

Client Alert

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CURRENT ISSUES RELEVANT TO OUR CLIENTS

MARCH 5, 2013

IRS RELEASES INFORMATION CONCERNING SEQUESTER

As set forth in our Client Alert dated March 4, 2013, President Obama recently issued an order that authorized certain automatic cuts to federal spending. President Obama issued the order under a “sequestration” law previously enacted by Congress.

The order authorizes cuts to payments that are scheduled to be made by the federal government to issuers of certain direct pay bonds, including payments to issuers of: (i) Build America Bonds (BABs), including Recovery Zone Economic Development Bonds (RZEDBs), (ii) Qualified Zone Academy Bonds (QZABs), (iii) Qualified School Construction Bonds (QSCBs), (iv) Qualified Energy Conservation Bonds (QECBs), and (v) New Clean Renewable Energy Bonds (NCREBs).

The Internal Revenue Service (“IRS”) posted additional details concerning the cuts by the federal government to payments to issuers of direct pay bonds on its website on March 4, 2013.

According to the IRS posting, the IRS will apply the sequester reduction to direct pay amounts claimed by an issuer on any Form 8038-CP, Return for Credit Payments to Issuers of Qualified Bonds, filed with the IRS which results in a payment to such issuer on or after March 1, 2013. The IRS will apply the sequestration reduction rate until the end of the fiscal year (September 30, 2013) or intervening Congressional action, at which time the sequestration rate is subject to change. Issuers should continue to complete Form 8038-CP in the manner provided by the instructions to the Form 8038-CP when requesting payment from the federal government for direct pay bonds.

The IRS posting provided that, as determined by the Office of Management and Budget, payments to issuers from the budget accounts associated to direct pay bonds are subject to a reduction of 8.7 percent of the amount budgeted for such payments. The IRS further provided that “[a]ffected issuers will be notified 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 requested that were subject to the sequester reduction.”

The full IRS posting is located at: <http://www.irs.gov/Tax-Exempt-Bonds/Effect-of-Sequestration-on-Certain-State-and-Local-Government-Filers-of-Form-8038CP>. Issuers with any questions about the status of refunds claimed on Form 8038-CP, including any sequester reduction, may contact IRS Customer Account Services at 1-877-829-5500.

The IRS may release additional details in the future concerning the sequester and we will forward those details to you in future Client Alerts as the information becomes available.

To discuss any of the topics covered in this Alert, please contact Brent Feller at (312) 845-3822 or visit us online at chapman.com.

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