



"Fiscal cliff" may cause subsidy bond payments to fall

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On September 14, 2012, the United States Office of Management and Budget reported the possible effect on so-called "subsidy bonds" in the event that the sequestration provisions of the Budget Control Act of 2011 (the "BCA") must be implemented. Sequestration, which means the reduction in payments by the federal government, is one element of the "Fiscal Cliff" that looms at year-end.

If Congress does not enact legislation to reduce the deficit pursuant to the BCA by January 2, 2013, or decrease the requirements to reduce the deficit imposed by the BCA, payments to issuers of subsidy bonds could be reduced by 7.6 percent in fiscal year 2013. Additional cuts in later fiscal years are also a possibility.

The affected bonds include obligations issued in which the issuer elected to receive a subsidy payment from the federal government rather than issue debt on a tax-exempt basis, sometimes referred to as "direct-pay bonds." They include:

- Build America Bonds ("BABs")
- Qualified School Construction Bonds ("QSCBs")
- Qualified Zone Academy Bonds ("QZABs")
- Recovery Zone Economic Development Bonds ("Super BABs" or "RZEDBs")
- Qualified Energy Conservation Bonds ("QECBs")
- Clean Renewable Energy Bonds ("CREBs")

While QZABs and QECBs may still be issued if sufficient volume cap is available, all other types of bonds listed were only issued during 2009 and 2010.

It is not currently possible to predict whether and to what extent such proposed cuts in subsidy payments to issuers will actually be imposed. Prudent issuers may wish to consider how such cuts, if implemented, may affect their budgeting processes. Additionally, many subsidy bonds contained provisions permitting the issuer to optionally call bonds in the event of the occurrence of certain adverse events with respect to the subsidy payments. Issuers may likewise wish to review their bond proceedings to determine what options they may have should sequestration actually come to pass.



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