bills previously passed by the House and Senate.

### Repeal of Tax-Exempt Advance Refunding Bonds

The Bill eliminates the ability to issue tax-exempt advance refunding bonds (including governmental advance refunding bonds and qualified 501(c)(3) advance refunding bonds) after December 31, 2017. An advance refunding bond is generally defined as any refunding bond issued more than 90 days before the redemption of the refunded bond. Both the original House and Senate versions of the Bill contained a provision repealing advance refunding bonds effective for bonds issued after December 31, 2017.

### Repeal of Tax Credit Bonds/Direct Pay Bonds

The Bill eliminates the ability to issue tax credit bonds and direct pay bonds after December 31, 2017. Generally, tax credit bonds provide tax credits to the bondholder, while direct pay bonds, instead of providing a tax credit to the holder, provide a subsidy payment to the issuer equal to a specified percentage of the interest on the bond. Current tax credit and direct pay bonds include new clean renewable energy bonds (NCREBs), qualified energy conservation bonds (QECBs), qualified zone academy bonds (QZABs) and qualified school construction bonds (QSCBs). Only the original House version of the Bill contained the repeal of tax credit bonds and direct pay bonds.

### Retention of Tax-Exempt Private Activity Bonds

The Bill does not follow the original House bill provision that would have repealed the ability to issue any tax-exempt private activity bonds (including 501(c)(3) bonds) after December 31, 2017. Generally, private activity bonds are tax-exempt bonds issued for the benefit of non-state and local governmental units, the proceeds of which may be restricted to use for specified purposes. Private activity bonds include qualified 501(c)(3) bonds and many bonds issued to finance, among other things, airports, housing projects, solid waste disposal facilities, student loans and manufacturing facilities.

### Retention of Tax-Exempt Bonds for Professional Stadiums

The Bill does not follow the original House bill provision that would have repealed the ability to issue tax-exempt bonds used to finance or refinance capital expenditures allocable to a professional sports stadium after November 2, 2017.

### For More Information

If you would like further information concerning the matters discussed in this article, please contact a member of our Public Finance Group or visit us online at [chapman.com](http://chapman.com).

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