Conference agreement on tax reform: Private activity bonds, stadium bonds spared; Advance refundings and tax credit bonds axed

December 18, 2017

The Tax Cuts and Jobs Act (TCJA) was released on December 15, 2017. The Committee of Conference chose not to follow the House's repeal of authorization for private activity bonds — a financing vehicle used to finance 501(c)(3) institutions, such as private universities and hospitals, as well as other projects, such as low-to-moderate income housing. Additionally, the prohibition on the use of tax exempt bonds for professional stadium financing was, likewise, not included in the TCJA, preserving that option for governmental issuers.

The repeal of advance refunding authorization, however, is included, meaning that all future refundings of existing tax exempt debt must either be a "current refunding" (*i.e.*, issued not more than 90 days prior to maturity or redemption of the refunded debt) or issued as taxable bonds. Also to be repealed is the authorization for new tax credit bonds, including qualified zone academy bonds (QZABs) and qualified energy conservation bonds (QECBs). The repeal applies to any obligation issued after December 31, 2017. Any advance refunding bonds or tax credit bonds issued on or before December 31, 2017, are not adversely affected and continue to retain the status they held upon issuance, assuming they have complied and continue to comply with the requirements necessary to retain their tax favored attributes.

The TCJA is expected to be voted on the week of December 18 and, assuming passage by both Houses of Congress, will be submitted to the president for his signature.

A full version of the TCJA, as well as the Joint Explanatory Statement of the Committee of Conference, can be found here.

For more information regarding the details and timeline of H.B. 1, view our previous posting, "Tax reform update: H.R. 1 proposes significant limits on municipal bonds."

Authors

William T. Conard II

Partner

Columbus

614.227.2351

wconard@bricker.com