TAX - CALIFORNIA

Holtz v. Moreles

Court of Appeal, Sixth District, California - September 23, 2026 - Cal.Rptr.3d - 123 Cal.App.5th 566 - 2026 WL 2858444 - 2026 Daily Journal D.A.R. 8555

County residents filed a preelection complaint and petition for writ of mandate against county registrar of voters and county board of supervisors, seeking to challenge board's invocation of its emergency authority, under the "cases of emergency" exception to its state constitutional obligation to submit proposed general tax increases with general elections, to submit a proposed sales tax increase with a special election, and arguing that the language of the ballot question for the tax increase and the impartial analysis prepared by the county counsel violated Elections Code requirements for impartial, nonargumentative, and accurate ballot materials.

After expedited briefing and a three-day hearing on the merits, the Superior Court denied the writ and declaratory and injunctive relief as to the invocation of emergency authority, but directed modifications to the ballot measure and impartial analysis language. Residents appealed.

The Court of Appeal held that:

- Phrase "cases of emergency" refers to cases of unforeseen circumstances or combination of unforeseen circumstances that call for immediate action, and
- Board acted validly when it invoked its emergency authority to seek voter approval of sales tax increase by special election.

Ordinary meaning of phrase "cases of emergency," without special limitation as to nature of emergency, applied to interpretation of emergency exception to local governments' state constitutional obligation to submit proposed general tax increases with general elections; while enacting proposition had stated purpose of limiting local government revenue and enhancing taxpayer consent, provision setting forth exception required only that emergency be declared by unanimous vote of local governing body and contained no preference, distinction, or limitation as to nature of emergency, and recognizing broad interpretation of "cases of emergency" did not alter or diminish requirement that any general tax increase, extension, or imposition be submitted to electorate and approved by majority vote.

Under either standard requiring factual and objective determination of whether actual emergency existed or under standard looking to whether facts constituting emergency were recited in ordinance and were such that they might reasonably be held to constitute emergency, county board of supervisors acted validly when it invoked its emergency state constitutional authority to seek voter approval of a general sales tax increase by special election instead of by general election.

Kutak Rock: Proposed IRS Rule Targets Tax-Exempt Status for Private Schools

On the Hill

On September 3, 2026 the Internal Revenue Service and the U.S. Department of the Treasury published proposed regulations (REG-119986-25, RIN 1545-BS05) that would disallow tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Tax Code") for any private school that discriminates on the basis of race color, or national or ethnic origin in the administration of any educational policy, admissions policy, scholarship or loan program, athletic program or other school-administered or school-supported program.

The proposed regulation defines "private school" broadly to include any private primary or secondary school, college, professional or trade school or university that is described in Section 501(c)(3) and classified as an educational organization under Section 170(b)(1)(A)(ii) of the Tax Code. Public schools are excluded from the proposed regulation's purview.

The proposed regulation would impose a year-by-year nondiscrimination test. For taxable years beginning after May 31, 2027, a private school that "adopts, maintains, or enforces any policy or practice that discriminates on the basis of race, color, or national or ethnic origin" in the administration of any educational, admissions, scholarship or loan, athletic or other school-administered or school-supported program would not be treated as tax-exempt for that year. Because the test is annual, a school that changes its policies could potentially regain exempt status in a later year. The "for any purpose" standard would include policies defended as remedial or diversity-related, and the proposal would modify Rev. Proc. 75-50 (as modified by Rev. Proc. 2019-22) by deleting provisions that permitted preferences for racial minority groups in admissions, programs, facilities or financial assistance.

Continue reading.

Publications – Client Alert | September 8, 2026

Kutak Rock LLP

Mintz: IRS Proposes New Rules for Private Schools with Race-Based Policies

Proposed regulations could jeopardize 501(c)(3) tax-exempt status, charitable deductions, and tax-exempt bond financing for affected institutions.

On September 4, 2026, the Department of the Treasury and the Internal Revenue Service published proposed regulations (REG-119986-25) that would add a new Treas. Reg. § 1.501(c)(3)-2 to the Income Tax Regulations. If finalized as proposed, the rule would remove the tax-exempt status under Section 501(c)(3) of the Internal Revenue Code from any private school that adopts, maintains, or enforces any policy or practice that discriminates on the basis of race, color, or national or ethnic origin — regardless of the purpose of such discrimination, including remedial or diversity-related objectives.

The stakes are significant: noncompliant schools could lose their federal income tax exemption, contributions to them could cease to qualify as deductible charitable contributions under Section 170, and outstanding tax-exempt qualified 501(c)(3) bonds that depend on the 501(c)(3) status of the

school conduit borrower would become taxable with the loss of 501(c)(3) status. Treasury and the IRS estimate that approximately 18,000 tax-exempt private schools and 750,000 students potentially eligible for identity-based scholarships may be affected.

Important: This rule is *proposed* only. It has not been finalized and does not change current law. The proposed regulations are subject to public comment and may be revised before finalization. Written or electronic comments and requests for a public hearing are due November 3, 2026 (i.e., 60 days after Federal Register publication).

Continue reading.

By Christie L. Martin, R. Neal Martin, Meghan B. Burke

September 10, 2026

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo

How the 50 Largest American Cities Raise Revenue and What That Means for Tax Equity.

Overview

- Big cities are important drivers of the American economy, and the taxes they collect fund public services that help those communities thrive.
- While most local governments in the U.S. are largely funded by property taxes, large cities are a bit different, with more diverse revenue.
- Only about half of the nation's 50 largest cities rely mostly on property taxes. While all these cities collect at least some property tax revenue, the share varies.
- Another third of the 50 largest cities collect the bulk of their revenue from consumption taxes.
- The high reliance on property and sales taxes in these big cities results in low- and middle-income taxpayers paying a larger share of their incomes than high-income families in these places.
- By contrast, three cities collect the largest share of their revenue from income taxes, and four other cities get at least some revenue from income taxes. Income taxes tend to tax low- and middle-income families less than higher-income families, injecting progressivity into local tax codes and improving fairness for taxpayers.

Continue reading.

Institute on Taxation and Economic Policy

by Rita Jefferson, Nick Johnson, Galen Hendricks

September 9, 2026

TAX - NEVADA

State ex rel. Nevada Legislature v. Elko County ex rel. Board of Elko County

Commissioners

Supreme Court of Nevada - August 20, 2026 - P.3d - 2026 WL 2448929 - 142 Nev. Adv. Op. 57

County brought action for declaratory relief against the State, seeking judgment that sections of recently enacted law requiring counties with populations between 52,500 and 57,500 to levy property taxes for school capital projects and instituting default 25-cent property tax for counties that failed to levy a compliant tax were unconstitutional local or special laws.

The District Court granted summary judgment for county, finding sections unconstitutional and severing them from remainder of law. State, through legislature, appealed.

The Supreme Court held that:

- Population ranges in section of recently enacted law were not rationally related to the law's purpose, and thus law was a local or special law, rather than a general law;
- Sections of newly enacted law did not violate state constitutional prohibition against local and special laws assessing or collecting taxes; but
- Sections of newly enacted law violated state constitutional prohibition against local and special laws regulating county business.

TAX - CONNECTICUT

Greenwich Retail, LLC v. Town of Greenwich

Supreme Court of Connecticut - August 18, 2026 - A.3d - 2026 WL 2339506

Taxpayer, a commercial rental property owner, sought judicial review of decision of board of assessment appeals which upheld tax assessor's imposition of municipal tax penalty for failure to timely submit income and expense information.

The Superior Court denied the parties' cross motions for summary judgment. Following a court trial, the Superior Court rendered judgment for town. Taxpayer appealed. The Appellate Court affirmed. Taxpayer petitioned for certification to appeal, which was granted.

The Supreme Court held that:

- Statute requiring owner of income-producing real property to submit income and expense information "on a form provided by the assessor" required assessor to make form available by reasonable means, but did not require assessor to prove property owner's actual receipt of form before imposing statutory penalty; abrogating *Baker Middletown, LLC v. Middletown,* 2023 WL 6307074, and
- Municipal tax assessor satisfied statutory requirement to provide income and expense form to owner of income-producing real property by timely mailing demand and form to owner's last known address.

Payments in Lieu of Taxes (PILT): Section 6902 Payments - Congressional Research Service Report

Read the CRS report.

Aug 24, 2026

Kutak Rock: Recent Activity on the Hill Highlights Opportunities for Tax-Exempt Bonds

Congress has seen a series of recent proposals that would expand the use of tax-exempt bond financing across several sectors. While each proposal is still at an early stage and would require further congressional action before becoming law, taken together they reflect continued interest in preserving and expanding tax-exempt financing tools for housing, education, transportation and infrastructure.

A key housing-related proposal is the *First-Time Homebuyer Affordability Act*, introduced last Monday in the House by Representatives Darin LaHood (IL-16), Jimmy Panetta (CA-19), Blake Moore (UT-01), and Tom Suozzi (NY-01). The bill would amend Section 146(g) of the Internal Revenue Code of 1986 to exempt qualified mortgage bonds from the private activity bond volume cap, with the amendments applying to obligations issued after the date of enactment.

Other pending proposals in the Senate would make similar changes for additional categories of tax-exempt financing. The *Student Loan Bond Expansion Act of 2026*, introduced by Senators Grassley (IA) and Welch (VT), would exempt qualified student loan bonds issued after the date of enactment from both the volume cap and the alternative minimum tax and add a pooled financing bond rule providing that student borrowers are not treated as ultimate borrowers. The *Transit for Urban Renewal and Business Opportunities Act, or TURBO Act*, introduced by Senators Duckworth (IL) and McCormick (PA), would modify exempt facility bond rules. The bill would increase the national limitation for qualified highway or surface freight transfer facilities from $30 billion to $45 billion, treat acquisition of rolling stock as part of mass commuting facilities, and lower the speed threshold for high-speed intercity rail facilities from 150 miles per hour to 110 miles per hour.

Continue reading.

Publications – Client Alert | August 17, 2026

Kutak Rock LLP

Property Tax Collections and Local Fiscal Health: Insights from City Fiscal Conditions 2025

Property tax is a key source of revenue for over 90 percent of local governments across the country. Across all state and local governments, property tax generates about 37 percent of total tax revenue. Most municipal governments rely heavily on property taxes to fund essential services such as education, schools, police and fire departments, public works and recreation and infrastructure. As of March 2026, property tax revenue collected by state and local governments rose for the ninth consecutive quarter.

The National League of Cities City Fiscal Conditions 2025 (CFC) report shows the overall picture of

how cities' fiscal status fared in the past and in their most recent fiscal budget. Analysis on budget data from 213 cities for fiscal year 2025 shows a 3.4 percent increase in property tax collections. This growth largely reflects healthy housing market conditions post-COVID, not necessarily actions taken by local governments. Given this sustained growth, it is important to examine (using survey data from the most recent CFC report) how increases in property tax collections are contributing to local government fiscal health and enabling jurisdictions to mitigate reductions from other revenue sources.

The data collected from the CFC 2025 survey shows the increased property tax revenues which may or may not be due to actual increased rates. In total, 29 percent of the cities responded to the survey that they increased property tax collections in their municipalities (see Figure 1 below for more information). This trend is particularly noteworthy because, despite growth in property tax collections, cities overall anticipated a decline in total revenues, suggesting that rising property tax receipts helped offset reductions in other revenue sources rather than generating broad-based revenue growth.

Continue reading.

National League of Cities

by Harshita Umesh Tanksali

August 18, 2026

Kutak Rock: First-Time Homebuyer Affordability Act Introduced in House

Yesterday Representatives Darin LaHood (IL-16), Jimmy Panetta (CA-19), Blake Moore (UT-01), and Tom Suozzi (NY-01) introduced the First-Time Homebuyer Affordability Act in the House of Representatives. The bill would amend Section 146(g) of the Internal Revenue Code of 1986 (the "Code") to **exempt qualified mortgage bonds from the private activity bond volume cap.**

Under current law, qualified mortgage bonds are subject to the unified state volume cap on private activity bonds under Section 146 of the Code. That cap is shared among numerous categories of qualified private activity bonds, including multifamily housing bonds, exempt facility bonds, student loan bonds, and others.

The First-Time Homebuyer Affordability Act would exempt qualified mortgage bonds from the volume cap requirements, joining existing exemptions for certain veterans' mortgage bonds, 501(c)(3) bonds and other specified obligations.

Continue reading.

kutakrock.com

Publications – Client Alert | August 11, 2026

The Neverending Impulse to End Muni Bonds' Tax Exemption.

It survived last year's congressional tax and spending debate, but efforts to repeal it are likely to come up again. Before that happens, it's important for governments to quantify what the tax break for investors is worth to them.

Ask a room of finance officers what the federal tax exemption on investors' municipal bond earnings is worth to their state or local government and you will get a version of the same answer: a lot. Ask what it is exactly worth in dollars, on their last issuance and over the life of that debt, and the room will probably go quiet.

That gap is easy to live with right now because the immediate congressional pressure to repeal the exemption has eased. The people who lobby hardest to protect it say the threat is cooler today than at any point in two years. But the exemption is never permanently safe, and the best time to understand what it is worth to a government is before the next fight, not during it.

Here is how the last fight went. In early 2025, a leaked House Ways and Means Committee list of revenue options included repealing the exemption, scored at roughly $250 billion in increased federal revenue over 10 years. A coalition led by the Government Finance Officers Association (GFOA), the National League of Cities, the National Association of Counties and the U.S. Conference of Mayors mounted a monthslong campaign, and when the One Big Beautiful Bill Act (OBBBA) was signed in July 2025 the exemption was left fully intact, for both governmental-purpose and private activity bonds.

Continue reading.

governing.com

OPINION | August 11, 2026 • Craig S. Maher

IRS PLR: Public Power Company's Bonds Won't Exceed Time Needed to Accomplish Government Purpose

Summary by Tax Analysts

The IRS ruled that a public power company's tax-exempt bonds, issued to pay recovery costs from an extraordinary event, will not be outstanding longer than necessary to accomplish a governmental purpose and won't be subject to the proceeds-last-spent method.

Read the IRS Private Letter Ruling.

Citations: LTR 202633010

May 18, 2026

IRS Releases Revised IRM 4.82.3, Tax Exempt Bonds Examination Guidelines, Direct Pay Bonds.

The IRS has released revised IRM 4.82.3, Tax Exempt Bonds Examination Guidelines, Direct Pay

Bonds.

The revisions are as follows:

IRM Subsection	*Description of Change(s)*
Program Scope and Objectives	Updated to conform to the general overview requirements of IRM 1.11.2.2.4 (4).
Throughout the IRM	Updated the references and indicates the reassignment of certain aspects of the direct pay bonds compliance review process Form 8038-CP from FAST to BSP.
4.82.3.1.3	Added a new subsection for Roles and Responsibilities for internal controls per IRM 1.11.2.2.4 (4).
4.82.3.1.4	Added a new subsection, Program Controls per IRM 1.11.2.2.4 (4).
4.82.3.1.5	Added a new subsection, Program Management and Review per IRM 1.11.2.2.4 (4).
4.82.3.2.3, Penalties	Updated this section per Interim Guidance Memorandum, TEGE-04-02-2-0001, Miscellaneous Civil Penalty Case Procedures. As opposed to listing all of the instructions in this IRM, the examiners are instructed to refer to the applicable sections of TE/GE IRM 4.70.13: • IRM 4.70.13.12.5.1, Miscellaneous Civil Penalty Case File. • IRM 4.70.13.12.5.2, Closing the Miscellaneous Civil Penalty Case File.
4.82.3.2.2	Added new subsection: Statute and Credit Review.
4.82.3.3.3, Survey of Non-Examined Form 8038-CP Returns	Updated to include IGM, TEGE-04-0122-0002, Revised Considerations for Surveying Cases, dated January 11, 2024.
Editorial Changes Throughout	Editorial changes were made for clarity. Reviewed and updated grammar, email addresses, website links, titles, IRM references, IRS organizations, and terminology for the business unit.

View the entire IRS release.

Aug 6, 2026

Eliminate the Income Tax Exclusion for Municipal Bond Interest: Tax Foundation

The exemption for municipal bond interest has been a feature of the individual income tax since its inception in 1913. It provides an indirect tax subsidy to state and local governments by reducing their borrowing costs. The tax exemption incentivizes investors to accept lower interest rates on tax-exempt bonds than on taxable bonds. The lower interest rate offsets much of the tax benefit for investors, who tend to be high-income individuals and corporations, allowing state and local governments to capture the benefit.

This option eliminates the tax exclusion for municipal bond interest on a prospective basis. This would increase marginal tax rates on individual and corporate income, resulting in a small negative effect on total economic output. It would also increase borrowing costs for state and local governments.

On a conventional basis, this option would decrease the primary deficit by $157.8 billion over the budget window. Long-run GDP would fall by less than 0.05 percent, while long-run GNP would rise by less than 0.05 percent. On a dynamic basis, the primary deficit would decrease by $155.2 billion from 2027 through 2036, $2.6 billion less than the conventional estimate. Incorporating changes in interest costs, the publicly held debt-to-GDP ratio would be lower than baseline, reaching 174.2 percent by 2056.

On average, in 2036, taxpayers would see decreases in their after-tax incomes of 0.1 percent. The top quintile of taxpayers would experience a 0.1 percent decrease, and the bottom quintile would also experience a 0.1 percent decrease. On a long-run dynamic basis, taxpayers would see a 0.1 percent decrease on average.

Continue reading.

Tax Foundation

IRS Guidance on Tax-Exempt Refunding Bonds; Hearing.

IRS SUMMARY:

This document contains proposed regulations that would update certain arbitrage rules and definitions applicable to tax-exempt and other tax-advantaged bonds by clarifying the time and manner for requesting refunds of overpayment of rebate to the United States, the special transition rule for transferred proceeds, the limitation on allocations to expenditures, and the IRS address for filing defeasance notices. These proposed regulations would also revise the provision addressing certain perpetual State guarantee funds, the definition of tax-exempt bond, and the definition of refunding issue. The proposed regulations would affect issuers of tax-advantaged bonds.

Continue reading.

Tax Analysts: Proposed Exempt Bond Regs Restrictive and Punitive, Lawyers Say

Proposed arbitrage bond regulations that await finalization by the IRS and Treasury would hurt entities that rely on tax-exempt financing, according to lawyers.

Those lawyers, speaking at a July 30 IRS hearing on the proposed regulations, asked for the withdrawal of a proposed amendment to the allocation of expenditures rule under section 148 because they said it would create an unnecessary restriction on tax-exempt project financing.

The proposed regs (REG-117298-21), issued March 11, would update the tax-exempt bond procedure. The proposed amendment to section 148 would clarify “that to allocate funds from a specific source to an expenditure, those funds must be held by or on behalf of the issuer on the date of the cash outlay.”

Continue reading. [Subscription Required]

Tax Analysts

By Kelsey Brooks

Posted on July 31, 2026

TURBO Act Would Expand Exempt Facility Bonds.

Overview

Introduced on July 31, 2026, by U.S. Senators Dave McCormick and Tammy Duckworth, the Transit for Urban Renewal and Business Opportunities Act (TURBO Act) proposes raising the national volume cap for qualified highway and surface freight Private Activity Bonds from $30 billion to $45 billion. It also expands mass commuting bond eligibility to rolling stock and lowers high-speed rail speed minimums.

Key Provisions of the TURBO Act

Raise Volume Cap: Increases the national limit for highway and surface freight transfer facility bonds from $30 billion to $45 billion.

Expand Rolling Stock: Permits mass commuting facility bonds to fund the direct acquisition of transit vehicles like buses, railcars, and ferries.

Lower Rail Threshold: Reduces the required speed standard for eligible intercity passenger rail projects from 150 miles per hour down to 110 miles per hour. This change allows shared freight-corridor projects to utilize tax-exempt private activity financing.

TAX - CONNECTICUT

Campelli v. Town of Mansfield

Supreme Court of Connecticut - July 21, 2026 - A.3d - 355 Conn. 120 - 2026 WL 2082732

Taxpayers appealed decision of town board of assessment appeals that upheld assessor's termination of forest land classification of taxpayers' property.

The Superior Court, Judicial District of Tolland, transferred appeal. Following a trial de novo, the Superior Court, Judicial District of New Britain, Tax Session, sustained taxpayers' appeal. Town appealed. The Supreme Court transferred appeal from the Appellate Court.

The Supreme Court held that:

- Sale of taxpayers' smaller parcel did not authorize assessor under statute addressing termination of classification as forest land to terminate classification of larger parcel as forest land;
- Statute governing applications for forest-land classification does not vest assessors with discretionary authority to terminate classifications if they disagree with certified forester's findings as to whether property's total number of acres satisfies statutory definition of forest land, even if those findings were erroneous; and
- Statute requiring assessors to equalize assessments of property in a town does not authorize

assessor to terminate forest land classification prior to exercising assessor's watchtower role.

Ways and Means Hearing Shows Continued Bipartisan Interest in Removing Tax Breaks for Sports Teams: Hogan Lovells Cadwalader

On June 30, 2026, the House Ways and Means Committee held a nearly four-hour hearing titled, "The Growing Business of Sports: Reviewing Federal Tax Policy in the Multibillion-Dollar Industry." The hearing featured sharp bipartisan criticism of two key federal tax benefits that flow to the professional sports industry: the use of tax-exempt municipal bonds to finance stadium construction, and the ability of franchise purchasers to amortize the full cost of intangible assets under Section 197 of the Internal Revenue Code. The session underscored that these tax provisions remain in Congress's crosshairs (including those of Ways and Means Chairman Jason Smith) and that many members in both parties are interested in exploring statutory changes. This alert summarizes key takeaways from the hearing, the current legislative landscape, and the practical implications for sports industry stakeholders.

Chairman Smith's opening statement

Committee Chairman Smith (R-MO) delivered pointed opening remarks framing the hearing around what he described as a pattern of professional sports franchises exploiting federal tax incentives at the expense of local communities and taxpayers. Chairman Smith noted that 43 of 57 new stadiums built over the past 20 years have been financed using tax-exempt municipal bonds, at a cost of $4.3 billion to American taxpayers. He characterized the dynamic as follows: "Different cities, different leagues, but the same unfortunate playbook: leverage, threaten, relocate, repeat. And send the bill to the taxpayer."1

Chairman Smith noted that taxpayers in St. Louis are still paying for an 82,000-seat football stadium that last saw a home game in 2015, while the Kansas City Chiefs (currently playing in MO) are scheduled to move across state lines into Kansas at a cost of $1.8 billion in taxpayer-funded subsidies. He described the Chiefs' relocation decision as "a clear-cut example of a sports franchise putting corporate interest ahead of the interest of a community in which it has thrived for over six decades." Smith also cited the Oakland Athletics' move to Las Vegas backed by up to $380 million in Nevada taxpayer money, as well as the Chicago Bears' reported interest in relocating to Hammond, Indiana, to pressure Illinois into offering a richer incentive package.

Continue reading.

by Michael Bell, Mark Weinstein, James Wickett

July 16, 2026

Hogan Lovells Cadwalader

TAX - OHIO

RiverSouth Authority v. Harris

Supreme Court of Ohio - June 26, 2026 - N.E.3d - 2026 WL 1839607 - 2026-Ohio-2396

Public entity owner of city-leased parking garage appealed board of tax appeals' decision affirming tax commissioner's denial of real property tax exemption for property used exclusively for public purposes based on a management company's involvement in garage operations.

The Supreme Court held that:

- Board improperly affirmed commissioner's final determination based on a new issue that board raised sua sponte, and
- City's hiring of management company to operate day-to-day activities of parking garage did not override city's direction and control of public property.

Board of tax appeals improperly affirmed tax commissioner's final determination denying public purpose real property tax exemption for city-leased parking garage due to its operation by for-profit entity that was hired by non-profit management company contracted by city, based on new issue concerning management company's involvement without complying with remand procedure set forth in statute governing taxation appeals; garage owner sought reversal based on only grounds which tax commissioner denied exemption, and board sua sponte raised and decided issue of management company's involvement without providing owner notice that an alternative ground was at issue.

City retained direction or control over operation, maintenance, protection, and repair of city-leased parking garage, so as to be entitled to real property tax exemption applicable to property used exclusively for public purposes, even though management company was responsible for day-to-day operations and maintenance, where agreement between city and management company required management company to discharge its responsibilities in such way as to ensure that city met its obligations under its second supplemental lease with garage owner, and it also required management company to obtain city approval for emergency-repair and operating expenses over a certain monetary threshold.

S&P: As U.S. States Weigh Revenue Adjustments, Some Aim To Shift Tax Burdens Toward Higher Earners

Key Takeaways

- Some U.S. states continue prioritizing tax relief while others are focusing on initiatives to impose new taxes on wealthy individuals.
- Income tax structures that rely heavily on upper-income filers have demonstrated some cyclicality in the past.
- S&P Global Ratings believes states will proactively manage the performance and collection of revenues following recent tax changes to ensure long-term budget management.

Continue reading.

13-Jul-2026 | 09:55 EDT

House Ways and Means Committee Hearing Probes Wide Range of Tax Issues in Sports.

The Ways and Means Committee of the US House of Representatives held a hearing on 30 June 2026 on federal tax policy and its impact on the business of sports. Lawmakers on the panel and witnesses reviewed a range of issues facing professional and college sports, including tax benefits derived from the issuance of municipal bonds for stadium construction, tax-exempt status of professional leagues and college athletic conferences, amortization deductions for sports-related intangibles, the impact pending executive compensation limitations could have on a handful of publicly owned professional sports teams, tax withholding for college athletes, and the need for financial literacy as student-athletes receive NIL (name, image and likeness) payments, among other issues covered during the nearly four-hour session.

“From college athletes to professional leagues, sports organizations benefit from a range of favorable tax treatments, including tax exemptions and taxpayer-funded subsidies that warrant congressional oversight to ensure tax dollars are being used as intended,” Ways and Means Chairman Jason Smith (R-Mo.) said during his opening statement.

Whether or not changes are in the offing remains to be seen, but Smith and others on the committee did not hold back with their opinions on altering the current landscape of taxes and sports.

Continue reading.

taxathand.com

07 July 2026

House Committee Advances New Reporting Requirements for Tax-Exempt Hospitals: Davis Wright Tremaine

H.R. 9504 would require tax-exempt hospitals to report more detailed community benefit, financial, operational, and 340B information

On July 1, 2026, the U.S. House of Representatives Ways and Means Committee approved H.R. 9504, the Tax-Exempt Hospital Transparency Act, which would expand reporting obligations for tax-exempt hospitals. The measure passed the committee by a 25-15 partisan vote. Opponents argue that the bill will create an administrative burden on hospitals without any clear benefit.

While the bill still faces substantial legislative hurdles before becoming law, if enacted, it would significantly expand operational, financial, and community benefit reporting obligations for tax-exempt hospitals reported on Schedule H of the IRS Form 990.

Below are some of the key proposed changes and their implications:

New Reporting Requirements for All Tax-Exempt Hospitals

All tax-exempt hospitals must disclose:

- How they are addressing needs identified in their most recent Community Health Needs Assessment (CHNA), including any identified needs they are not addressing and the reasons why;
- Audited financial statements;
- Centers for Medicare & Medicaid Services (CMS) certification numbers;
- The value of financial assistance provided for charity care; and

- Number of financial assistance applications received, granted, and denied.

New Reporting Requirements for Large Tax-Exempt Hospital Organizations

> **Hospitals with more than 100 staffed inpatient beds and that are not critical access or rural emergency hospitals have additional requirements, including disclosing:**

- The three highest-priority health needs identified in the most recent CHNA, including related spending, actions taken, and resulting community impacts;
- Spending on quality improvement, including activities related to Medicare quality improvement programs; and
- Spending on nonclinical programming, including medical billing and coding, regulatory compliance, discharge planning, appointment scheduling, financial counseling, IT, administration, and related support functions.

Large hospitals (with greater than 100 inpatient beds, excluding critical access and rural hospitals) and high-revenue (defined below) hospitals must report required information both for the organization as a whole and separately for each hospital facility. Facility-level reporting may require hospitals to revisit internal allocation methodologies and confirm that they can support reported figures at the individual facility level.

New Reporting Requirements for High-Revenue Tax-Exempt Hospital Organizations

> **Finally, hospitals that generate more than $100 million annually in net patient revenue and that are not critical access or rural emergency hospitals must report:**

- Allowable and unallowable advertising costs;
- Descriptions of each health service line, defined as discrete clinical programs, departments, or care categories, and reported using a standardized service-line taxonomy that the secretary of health and human services must publish and maintain within two years of the bill's enactment.
- Amounts of gross receipts and costs for each health service line;
- Number of individuals receiving drugs purchased under the federal 340B Drug Pricing Program (42 U.S.C. § 256b), categorized by insurance type; and
- Aggregate net 340B payment amount and aggregate costs of participating in and complying with the 340B program.

These 340B disclosures could be among the bill's most burdensome and controversial requirements. By requiring public reporting on 340B utilization, payer mix, payment amounts, program costs, and compliance infrastructure, the bill could make public information that hospitals may view as commercially and politically sensitive, particularly given current scrutiny of, and litigation regarding, the 340B program.

Additional Medicare and Operational Considerations

The bill would create new public reporting implications for information that hospitals already maintain or report in Medicare-related contexts. For example, H.R. 9504: (1) appears to rely on Medicare cost reporting concepts to determine staffed inpatient beds, (2) would require certain

advertising costs to be reported by reference to costs reported to CMS for cost-reimbursement purposes, and (3) requires certain high-revenue tax-exempt hospitals to report revenue and cost by service line, creating a new reporting framework that is informed by, but not identical to, existing Medicare cost reporting requirements. As a result, hospitals may need to reconcile IRS Form 990 reporting with Medicare cost reports, audited financial statements, internal cost-accounting systems, service line reporting, and provider-enrollment records.

In addition, the bill would not amend Medicare provider-based rules or directly change when a hospital department may bill as a provider-based department of the hospital. However, expanded service line and cost-center reporting could make provider-based structures more visible and may increase scrutiny of how hospitals organize, report, and support outpatient department revenue and related cost allocations.

Timing and Next Steps

Although the bill has advanced out of committee, stakeholders will likely continue advocating for changes as the legislation moves through Congress. If enacted, key provisions of the bill would generally not take effect for two to three years. However, tax-exempt hospitals may wish to begin evaluating whether their existing data collection and reporting systems can support the bill's proposed disclosures and any related facility-level allocation requirements. As part of that review, hospitals may wish to identify gaps across tax, finance, compliance, reimbursement, 340B, and operational data systems, including whether Medicare-related reporting inputs can be coordinated with IRS Form 990 disclosures in a consistent and supportable way. Hospitals may also wish to confirm who holds the relevant data internally and whether current processes allow that information to be gathered, reconciled, and supported across facilities.

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By Adam R. Romney, Thomas C. Schroeder, and Sarah Kwon*

07.13.26

Davis Wright Tremaine LLP

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Adam Romney is a partner and head of DWT's Healthcare industry group. Thomas Schroeder is a partner in the firm's Foundations and Nonprofits practice group and serves as head of the Education industry group. Our Healthcare and Foundations and Nonprofits groups will continue to monitor the proposed legislation and can help tax-exempt hospitals assess and navigate any new requirements that may result. For any questions, please reach out to Adam, Tom, or another member of our Healthcare and Foundations and Nonprofits teams. To stay informed, sign up for our alerts.

*Sarah Kwon is a 2026 summer associate at DWT.

Tax-Free Stadium Bonds, NIL Challenges Draw Bipartisan Interest.

House taxwriters shared common concerns over the tax treatment of multiple areas of the sports industry, including the lack of automatic tax withholding for student-athlete income and tax-exempt municipal bond financing for sports stadium relocations.

The challenges for college athletes navigating the tax treatment of name, image, and likeness (NIL) income and revisiting tax policy on financing for stadium and arena construction were the primary focus of a June 30 House Ways and Means Committee hearing. But the tax-exempt claims of some NIL collectives, the "jock tax" on nonresident income at stadiums at the state level, and worries about international investment in college sports were also among lawmakers' concerns about the industry.

Ways and Means Committee Chair Jason Smith, R-Mo., took interest in the tax-exempt municipal bonds financing issue following the December 2025 announcement that the Kansas City Chiefs would move from his home state to a new stadium in Kansas by the start of the 2031 NFL season.

Continue reading. [Subscription required.]

Tax Analysts

by Cady Stanton

July 1, 2026

Kansas Lawmakers Hear About Potential $1.1B in Lost Property Taxes from Industrial Revenue Bonds.

TOPEKA — Kansas counties issued $18.3 billion in industrial revenue bonds to new and existing businesses between 2010 and 2024, leaving about $1.1 billion in potential property taxes on the table, legislators learned Wednesday.

The Legislative Post Audit Committee reviewed an audit of industrial revenue bonds with the goal of answering three questions: fiscal impact of the bonds on state and local governments; what estimates cities and counties report to the Board of Tax Appeals about property tax exemptions; and how many foreign companies received industrial revenue bonds.

Industrial revenue bonds are issued by cities, counties and the Kansas Development Finance Authority, and proceeds are used for companies expanding or locating new or existing facilities, according to the Kansas Department of Commerce. Benefits of the bonds include a low interest rate and partial or full property tax abatement for up to 10 years.

Continue reading.

kansasreflector.com

By Morgan Chilson

July 8, 2026

Taxation by Citation: A 50-State Data and Policy Report on Local Government Fines and Forfeitures

This report maps the scope of local governments' dependence on fines and forfeitures to

fund basic operations and why decades of reform efforts have fallen short.

Local governments across the United States collect substantial revenues through law enforcement fines and forfeitures. While monetary penalties serve legitimate purposes in the criminal justice system, their use becomes exploitative when governments rely on law enforcement and courts as essential revenue sources, creating conflicts of interest that undermine public safety and erode public trust.

Despite widespread agreement that reform is necessary, limited data has been a persistent barrier to effective policy change. Policymakers seeking to understand the scope of the problem in their own states have often lacked basic information about how much revenue local governments collect, which jurisdictions are most reliant on it, and whether existing reforms are working to correct perverse incentives.

A new Reason Foundation report, *Taxation by Citation: A 50-State Data and Policy Report on Local Government Fines and Forfeitures*, aims to address that gap through a novel dataset of audited local government financial statements covering more than 10,000 cities and counties, as well as a systematic review of existing reform efforts.

Continue reading.

Reason.org

June 25, 2026

TAX - VIRGINIA

Refund Recovery Specialist, LLC v. City of Norfolk by and Through Hester

Court of Appeals of Virginia, Williamsburg - June 16, 2026 - S.E.2d - 2026 WL 1737045

City brought action to sell real estate, which was subject to credit line deed of trust held by lienholder, to satisfy delinquent real estate taxes, and after property was sold at tax sale, company representing heirs of deceased former owner petitioned to claim surplus funds from sale.

The Norfolk Circuit Court ordered surplus funds held in court registry, denied company's motion for default judgment against lienholder, dismissed heirs' petition to claim surplus funds, and awarded attorney fees to city. Company appealed.

The Court of Appeals held that:

- Default judgment was not warranted against lienholder;
- Dismissal of company's petition was not warranted;
- Consideration of whether statute directing surplus funds from tax sale of property to municipality that initiated sale was unconstitutional taking as applied under state constitution was warranted; and
- Remand was required for trial court to determine proper distribution of surplus funds.

Skadden: Federal Tax Credits Play a Key Role in Wind and Solar 'Mega

Projects' as the Market Also Engages With Other Technologies

Key Points

- The One Big Beautiful Bill Act imposed new eligibility deadlines for wind and solar tax credits that have prompted a surge in project construction activity and a corresponding increase in demand for debt and equity financing.
- With the long-term outlook for wind and solar tax credits dimming, lenders and investors seeking additional investment opportunities are exploring other technologies — including nuclear, geothermal and other emerging energy sources — that will remain eligible for federal tax credits and are expected to attract increasing investment in the coming years.
- Factors including increased energy demand for data centers, AI and advanced manufacturing and higher tax credit rates under the Inflation Reduction Act have continued to contribute to growth in project scale, requiring developers to adopt increasingly sophisticated transactions to meet their financing needs for so-called "mega projects."

Continue reading.

June 23, 2026

Skadden, Arps, Slate, Meagher & Flom LLP

Illinois Joins Ohio in Ordering Pause on Data Center Tax Credits.

Takeaways by Bloomberg AI

- Governor JB Pritzker issued an order pausing state tax incentives for data centers in Illinois after the state legislature stalled his plan to keep data-center energy costs from affecting local residents' bills.
- Pritzker's order comes amid growing opposition to data centers, with development projects worth about $64 billion delayed or canceled across the US due to community pushback.
- The governor's move puts him in opposition to organized labor, which has called for the tax breaks to continue, with unions supporting the incentives so that their members can build the data centers.

Continue reading.

Bloomberg Industries

By Yash Roy

June 6, 2026

H.R. 9504 Would Increase Exempt Hospital Reporting Requirements.

Summary by Tax Analysts

H.R. 9504, the Tax Exempt Hospital Transparency Act, introduced by House Ways and Means

Committee member Gregory F. Murphy, R-N.C., would require tax-exempt hospital organizations to implement additional reporting requirements.

Continue reading.

June 30, 2026

Pennsylvania Bill Would Repeal Data Center Tax Exemption Provisions.

Summary by Tax Analysts

Pennsylvania H.B. 1667, as engrossed June 26, would repeal provisions related to the computer data center equipment incentive program and amend the program to state that data centers not certified for its tax benefits before February 3 will not be eligible for those tax benefits.

Read the Bill.

Dated June 26, 2026

IRS Rules Public Utility Fee Is Income.

Summary by Tax Analysts

The IRS ruled that a fee charged by a public utility is gross income under section 61 without regard to whether the proceeds are used to acquire capital items or for other purposes and that the proceeds are not excludable from gross income under section 118.

Citations: LTR 202625004

NACO Payments in Lieu of Taxes Resource Hub.

Public lands are national assets, but their costs fall locally. The federal government manages more than 640 million acres, 28% of all U.S. land, including national forests, Bureau of Land Management (BLM) holdings, national parks, wildlife refuges, military installations and more. **Approximately 62% of counties have Payments in Lieu of Taxes (PILT)-eligible federal public land within their boundaries, and every acre of federally owned land is an acre that cannot be taxed.**

County governments depend on property taxes as their single largest revenue source, accounting for approximately 26% of all county revenue nationally. For public lands counties, that foundation is structurally constrained from the start. Counties that host public lands bear the full cost of the services that make those lands accessible, productive and safe – such as roads and bridges, law enforcement, emergency response and fire protection – without the ability to collect property taxes on the land itself.

The PILT program is Congress’s primary response to this gap. Established in 1976, PILT directs

annual payments to more than 1,900 counties and local governments based on PILT-eligible federal acreage. In FY 2025, **PILT payments totaled $644 million nationally** – the largest annual payment in the program's history. Even so, this represents a fraction of what counties would collect if that land were privately owned and taxable.

Despite the program's broad reach, PILT has historically been subject to annual appropriations, making payments vulnerable to federal budget pressures. When PILT appropriations fall short of the full statutory calculation, as they have in previous years, counties must absorb the shortfall through service reductions, deferred infrastructure maintenance or adjustments to other budget lines.

Visit the NACO PILT Resources Hub.

National Association of Counties

TAX - RHODE ISLAND

Providence Community Health Centers, Inc. v. Dupuis

Supreme Court of Rhode Island - June 5, 2026 - A.3d - 2026 WL 1614751

Taxpayer, a nonprofit healthcare organization, appealed decision of city tax board of review, which denied taxpayer's appeal of city tax assessor's decision denying taxpayer's requested property tax exemption.

The Superior Court granted tax assessor's motion for summary judgment and denied taxpayer's cross-motion for summary judgment. Taxpayer appealed.

The Supreme Court held that:

- Taxpayer was not entitled to tax exemption for property located within city different than one specified within statute specifically exempting real and tangible personal property of taxpayer within defined geographic area, and
- Taxpayer was not entitled to tax exemption under statute providing exemptions for property held for aid or support of aged poor.

Taxpayer, a nonprofit healthcare organization, was not entitled to property tax exemption for property located within city different than one specified within statute specifically exempting real and tangible personal property of taxpayer within defined geographic area, where statute limited scope of taxpayer's exemption to its properties located within that defined area.

Statute providing exemptions for property held for aid or support of aged poor, specifically, for property held for, or by, incorporated library, society, or any free public library, or any free public library society, so far as property is held exclusively for library purposes, or for aid or support of aged poor, or poor friendless children, or poor generally, or for nonprofit hospital for sick or disabled, was ambiguous as it applied to taxpayer, a nonprofit healthcare organization, and thus taxpayer was not entitled to property tax exemption under the statute.

Fitch: Florida Property Tax Amendment Could Weaken Local Government

Credit Quality

Fitch Ratings-New York-12 June 2026: Credit pressure for some Florida local governments could increase if residents approve a constitutional amendment this November that would reshape the property tax framework, Fitch Ratings says. The amendment would raise the homestead exemption for non-school levies from the current $50,000 to $150,000 in 2027 and to $250,000 in 2028 for existing Florida permanent residents. It would also reduce the annual property value assessment cap for certain non-homestead properties to 5% from 10%. School district levies would not be affected. If at least 60% of voters approve the amendment, it would take effect on Jan. 1, 2027, which would affect local governments' fiscal 2028 budgets.

The amendment will lead to a reduction in taxable assessed values and property tax revenue, which will increase fiscal uncertainty unless policymakers take offsetting action. Revenue losses will vary based on changes in taxable assessed values but could be significant and create budget pressure for local governments with property tax rates closer to the statutory 10-mill operating cap and a predominantly residential homestead-heavy tax base. Any increase in the operating millage to offset the loss of property taxes would reduce future taxing capacity. Florida's Revenue Estimating Conference will meet this week to evaluate the amendment's potential effect on local government revenue.

Under Fitch's U.S. Public Finance Local Government Rating Criteria, lower revenue-raising control due in part to reduced future taxing capacity not adequately offset by a rise in other available revenue, such as charges and fees, may require a local government to maintain higher unrestricted general fund reserves to achieve a given financial resilience assessment and rating level. Fitch expects issuers with wider taxing margins below the 10-mill cap to have more flexibility in adjusting to a reduction in property tax revenue.

Some local governments may offset lower recurring property tax revenues with expenditure cuts, service reductions, or reserve use. A sustained decline in available reserves could lead to downward adjustment of an issuer's financial resilience assessment, depending on the magnitude. Increasing other revenue streams, including non-ad valorem revenue and fees and charges, could increase exposure to economically sensitive revenue or concentrate the tax burden among certain non-homestead taxpayers, including commercial property owners.

The amendment would require county and municipal ad valorem taxes to be used only for specified purposes. However, these purposes are broadly defined and include public safety, education, infrastructure and bonds issued for these services, including debt service payments, which are fundamental elements of most local government operating budgets. No direct fiscal relief or backfill funding for local governments appears in the final ballot measure.

Rating effects, if any, will depend on local governments' ability to offset any resulting loss of property tax revenue without excessive reliance on one-time budget actions, including reserve use, while preserving sufficient taxing margin under the 10-mill statutory cap.

TAX - MINNESOTA

City of Maple Grove v. CSL Rose Arbor

Minnesota Tax Court, Regular Division, Hennepin County - May 28, 2026 - 2026 WL 1502321

In 1999, the City of Maple Grove and the Maple Grove Housing and Redevelopment Authority (HRA) entered into a Development Agreement (Agreement) to provide tax increment financing (TIF) for the development of two senior housing facilities (Rose Arbor).

Through the TIF Development Agreement, the parties agreed to be bound by not only the agreement, but Minnesota's TIF statutes generally.

Pursuant to the Agreement, Maple Grove issued a $5 million pay-as-you-go TIF Note to Rose Arbor. Payments were to be made semi-annually from 2001-2022 based on property tax revenues. Payments were calculated based on the "captured net tax capacity" (increase in property values due to development). Rose Arbor received 85% of actual tax increment revenue collected.

The Agreement contained a "True Up Provision," which required an annual reconciliation in which Rose Arbor was required to reimburse Maple Grove if it had received more than it was owed.

After the Agreement had expired and all TIF payments had been made, Rose Arbor challenged its property tax assessments for tax years 2019-2021. Rose Arbor and county assessor settled the property tax appeals, which reduced the property values for those years. The county then issued tax refunds to Rose Arbor in the amount of ~$300,000.

The City of Maple Grove sued Rose Arbor to recover the excess TIF payments that resulted from the retroactive decrease in the property assessments, alleging claims of Breach of Contract and Unjust Enrichment.

Rose Arbor argued that its property tax settlements were separately negotiated agreements made after the TIF Development Agreement ended.

The Minnesota Tax Court held that Rose Arbor breached the parties' contract by: 1) by failing to return TIF overpayments as outlined by statute (as incorporated by the parties' agreement); and 2) by failing to abide by the True Up Provision.

The court ordered the parties to calculate the new captured net tax capacity and compare it to the original net tax capacity, recalculate the property TIF levy for the years at issue and compare it to what was actually distributed, and then treat the difference as excess increment to be returned to Maple Grove.

TAX - NEVADA

Nevada Health and Bioscience Asset Corporation v. State ex rel. Department of Taxation

Supreme Court of Nevada - May 28, 2026 - P.3d - 2026 WL 1500882 - 142 Nev. Adv. Op. 38

Taxpayer, a nonprofit organization established to privately fund and manage the development of a state-of-the-art medical education building for state medical school, sought judicial review of decision of Nevada Tax Commission that upheld on reconsideration Nevada Department of Taxation's denial of taxpayer's application for sales and use tax exemption.

The District Court denied petition. Taxpayer appealed.

The Supreme Court held that:

- Taxpayer satisfied statutory criteria for recognition as a charitable organization eligible for sales and use tax exemption;
- Department's refusal to recognize taxpayer as a charitable organization eligible for sales and use tax exemption was arbitrary and capricious and an abuse of discretion;
- Taxpayer could seek reconsideration of its sales and use tax exemption application as a charitable organization;
- On reconsideration, Tax Commission was required to evaluate taxpayer as a charitable-organization applicant, rather than limiting review to taxpayer's initial selection of educational-organization classification on application form;
- Department was required to evaluate sales and use tax exemption application under statutory and regulatory standards governing nonprofit organizations created for religious, charitable, or educational purposes, rather than treating statute governing contractors for tax-exempt entities as a threshold bar to exemption;
- Statute providing that taxes apply to contractor for governmental, religious, or charitable entity that is otherwise exempt from tax did not disqualify taxpayer from sales and use tax exemption as a charitable organization; and
- Statute governing sales and use taxation of contractors for governmental, religious, or charitable entities was ambiguous.

Taxpayer, a nonprofit organization established to privately fund and manage development of medical education building for state university medical school, satisfied statutory criteria for recognition as a charitable organization eligible for sales and use tax exemption, where organization's bylaws, articles of incorporation, development agreement with university, and financial statements demonstrated that organization's primary public purpose was to address state's healthcare needs and critical physician shortage, that organization would serve this purpose gratuitously by relying on private contributions, that organization intended to gift completed building to university for modern medical education, and that organization satisfied federal requirements for recognition as public charity and state requirements for property tax exemption for project's parcel of land.

Department of Taxation's refusal to recognize taxpayer, a nonprofit organization established to privately fund and manage development of medical education building for state university medical school, as a charitable organization eligible for sales and use tax exemption was arbitrary and capricious and an abuse of discretion, where organization met statutory criteria for charitable organizations, and Department failed to meaningfully engage with relevant statutory criteria and organization's supporting documentation.

Taxpayer, a nonprofit organization established to fund and manage development of medical education building for state university medical school, could seek reconsideration of its sales and use tax exemption application as a charitable organization, although taxpayer initially checked box identifying itself as an educational organization, where taxpayer made clear when seeking reconsideration that initial selection was scrivener's error and that it sought reconsideration as a charitable organization, Department of Taxation conceded that taxpayer applied first as an educational organization and then as a charitable organization, Tax Commission's denial letter acknowledged that taxpayer applied as an educational and/or charitable organization, and record reflected that taxpayer had raised charitable-organization eligibility issue by the time the Tax Commission reviewed taxpayer's application.

Nevada Tax Commission was required, on reconsideration of sales and use tax exemption application filed by taxpayer, a nonprofit organization established to privately fund and manage development of medical education building for state university medical school, to evaluate taxpayer under criteria

for charitable organizations, rather than limiting review to taxpayer's initial selection of educational-organization classification on application form; reconsideration regulation allowed Commission to grant or reissue exemption letter if taxpayer presented satisfactory evidence that it complied with exemption standards, and taxpayer submitted documentation necessary to evaluate charitable status, including organizational, financial, governmental-exemption, and project-related materials.

Department of Taxation was required to evaluate sales and use tax exemption application filed by taxpayer, a nonprofit organization, under statutory and regulatory standards governing nonprofit organizations created for religious, charitable, or educational purposes, rather than treating statute governing contractors for tax-exempt entities as a threshold bar to exemption; application-review statutes and regulation directed Department to determine whether applicant met standards for exemption set forth in statute defining eligible nonprofit organizations, Department's application form and template response letter identified those standards, those provisions did not mention contractor statute, and contractor statute did not override established procedure for evaluating exemption applications.

Statute providing that taxes apply to contractor for governmental, religious, or charitable entity that is otherwise exempt from tax did not disqualify taxpayer, a nonprofit organization, from sales and use tax exemption as a charitable organization, although taxpayer entered into a development agreement with state university to fund and manage construction of medical education building, where taxpayer independently satisfied statutory criteria for charitable organizations, contractor statute operated only to require taxation of particular transactions or acts taken by nonexempt actors, neither contractor statute nor case that statute codified contemplated that already-exempt nonprofit would lose tax-exempt status by contracting with government, and taxpayer's nonexempt private contractors could still be subject to taxation.

Statute governing sales and use taxation of contractors for governmental, religious, or charitable entities was ambiguous as to meaning of term "contractor," and thus court would look to legislative history for clarification of the statute's meaning, where statute did not define term, term was not defined elsewhere in Sales and Use Tax Act, and other chapters of Nevada Revised Statutes used disparate meanings of term.

Statute governing sales and use taxation of contractors for governmental, religious, or charitable entities does not factor into initial review of applications for tax exemption by nonprofit organizations created for religious, charitable, or educational purposes, does not alter an already-exempt entity's tax-exempt status, and does not apply to religious, charitable, or educational nonprofit organizations with tax-exempt status, but instead only limits nonexempt entities working with governmental, religious, or charitable entities.

TAX - TEXAS

Busse v. South Texas Independent School District

Supreme Court of Texas - May 8, 2026 - S.W.3d - 2026 WL 1279764 - 69 Tex. Sup. Ct. J. 641

Taxpayers and consolidated independent school district located in Willacy County brought action for declaratory and injunctive relief against regional school district that was originally formed as rehabilitation district for persons with disabilities, alleging that regional district's annual levy of ad valorem taxes in county violated contract-with-the-voters doctrine and, because tax lacked voter approval, constituted ultra vires conduct under state constitution.

The 197th District Court denied regional district's plea to the jurisdiction. Regional district filed interlocutory appeal. The Corpus Christi – Edinburg Court of Appeals reversed and rendered. Taxpayers and consolidated school district petitioned for review, which was granted.

The Supreme Court held that:

- Taxpayers had standing to seek declaratory judgment, but
- Consolidated school district lacked standing.

Taxpayers had constitutional standing to seek declaration that regional school district's annual ad valorem tax was unlawful and to seek injunction barring regional district's tax assessment and barring county's impending collection of tax, and thus taxpayer standing doctrine did not apply, where taxpayers alleged particularized pocketbook injury in fact that was traceable to district that would be redressed by the requested relief.

Consolidated school district challenging regional school district's ad valorem tax failed to establish redressability required to confer constitutional standing on consolidated district to seek declaratory judgment related to regional district's tax assessment, absent showing beyond pure speculation that granting requested injunctive relief would make it substantially likely that voters would approve tax increase in hypothetical future election, that consolidated district would offer higher salaries to potential staff, or that regional district would serve more individuals with disabilities.

IRS Updates Energy Community Bonus Credit Eligibility Lists for 2026: McGuireWoods

On June 10, 2026, the IRS released Notice 2026-39, the routine annual update to the list of locations eligible for the energy community bonus credit under Sections 45, 45Y, 48, and 48E of the Internal Revenue Code. The notice updates two of the three energy community categories, the Statistical Area Category and the Coal Closure Category, and supersedes prior lists, effective June 10, 2026, until the IRS issues updated guidance.

What Changed

The Statistical Area Category list (Appendix 1) has been refreshed using 2023 County Business Patterns fossil fuel employment data and 2025 annual county unemployment rates released by the Bureau of Labor Statistics on May 19, 2026. The new list is effective June 10, 2026, and remains in effect until Treasury and the IRS issue a further update based on 2026 unemployment data.

Continue reading.

By Marc D. Nickel, Aaron S. Mitchell, Paul D. Jones, Durham C. McCormick, Jr., Jason Huh, Sarah A. Zepeda

June 12, 2026

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TAX - OHIO

Olentangy Local School District Board of Education v. Delaware County Board of Revision

Supreme Court of Ohio - May 29, 2026 - N.E.3d - 2026 WL 1500674 - 2026-Ohio-1963

Board of education filed complaints with county board of revision challenging tax-year valuations of parcels owned by property owners. Board of revision dismissed complaints for lack of subject matter jurisdiction, and board appealed dismissals to court of common pleas.

The Court of Common Pleas granted property owners' motions to dismiss appeals for lack of jurisdiction, and board appealed. The Fifth District Court of Appeals affirmed, and board appealed.

The Supreme Court held that board of education was unable to obtain review of board of revision's dismissal of its challenges in court of common pleas.

County board of revision's property valuation decisions were appealable to higher administrative authority—the Board of Tax Appeals (BTA), and thus were excluded from class of decisions appealable to common pleas court by statute governing appeals from decisions of local subdivision agencies, even though, as result, local school district's board of education was unable to obtain review of county board of revision's dismissal of its challenges to valuations of properties it did not own or lease due to statutory amendment eliminating its ability to appeal property-valuation decisions to BTA when it did not own or lease property in question.

IRS Publishes Reference Price for Energy Production Credit.

The IRS has published the inflation adjustment factor and reference price for the section 45 renewable electricity production credit for calendar year 2026.

Citations: 91 F.R. 32511-32512

June 1, 2026

TAX INCREMENT FINANCING - WEST VIRGINIA

Genesis Partners, Limited Partnership v. City of Bridgeport, West Virginia

United States District Court, N.D. West Virginia, Clarksburg - March 30, 2026 - F.Supp.3d - 2026 WL 867769

Developer of tax increment financing (TIF) district sought declaratory judgment against city and city official that state statutory amendment allowing 15-year extension of TIF district without municipal consent did not violate Contract Clause of United States Constitution and state constitution.

Developer moved for summary judgment.

The District Court held that:

- Memorandum of understanding was not impaired on the grounds that district was allegedly subject to a 30-year term under resolution;
- Memorandum was the only arguable contract between developer and city; and

- Memorandum was not impaired even if the original TIF Act was incorporated into it.

Assuming that memorandum of understanding between city and developer related to tax increment financing (TIF) district, constituted a contract, the memorandum was not impaired by the West Virginia TIF Act, which authorized up to a 15-year extension for TIF districts established before a certain date without consent of the municipality, under the Contract Clause of the United States or West Virginia constitutions, on the grounds that district was allegedly subject to a 30-year term under resolution incorporated in memorandum; memorandum did not place a term or duration on the length of TIF district or the length of the TIF bonds used to finance the district, there was no reference to a promise that developer would seek city's consent to extend the duration of the district or bonds, and it did not provide a deadline for which the city would receive deferred tax proceeds.

Memorandum of understanding between city and developer, related to the creation and financing of tax increment financing (TIF) district, was the only arguable contract between the city and developer for purposes of developer's request for a declaratory judgment that the West Virginia TIF Act, which authorized up to a 15-year extension for TIF districts established before a certain date without consent of the municipality, did not violate the Contracts Clause of the United States or West Virginia Constitution; memorandum of understanding contained an integration clause which stated that the memorandum constituted the "entire understanding between" the city and developer, and could be amended only in a "subsequent writing executed by both parties."

Memorandum of understanding between developer and city, which related to the establishment of tax increment financing (TIF) district, was not impaired under the United States or West Virginia contract clauses by amendments to West Virginia TIF Act which authorized up to a 15-year extension for TIF districts established before a certain date without consent of the municipality, even if the original Act, which required municipal approval, was incorporated into the memorandum, where the Act required the consent of a municipality to establish a district, but the amendment merely extended the termination date for existing TIF districts, such as the district in question.

TAX - PENNSYLVANIA

Downingtown Area School District v. Chester County Board of Assessment Appeals Tax Parcel No.: 33-5-43.3

Supreme Court of Pennsylvania - May 19, 2026 - A.3d - 2026 WL 1457351

School district sought judicial review of county board of assessment appeals' denial of school district's appeal of assessed value of taxpayer's recently-purchased $84 million apartment complex that school district added to its consultant's list of 15 candidate properties for assessment appeals.

The Court of Common Pleas reversed. Taxpayer appealed. The Commonwealth Court reversed. School district petitioned for further appeal, which was allowed.

The Supreme Court held that:

- A taxing district's mere use of monetary-threshold policy to determine which assessments to appeal does not violate Uniformity Clause of State Constitution;
- School district's assessment appeal policy using minimum $10,000 tax-liability-deficit threshold did not facially violate Uniformity Clause;
- School district did not discriminatorily apply policy by not appealing all potentially underassessed properties;

- School district did not discriminatorily apply policy by not appealing assessment for commercial property that had an apparently aggressive attorney;
- School district did not discriminatorily apply policy by targeting taxpayer's property;
- Any lack of "hard and fast rule" to narrow initial list of 100-plus properties for appeal did not violate Uniformity Clause;
- Monetary-threshold policy did not violate Uniformity Clause solely because it led to fewer appeals of single-family residential properties; and
- Monetary-threshold policy did not violate Equal Protection Clause of Federal Constitution.

TAX - PENNSYLVANIA

Borough of West Chester v. Pennsylvania State System of Higher Education

Supreme Court of Pennsylvania - April 30, 2026 - A.3d - 2026 WL 1204133

Borough brought petition for review against state university system and university seeking declaratory judgment that its stormwater charge imposed on developed properties constitutes a fee for service rather than a tax.

The Commonwealth Court granted defendants' motion for summary relief, determining that charge was general tax, rather than fee for service. Borough appealed.

The Supreme Court held that:

- Defendants had burden, on cross-motions for summary adjudication, to prove that charge constituted a tax, rather than fee for service, despite fact that borough initially filed action;
- In matter of first impression, charge related to stormwater management arose out of federal and state mandates imposed on borough for public benefit, thereby weighing in favor of determination that charge constituted "local tax," rather than "fee for service"; and
- In matter of first impression, apparent lack of express or implied contractual relationship between borough and landowners subject to charge weighed in favor of determination that charge constituted "local tax," rather than "fee for service."

NABL Sees No Upside to Proposed Regs on Arbitrage Bonds: Tax Analysts

Summary by Tax Analysts

The National Association of Bond Lawyers, commenting on the allocation and accounting rules in proposed regulations (REG-117298-21) on arbitrage bonds, has recommended the withdrawal of the proposal because it could cause tax-advantaged bonds to be issued earlier than necessary and would impose new burdens and complexity without any benefit.

Continue reading. [Subscription required.]

Native Group Says IRS Should Modernize Tribal Bond Rule: Tax Analysts

Summary by Tax Analysts

The National Congress of American Indians has responded to the IRS's request (Notice 2026-23) for projects to include in its 2026-2027 priority guidance plan, asking the agency to modernize the "essential governmental function" standard for tribal tax-exempt bonds and issue regulations on tribally chartered entities.

Continue reading. [Subscription required.]

May 29, 2026

Municipal Stormwater Management Charge is a Tax… Or is It? - Cozen O'Connor

A municipal stormwater charge imposed by the Borough of West Chester (Borough) was determined to be a tax, and not a fee, by the Pennsylvania Supreme Court. *The Borough of West Chester v. Pennsylvania State System of Higher Education, et al.*, No. 9 MAP 2023 (Pa. 2026). The case diverges from analysis in other jurisdictions that have treated similar charges as fees, not taxes.

The Borough imposed a stream protection fee upon the owners of all developed properties that the Borough deemed benefited by the Borough's stormwater management system. This charge was calculated based on the amount of impervious area on a particular property. The charge was enacted by the Borough to comply with the Commonwealth's Storm Water Management Act, which was enacted by the General Assembly to comply with the federal Clean Water Act. The Pennsylvania State System of Higher Education and West Chester University (collectively the University), both being tax-exempt entities, refused to pay said charge on the grounds that they believed that it constituted a tax.

There is over a century of Pennsylvania jurisprudence treating charges imposed by state or local government to support their general public burdens as taxes, opposed to fees for services. The Court described "taxes" as charges imposed by the legislature upon many, or all, citizens, to raise money that is spent for the benefit of the entire jurisdiction, and summarized the test that a municipal charge must meet to constitute a fee. Under this test, a court must first determine whether the municipality is performing the service in a quasi-private or public capacity; if the municipality is acting in its public capacity, the inquiry ends because the charge is a tax. However, if it is determined that the municipality is acting in its quasi-private capacity, then a court must determine whether the associated charge is measured by the service rendered. If there is no connection between the amount of the charge and the actual service being rendered, the charge is considered a tax. Here, the Court looked to the stated purpose of the Borough ordinance – imposing the fee as prompted by federal and state mandates to fund its expenses in complying with federal law, and to benefit the public safety, health, and welfare – and concluded that the Borough was acting in its public capacity for the general welfare of the community, not pursuant to a contractual relationship. Accordingly, the Court held that the charge was a tax and the University was exempt from payment.

Continue reading.

Cozen O'Connor – Dan A. Schulder and Heidi R. Schwartz

May 27 2026

The VanEck Muni Brief: NYC's Pied-à-Terre Tax

> Welcome to The Muni Brief, a series on municipal credit and markets. In each installment, Senior Municipal Strategist James Colby examines current events, policy developments, and fiscal trends through the lens of the muni investor — covering topics both local and national. This is the first edition.

NYC's Pied-à-Terre Tax: A Signal Worth Watching, Not a Solution

New York City is facing one of the most significant fiscal challenges in recent memory. The NYC Comptroller has projected a $2.2 billion budget shortfall for FY2026, growing to a $10.4 billion gap in FY2027 (Source: New York City Comptroller, January 2026). That is a two-year deficit of roughly $12.6 billion.

Into that context steps the pied-à-terre tax.

What Is The Pied-à-Terre Tax?

The proposal would levy an annual surcharge on condos, co-ops, and 1-3 family homes valued above $5 million where the owner maintains a primary residence outside New York City. Governor Hochul estimates approximately 13,000 properties would qualify. The city projects $500 million in annual revenue (Source: New York State Government, April 2026).

Even at the $500 million headline figure, the pied-à-terre tax covers less than 5% of the projected two-year gap. At the more realistic $340 to $380 million range, the contribution is smaller still.

Continue reading.

vaneck.com

by James Colby
Senior Municipal Strategist

May 19, 2026

ABA Tax Section Recommends Withdrawal of Proposed Arbitrage Bond Regs.

Summary by Tax Analysts

The American Bar Association Section of Taxation has suggested the withdrawal of proposed regulations (REG-117298-21) on arbitrage bonds under section 148, which clarify the legality of short-term debt in debt limit situations and rectify situations in which redeeming bonds backed by student and mortgage loans inadvertently makes the bonds taxable.

The tax section contends that the proposed regs are not a clarification but rather constitute a new rule that is inconsistent with the original intent underlying the existing rule. Members maintain that the proposed regs will also adversely affect the operation of other code sections that rely on the

rules of reg. section 1.148-6(d) and will impose significant burdens on issuers and conduit borrowers with little benefit to regulation and enforcement.

According to section members, tax professionals, issuers, and conduit borrowers have not found the existing regulation confusing and have been using it without incident for three decades. Moreover, its regulatory history does not suggest that the cash outlay was ever tied to a particular source from a particular time, members say. Rather, the regulatory history clarifies that the cash outlay rule was intended to ensure that a preliminary allocation of bond proceeds not tied to a then-existing cash outlay was not an effective allocation. The tax section contends that the existing rule was not intended to restrict the ability to reallocate expenditures to other sources available at a later date.

Section members argue that the proposed regs constitute a restrictive new limitation on the ability of issuers and conduit borrowers to fund projects, particularly affecting complex projects involving multiple sources of funding, often with longer development timelines. "It also unnecessarily disadvantages issuers and borrowers who have limited available funds at any given time to apply to project costs, but who anticipate the receipt of additional long-term funding, such as state or federal grants," members say, adding that the proposed regs overlook core conceptual tools regularly used in fund accounting: temporarily using funds on hand to pay for current costs and replenishing those funds with an expected permanent source of funding.

Continue reading. (Subscription required.)

Tax Analysts

May 11, 2026

TAX - RHODE ISLAND

PACE Organization of Rhode Island v. Frew

Supreme Court of Rhode Island - April 28, 2026 - A.3d - 2026 WL 1140483

Taxpayer, an organization that provided health and social services to elderly people, appealed decision from city tax board of assessment review, which denied taxpayer's appeal seeking property tax exemption from city tax assessor, claiming its property qualified for exemption under statute providing exemptions for property held for aid or support of aged poor.

The Superior Court granted tax assessor's cross-motion for summary judgment and denied taxpayer's motion for summary judgment. Organization appealed.

The Supreme Court held that taxpayer was not entitled to tax exemption under statute providing exemptions for property held for aid or support of aged poor, specifically, for property held for, or by, incorporated library, society, or any free public library.

Statute providing exemptions for property held for aid or support of aged poor, specifically, for property held for, or by, incorporated library, society, or any free public library, or any free public library society, so far as property is held exclusively for library purposes, or for aid or support of aged poor, or poor friendless children, or poor generally, or for nonprofit hospital for sick or disabled, was ambiguous as it applied to taxpayer, an organization that provided health and social services to elderly people, and thus taxpayer was not entitled to property tax exemption; in one reading, term "society" was open in nature, allowing for many entities to receive tax exemption, and other reading would limit "society" to one that was connected to library in some manner, given its

inclusion amongst several library entities.

Insurer and Clinic Operator Performs Governmental Functions: Tax Analysts

Citations: LTR 202618010

Summary by Tax Analysts

The IRS ruled that a foreign nonprofit controlled entity that provides accident insurance, operates medical clinics, and distributes workplace safety and general health guidance is not engaged in commercial activities under section 892, but rather is engaged in governmental functions.

Continue reading. (Subscription required.)

Dated Feb. 3, 2026

S&P Credit FAQ: Is Property Tax Reform A Growing Concern For U.S. Local Government Credit Quality?

Property taxes are the finance backbone for local governments in the U.S., supporting everything from government operations to public safety and public education. The enduring strength and stability of the revenue stream–even in tumultuous economic times–is a major factor to the overall creditworthiness of U.S. local governments rated by S&P Global Ratings. So, when property tax reform is passed, or proposed, it can call into question how essential government services would be funded if the revenue stream is reduced or eliminated.

Policy changes at the state and federal level routinely require spending adjustments for local governments, but major changes to property tax collections (amount or timing) can disrupt budgets if they are not addressed in a prompt and effective manner. Recently, several states passed property tax reforms and others have legislation under consideration.

Affordability Concerns Are Front And Center

Property tax reform and other kinds of tax reforms are being considered, introduced, and implemented across the country, often motivated by efforts to address affordability for residents. Legislative proposals to lower property taxes are particularly popular given the rise in home valuations: the S&P Coality Case Shiller U.S. National Home Price Index increased nearly 48% between 2020 and 2025. Given housing supply constraints, this level of property value growth has made home ownership even more expensive; rising home insurance costs exacerbate the situation. Furthermore, inflationary impacts on food costs and utilities, among other items, have squeezed discretionary income and contributed to the overall cost of living.

Continue reading. (Free Registration Required)

30-Apr-2026 | 10:57 EDT

TAX - MISSOURI

Cox v. Grady Hotel Investments, LLC

Supreme Court of Missouri, en banc - April 21, 2026 - S.W.3d - 2026 WL 1082986

County assessor brought action against hotel owner, seeking review of State Tax Commission's (STC) finding that owner only had a leasehold interest in real property improvements and assessment of the taxable valuation of interest at zero.

After school district intervened, the Circuit Court rendered judgment reversing STC's finding. The Court of Appeals affirmed and remanded case back to STC. On remand, assessor and district sought review of STC's determination affirming hearing officer's decision to value hotel by subtracting from the purchase price the value of personal property and the cost of new construction and improvements, pursuant to statute governing assessment of property in airport boundary.

The Circuit Court affirmed. Assessor and district appealed.

The Supreme Court held that:

- District did not have standing to challenge hotel's assessment value;
- As matter of first impression, assessor did not have standing to bring a claim under due process clause of state constitution;
- Assessor did not have standing to bring claim under constitutional provision barring enactment of laws making any irrevocable grant of special privileges or immunities;
- Assessor had standing to bring claims under constitutional provision barring tax exemptions and uniformity clause;
- Statute did not grant an unconstitutional tax exemption; and'
- Statute did not violate uniformity clause.

House Republicans Introduce Bill to Extend Renewables Tax Credits.

The American Energy Dominance Act would remove the accelerated deadlines that the One Big Beautiful Bill Act placed on the renewable energy 45Y production tax credit and 48E investment tax credit.

Republican lawmakers in the House of Representatives are trying to restore clean tax credits for wind, solar and other clean energy technologies that were curtailed by the One Big Beautiful Bill Act.

The American Energy Dominance Act, introduced Thursday, would remove the accelerated deadlines that the One Big Beautiful Bill Act placed on the renewable energy 45Y production tax credit and 48E investment tax credit, and make similar changes to other impacted credits, like the 45V clean hydrogen production credit.

The bill was introduced by Rep. Brian Fitzpatrick, R-Pa., Rep. Max Miller, R-Ohio, Rep. Mike Carey, R-Ohio, and Rep. Mike Lawler, R-N.Y. A release from Fitzpatrick's office said the legislation was "developed in direct partnership with the North America's Building Trades Unions."

Continue reading.

utilitydive.com

by Diana DiGangi

Published April 27, 2026

TAX - ALASKA

Municipality of Anchorage v. Department of Revenue

Supreme Court of Alaska - April 17, 2026 - P.3d - 2026 WL 1042357

Municipal natural gas producer brought action appealing decision of administrative law judge, which affirmed Department of Revenue's denial of producer's claim for carried forward annual loss credits and partial denial of claim for qualified capital expenditure and well lease expenditure credits related to natural gas production, and granted summary adjudication in favor of state.

The Superior Court affirmed the administrative law judge's decision. Municipal gas producer appealed.

The Supreme Court held that:

- Substitution of judgment standard, rather than reasonable basis review, would be applied to give no deference to Department's interpretation of prior versions of statutes governing carried forward annual loss, qualified capital expenditure, and well lease expenditure transferable tax credits, when determining whether municipal natural gas producer was eligible for such credits "to the same extent as any other producer" in connection with its natural gas production;
- Prior version of statutory provision governing taxation of municipal oil and gas producers, which expressly taxed only gas sold to other entities and provided such producers were eligible for tax credits "to the same extent as any other producer," was ambiguous as to whether producers' own-use gas was taxable production for purposes of calculating tax credits, thereby requiring analysis of legislative history to determine purpose of provision;
- Producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production and, thus, producer was not entitled to carried forward annual loss credits, and was entitled to partial claim for qualified capital expenditure and well lease expenditure credits for taxable periods at issue;
- Department's determination that municipal producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production did not constitute an "administrative regulation" requiring formal rulemaking under Administrative Procedure Act (APA); and
- Department's determination that municipal producers' own-use gas was properly treated as taxable for purposes of calculating applicable tax credits related to gas production did not constitute any departure from Department Director's interpretation of provisions in testimony before legislature and, thus, testimony did not amount to official interpretation of provisions the Department was bound to follow until changed through formal rulemaking under APA.

IRS PLR: Water Treatment Project Won't Result in Private Business Use of Bonds

Summary by Tax Analysts

The IRS ruled that a state's contracts to deliver water to wholesale customers won't cause tax-exempt bonds used by a governmental entity to construct a water treatment project to meet the section 141(b) private business tests and that all the output from the project may be allocated to the general public and government-owned water utilities.

Citations: LTR 202617001

Property Taxes by State and County, 2026

Property taxes are the primary tool for financing local governments. In fiscal year 2023, property taxes comprised 28.9 percent of total state and local tax collections in the United States, more than any other source of tax revenue, despite being levied almost exclusively at the local (not state) level. Local governments rely heavily on property taxes to fund schools, roads, police departments, fire and emergency medical services, and other services associated with residency and property ownership. Property taxes accounted for 70.0 percent of local tax collections in fiscal year 2023.

Some states with high property taxes, like New Hampshire and Texas, rely heavily on them in lieu of other major tax categories. This often involves greater devolution of authority to local governments, which are responsible for more government services than they are in states with greater reliance on state-level revenues like income or sales taxes. Other states, like New Jersey and Illinois, impose high property taxes alongside high rates in the other major tax categories.

Continue reading.

Tax Policy Center

By: Janelle Fritts

March 16, 2026

TAX INCREMENT FINANCING - OKLAHOMA

Allison v. McCoy-Post

Supreme Court of Oklahoma - February 3, 2026 - 584 P.3d 188 - 2026 OK 4

Proponents of a referendum petition seeking an election for voters to approve or reject a city ordinance creating two tax increment financing districts to support construction of a development project brought action against protesters who challenged the legal sufficiency of the petition.

The District Court held that the gist contained in the petition was legally insufficient, invalidated the petition, and ordered the referendum petition stricken. Proponents appealed.

The Supreme Court held that:

- Gist did not provide potential signatories with a clear understanding of how long city's funding obligation would last;
- Gist's phrasing of authorized costs inaccurately described the maximum amount of public financial

assistance that would be made to development plan; and
- Inclusion of percentage of city's sales tax rate that would be allocated to plan and a description of the categories of non-dedicated taxes were not required to make gist legally sufficient.

Gist in referendum petition suggested that the incremental taxes would last for a period of up to 25 years, rather than ending at the first of three triggering events, and therefore the gist did not provide potential signatories with a clear understanding of how long the city's funding obligation would last, and because of this omission, the gist did not provide a potential signatory with sufficient information to make an informed decision about the true nature of ordinance creating two tax increment financing districts to support construction of a development project and the development plan.

Phrasing of the authorized costs in referendum petition's gist inaccurately described the maximum amount of public financial assistance that would be made to development plan in connection with city ordinance creating two tax increment financing districts to support construction of a development project, and thus gist was legally insufficient to provide a potential signatory with sufficient information to make an informed decision about the true nature of ordinance.

Inclusion of percentage of city's sales tax rate that would be allocated to development plan and a description of the categories of non-dedicated taxes were not required to make gist in referendum petition legally sufficient to inform potential signatories of what the development plan was intended to do; a potential signatory could review the text of the petition for further details relating to the categories of taxes and the exact percentage allocated to plan.

TAX INCREMENT FINANCING - ILLINOIS

Board of Education of Winfield School District 34 v. Village of Winfield

Appellate Court of Illinois, Third District - February 4, 2026 - N.E.3d - 2026 IL App (3d) 250182 - 2026 WL 307080

School boards brought action against village, challenging creation of tax increment financing (TIF) district and arguing village did not meet requirements of the Tax Increment Allocation Redevelopment Act (TIF Act).

After village's motion for partial summary judgment was granted, the Circuit Court granted village's motion for summary judgment, finding village met all TIF Act requirements to form TIF district. School boards appealed.

The Appellate Court held that:

- TIF district satisfied "but for test";
- Fact that some of the parcels in TIF district were owned by governmental entities did not preclude finding that "but for test" was satisfied;
- Fact that 11 of 51 parcels in TIF district were landscaped greens did not preclude finding that TIF Act's contiguity requirement was satisfied;
- Village demonstrated "lack of community planning" with respect to parcels in TIF district;
- Parcels in proposed TIF district satisfied "deterioration" factor for designating district as conservation area under TIF Act;
- Deposition testimony of school boards' expert did not create genuine issue of material fact sufficient to defeat summary judgment in favor of village; and

- Village's removal of parcels from prior TIF district and establishment of new TIF district consisting of only those parcels did not constitute improper extension of prior TIF district.

Tax increment financing (TIF) district established by village under Tax Increment Allocation Redevelopment Act (TIF Act) satisfied "but for test," that is, village demonstrated the property had not been subject to growth and development through private enterprises and, "would not reasonably [have] be[en] anticipated to be developed" without TIF plan, even though hospital which owned 34 of the 51 parcels within district executed development agreement with village 14 months prior to creation of TIF district; development agreement was underpinned by TIF plan and one would not have happened without the other, and parcels in TIF district were previously located in a prior TIF district, indicating that a TIF district was necessary for development.

Fact that some of the parcels in tax increment financing (TIF) district established by village under Tax Increment Allocation Redevelopment Act (TIF Act) were owned by governmental entities did not preclude finding that establishment of district satisfied "but for test," that is, that the property had not been subject to growth and development through private enterprises and, "would not reasonably [have] be[en] anticipated to be developed"; determination under "but for test" did not look at each parcel separately, but rather at the subject property as a whole, and nothing would have prohibited sale of government property to private developer at later date.

Fact that 11 of 51 parcels in tax increment financing (TIF) district created by village under Tax Increment Allocation Redevelopment Act (TIF Act) were landscaped greens that arguably would not benefit from TIF district did not preclude finding that Act's contiguity requirement was satisfied, even though it would not have been satisfied without the 11 parcels; TIF Act did not require that every single parcel in TIF district substantially benefit from creation of district, rather statute only required current improvements must have substantially benefited and that property as a whole benefited, and parcels at issue that could substantially benefit included, inter alia, roadways, water and sewer systems, public parking facilities, and basic improvements to streetscape.

Village demonstrated "lack of community planning" with respect to parcels in tax increment financing (TIF) district it established under Tax Increment Allocation Redevelopment Act (TIF Act), supporting the validity of district's establishment; although village had entered into development agreement with hospital which owned 34 of the 51 parcels, 14 months prior to creation of the TIF district, it was undisputed improvements in TIF district were either developed prior to implementation of community plan or as result of the development agreement, development agreement was executed with understanding TIF district would follow, and businesses interested in occupying new retail spaces indicated they would not do so absent TIF incentives.

Parcels in proposed tax increment financing (TIF) district satisfied "deterioration" factor for designating district as conservation area under Tax Increment Allocation Redevelopment Act (TIF Act); signs of disrepair included damaged signage, excessive wear and tear to facades, entryways in poor maintenance, crumbling surface improvements, and potholes causing water retention.

Deposition testimony of school boards' expert that, although he found "some deterioration documented" in eligibility report for proposed tax increment financing (TIF) district, he had his doubts that the cracks in the parking lots and sidewalks were sufficient to prove deterioration under the Tax Increment Allocation Redevelopment Act (TIF Act), was devoid of any reasoning, and thus, could not create genuine issue of material fact sufficient to defeat summary judgment in favor of village regarding its determination that "deterioration" factor for designating proposed district as conservation area under TIF Act was satisfied.

Village's removal of parcels from prior tax increment financing (TIF) district and establishment of

new TIF district consisting of only those parcels did not constitute improper extension of prior TIF district under Tax Increment Allocation Redevelopment Act (TIF Act); TIF Act did not expressly prohibit parcels from being included in TIF district if they were once included in another TIF district, prior TIF district was not extended, not all of the parcels in prior district were placed in new district, prior district still existed separate and apart from new district, and new equalized assessed values (EAV) were established for parcels in new district.

These States Are Moving to Slash - or Eliminate - Property Taxes on Your Home.

Key Takeaways

- Montana and North Dakota have lowered property taxes in their states, which had been rising along with soaring home values.
- Several other states, including Florida, Ohio and Kansas, are also looking at ways to reduce or eliminate the taxes charged based on home values.
- Some states are also trying to replace funding lost from property tax collections, which are often used to pay for schools and other essential services.

Continue reading.

investopedia.com

By Terry Lane

March 23, 2026 12:30 PM EDT

Weak Revenue Growth, Rising Fiscal Uncertainty.

State Tax and Economic Review, 2025 Q3

State and local tax revenues grew modestly in real terms in early fiscal year 2026, with overall gains driven largely by personal income taxes and concentrated in a small number of states with progressive tax structures that benefited from strong financial market performance in 2025. Many other states experienced flat or modest growth after adjusting for inflation.

States also face mounting uncertainty from elevated energy prices, geopolitical tensions, and federal policy developments, including planned reductions in federal funding.

Continue reading.

Tax Policy Center

by Lucy Dadayan

March 26, 2026

Ice Miller - IRS Clarifies Arbitrage Rules: What Issuers and Borrowers Should Know

In March 2026, the Internal Revenue Service (IRS) released proposed guidance aimed at clearing up lingering questions around arbitrage rules and the treatment of certain bond proceeds. While technical in nature, the takeaway for bond issuers and conduit borrowers is straightforward: this guidance is intended to provide clarity and reduce unintended compliance risk—not introduce new hurdles.

Of significant note, the proposed guidance makes clear that in order to accomplish a "reallocation" of an expenditure from one source (bond proceeds) to another source (taxable proceeds or equity), the source to which the expenditure is being allocated must be held or present on the date of the expenditure. This means, to reallocate bond proceeds away from a "bad cost," an issuer or borrower must have at least an equal portion of other funds on the date the expenditure is made; there must be money in the right and left pocket.

Also, many issuers rely on State and Local Government Series (SLGS) securities as a safe, compliant way to temporarily invest bond proceeds and avoid arbitrage concerns. The IRS's proposed rules formally clarify that when SLGS demand deposit securities roll into short term (90 day) Treasury certificates, those certificates are still treated as tax exempt bonds for arbitrage purposes.

Continue reading.

Ice Miller

March 17, 2026

Proposed Regulations Affect Arbitrage Rules for Tax-Exempt Bonds: Kutak Rock

On March 12, 2026, the United States Treasury Department and the Internal Revenue Service published proposed regulations (the "Proposed Regulations") affecting the arbitrage bond provisions of Section 148 of the Internal Revenue Code of 1986 (the "Code") and the Treasury Regulations thereunder (the "Regulations"). The Proposed Regulations are available under REG-117298-21 in the Federal Register. We are evaluating the potential impacts of the Proposed Regulations on existing and future tax-exempt bond issuances and will provide updates to clients as warranted. Members of our national public finance tax group will work closely with industry associations to provide comments to the Treasury Department regarding the Proposed Regulations.

The caption of the Proposed Regulations suggests the Proposed Regulations address "Guidance on Tax-Exempt Refunding Bonds." However, the refunding guidance in the Proposed Regulations is modest, as most of the Proposed Regulations address matters other than refundings. The following is a summary of certain provisions contained in the Proposed Regulations.

1. Restricting Certain Allocations of Proceeds to Expenditures

The Proposed Regulations would limit allocations of bond proceeds in transactions involving multiple funding sources unless such other sources are on hand at the time an expenditure is paid. For

issuers and participants in housing transactions or transactions where bonds represent only a portion of the funding mix, the Proposed Regulations may complicate the allocation of proceeds to expenditures that are appropriate under the Code. The scope of the Proposed Regulations is limited to Section 148 of the Code, suggesting that this change in law may not be intended to apply to certain other provisions affecting tax-exempt bonds. We will continue to review the impact of this proposed change on issuers and believe particularly issuers of housing bonds and those involved in structuring housing transactions should take note of the potential change to the allocation rules.

Continue reading.

Publications – Client Alert | March 13, 2026

Proposed Regs Update Arbitrage Bond Rules: Tax Analysts

SUMMARY BY TAX ANALYSTS

The IRS has published proposed regulations (REG-117298-21) on arbitrage bonds, clarifying the legality of short-term debt in debt limit situations and rectifying situations in which redeeming bonds backed by student and mortgage loans inadvertently makes the bonds taxable.

Comments and public hearing requests are due by May 11.

An arbitrage bond is a type of state or local bond in which proceeds are used to acquire higher-yielding investments. Section 103 exempts from gross income the interest on state and local bonds but not arbitrage bonds as defined in section 148. Rules on that prohibition are referred to as the yield restriction rules. If proceeds are used to acquire higher-yielding investments, section 148(f) states that a state or local bond won't be classified as an arbitrage bond if the issuer rebates to the United States the yield on investments that exceeds the yield on the issue. Rules on this provision are referred to as the rebate rules.

Final regulations (T.D. 8476) issued in 1993 provided comprehensive rules on arbitrage bonds and have been amended, most recently in 2019 (T.D. 9854). The existing regulations provide that debt issued by Treasury under the Demand Deposit State and Local Government Series program, used to help state and local governments comply with the yield restriction and rebate rules, is also governed by section 148.

The proposed regs remove provisions that relate to former section 148(d)(3), which had imposed a limitation on investment in so-called nonpurpose investments and was removed from the code by the Tax Reduction Act of 1997. The regs also propose amending the filing deadline for issuers seeking to recover overpayments of rebate payments made to the government, incorporating guidance issued in Rev. Proc. 2024-37. Regarding a special rule limiting the value of a nonpurpose investment when applying "arbitrage restrictions" to a refunded issue, the proposed regs define arbitrage restrictions to include both the yield restriction and rebate rules.

As to accounting methods for allocating funds from different sources to expenditures, the proposed regs clarify that the funds must be held by or on behalf of the issuer on the date of the cash outlay. The regs also incorporate responses to the IRS's request for comments (Notice 2023-39) on state perpetual trust funds, increasing the amount of bonds that these funds could guarantee.

The proposed regs address a situation in which a debt limit contingency allows the Bureau of the

Fiscal Service to invest unredeemed securities from the Demand Deposit State and Local Government Series program in special 90-day certificates of indebtedness. The regs add these certificates to the definition of tax-exempt bond and to the safe harbor for longer-term working capital financings so that the conversion won't result in an arbitrage bond.

The regs address another situation in which payments from student loan borrowers are used to redeem bonds that financed the original loans after the issuer has refinanced the loans with a subsequent issue. The regs would incorporate guidance (Notice 2024-32) stating that an issue is not a refunding issue if the issuer expects to use proceeds to refinance student loan obligations. Also incorporating provisions from Notice 2024-32, the regs exclude from the definition of the term "proceeds" any proceeds from investing in a student or mortgage loan, addressing a situation in which issuers use proceeds of payments from one to redeem bonds that financed the other, ensuring that such use does not cause the issue to be taxable. Lastly, the regs update the address for IRS receipt of notices and elections.

Continue reading.

TAX - NEW JERSEY

MT Freehold BPE LLC v. Township of Freehold

Tax Court of New Jersey - February 27, 2026 - N.J.Tax - 2023 WL 12256191

Property owners brought action against township, challenging local property tax assessments on multiple commercial properties. Township moved to dismiss, contending that owners responses to assessor's requests for income information were false under statute requiring owners of income-producing property to provide income and expense data to tax assessors.

The Tax Court held that:

- As an issue of first impression, term "false," for purposes of statute requiring owners of income-producing property to provide income and expense data to tax assessors, implicates a deliberate intent to falsify or misreport information, i.e., with knowledge of the same, and
- Owners' responses to assessor's request for income information were not "false" under statute requiring owners of income-producing property to provide income and expense data to tax assessors.

For purposes of statute requiring owners of income-producing property to provide income and expense data to tax assessors, which provides that if owner fails to respond, or renders a false or fraudulent account, then assessor shall value property at such amount as he may, from any information in his possession or available to him, reasonably determine to be the full and fair value, word "true" connotes/means a good faith response, which is full, direct, and honest without evasion or fraud, and without suppression, misrepresentation or concealment of facts with which the proponent of the question ought to be made acquainted; it follows that "false" should be construed to mean intentionally or wilfully untrue.

For purposes of statute requiring owners of income-producing property to provide income and expense data to tax assessors, even in a non-response situation which deprives the assessor of the most current income and expense information available for use in setting an assessment, the unavailability of that information does not affect an assessor's ability to assess a property; this is because statute authorizes assessor to reasonably determine full and fair value of real property at

issue from any information that is available to or in possession of assessor and set assessment accordingly.

Term “false,” for purposes of statute requiring owners of income-producing property to provide income and expense data to tax assessors, which provides that if owner fails to respond, or renders a false or fraudulent account, then assessor shall value property at such amount as he may, from any information in his possession or available to him, implicates a deliberate intent to falsify or misreport information, i.e., with knowledge of the same.

Property owners’ failure to multiply monthly gross base rental income by 12 and input that amount on each statement accompanying tax assessor’s request for income information was an unintentional, inadvertent mistake, and thus owners’ responses to assessor’s request were not “false” under statute requiring owners of income-producing property to provide income and expense data to tax assessors; while mistake did underreport properties’ gross annual base rental income, owners did not omit reporting income on properties, rather, they mistakenly inputted their monthly income, not annual, inputted amount was full and true, and owners accurately reported rentable area of properties and provided all information required under schedule, none of which was disputed or alleged to be false.

Timeline for Allocation Agreements, Opening of 2026 Round Top of Mind for NMTC Conference Panelists: Novogradac

Community development entities (CDEs) and other participants found themselves in a liminal space with respect to the new markets tax credits (NMTC) incentive, according to participants Jan. 23 during the Community Development Financial Institutions (CDFI) Fund Insights panel at the Novogradac 2026 New Markets Tax Credit Conference in San Diego.

The discussion focused on various announcements on the horizon for which the panelists are waiting. Chief among them is the release of allocation agreements for the 2024-2025 combined round of awards, as well as a rumored late-summer opening for the 2026 round. The CDFI Fund later released a draft of the allocation agreements Feb. 10.

“I’ve really pegged the opening of the next round to be much more delayed than I had anticipated,” said Brad Elphick, a partner in Novogradac’s Atlanta metro office and moderator of the panel. A portion of the panel focused on Elphick’s prognostications for the year, including the timing of the release of the notice of allocation authority. “Whether it’s late summer, early summer or something like that, it’s not going to be next week. It’s probably not going to be next month.”

Continue reading.

novoco.com

By: Nick DeCicco

Ohio Property Tax Elimination Could Trigger Lawsuits, Bond Lawyers Warn.

COLUMBUS, Ohio — A new memo from Ohio bond lawyers warns that eliminating property taxes

could trigger years of lawsuits if local governments can't repay loans secured by those taxes.

Those loans are often issued as municipal bonds, commonly called "munis." Cities, counties and school districts sell these bonds to investors to raise money for large projects such as airports, roads, fire stations and schools.

To get those loans, they often promise lenders the money will be repaid using property tax revenue—similar to how someone uses their job income to qualify for a mortgage or car loan.

Continue reading.

cleveland.com

By Anna Staver

Published: Mar. 10, 2026, 9:08 a.m.

Bipartisan House Bill Seeks to Expand Tribal Bond Authority, Tax Credit Access.

U.S. Reps. Gwen Moore, D-Wis., and David Schweikert, R-Ariz., on Wednesday introduced bipartisan legislation to expand tribal governments' access to tax-exempt bonds, housing credits and other federal tax incentives, aligning their financing authority more closely with state and local governments.

The Tribal Tax Investment and Reform Act of 2026, H.R. 7705, would amend the Internal Revenue Code to treat tribal governments as states for specified tax purposes and remove what sponsors describe as structural barriers to tribal economic development.

Under current federal law, tribal governments face statutory limits that state and local governments do not, including restrictions on issuing certain tax-exempt bonds, constraints on pension and employee benefit plans, and barriers to fully accessing housing and development tax credits. Those differences can increase financing costs and delay infrastructure, housing and enterprise projects in Indian Country.

Continue reading.

Tribal Business News

By Brian Edwards

March 1, 2026

Understanding the Substantial Rehabilitation Test for Historic Tax Credits FAQs.

Question: What is the substantial rehabilitation test?

Answer: The federal historic tax credit (HTC) program provides a 20% income tax credit for qualified rehabilitation expenditures (QREs) on income producing historic buildings that meet specific Internal Revenue Service (IRS) and National Park Service (NPS) requirements. Among those requirements is that the rehabilitation must meet the substantial rehabilitation test, which requires:

- The project must constitute a "substantial rehabilitation."
- QREs incurred during a 24-month measurement period (or 60 months for phased projects) must exceed the adjusted basis of the certified historic structure on the first day of the measurement period.

Explore frequently asked questions and key concepts to better understand the substantial rehabilitation test.

Continue reading.

novogradac.com

By: Marcos Velazquez and Francesca Marsiglio

IRS PLR: Consequences of Nuclear Plant Trust Transaction

SUMMARY BY TAX ANALYSTS

The IRS ruled that, in connection with the sale of an interest in a nuclear power plant between entities that will continue to hold interests in the plant, the buyer will be treated as the grantor of its trust, the transfer of assets from a qualified fund to a disqualified fund will disqualify the assets, and the transfer will result in income to the seller and no gain or loss for the buyer.

Note that buyer is an electric and gas utility owned by City A, a political subdivision and municipal corporation of State.

Read IRS LTR 202610014

Dated Dec. 9, 2025

IRS Publication 4.70.20 - Bondholder Identification and Referrals.

Part 4. Examining Process | Chapter 70. TE/GE Examinations | Section 20. Bondholder Identification and Referrals

View the IRS publication.

IRS Releases Publication 4078, Tax-Exempt Private Activity Bonds

View IRS Publication 4078, Tax-Exempt Private Activity Bonds.

REFERENDA / TIF - OKLAHOMA

Allison v. McCoy-Post

Supreme Court of Oklahoma - February 3, 2026 - P.3d - 2026 WL 278790 - 2026 OK 4

Proponents of a referendum petition seeking an election for voters to approve or reject a city ordinance creating two tax increment financing districts to support construction of a development project brought action against protesters who challenged the legal sufficiency of the petition.

The District Court held that the gist contained in the petition was legally insufficient, invalidated the petition, and ordered the referendum petition stricken. Proponents appealed.

The Supreme Court held that:

- Gist did not provide potential signatories with a clear understanding of how long city's funding obligation would last;
- Gist's phrasing of authorized costs inaccurately described the maximum amount of public financial assistance that would be made to development plan; and
- Inclusion of percentage of city's sales tax rate that would be allocated to plan and a description of the categories of non-dedicated taxes were not required to make gist legally sufficient.

Gist in referendum petition suggested that the incremental taxes would last for a period of up to 25 years, rather than ending at the first of three triggering events, and therefore the gist did not provide potential signatories with a clear understanding of how long the city's funding obligation would last, and because of this omission, the gist did not provide a potential signatory with sufficient information to make an informed decision about the true nature of ordinance creating two tax increment financing districts to support construction of a development project and the development plan.

Phrasing of the authorized costs in referendum petition's gist inaccurately described the maximum amount of public financial assistance that would be made to development plan in connection with city ordinance creating two tax increment financing districts to support construction of a development project, and thus gist was legally insufficient to provide a potential signatory with sufficient information to make an informed decision about the true nature of ordinance.

Inclusion of percentage of city's sales tax rate that would be allocated to development plan and a description of the categories of non-dedicated taxes were not required to make gist in referendum petition legally sufficient to inform potential signatories of what the development plan was intended to do; a potential signatory could review the text of the petition for further details relating to the categories of taxes and the exact percentage allocated to plan.

A Simple Fix to Keep the American Dream Alive: Carve Housing Bonds Out of the Volume Cap Limitation

- Housing affordability and access to housing is eroding confidence in upward mobility.
- High mortgage rates are blocking families out of homeownership.
- Congress is actively considering bipartisan housing bond legislation—volume-cap relief is the logical next step.

Housing Policy

Every national story has a turning point. Not because of one headline or one election, but because citizens adjust what they believe is possible for their own lives and for their children's lives.

We are in that moment now.

Continue reading.

advisorhub.com

By Tom Kozlik
Head of Public Policy and Municipal Strategy
Hilltop Securities Inc.

Gary Garay
Head of Municipal Housing Banking
Hilltop Securities Inc.

February 11, 2026

Tax Analysts: The Road Ahead for Energy Credits in 2026

The year ahead may not be as legislatively tumultuous for energy tax credits as 2025, but there are still key developments on the horizon that will further shape the energy industry. Chief among them is the guidance for the revamped foreign entity of concern rules.

Last year ended with a flurry of project development activity that couldn't have easily been foreseen at the beginning of the year, when the political headwinds seemed stronger. The year-end rush to begin construction on energy projects was set in motion in July 2025 with the passage of the One Big Beautiful Bill Act (P.L. 119-21) and its rules for material assistance and prohibited foreign entities. Projects that were able to begin construction before the end of 2025 could sidestep those rules. Projects beginning this year have to comply, but as yet, there is no guidance beyond the statutory language.

Continue reading.

Tax Analysts

By Marie Sapirie

Posted on Jan. 21, 2026

Action, Advocacy Important for Federal Tax Credit Legislation in 2026: Novogradac Podcast.

Several major legislative changes rocked the tax credit world, last year. Key developments such as the One Big Beautiful Bill Act (OBBBA) will shape the tax credit landscape in 2026 and beyond. On

this episode of the Tax Credit Tuesday podcast, Michael Novogradac, CPA, and Novogradac's Chief Public Policy Officer Peter Lawrence explore the current state of tax credit legislation and what may be on the horizon for 2026. Novogradac and Lawrence discuss various tax incentives, including the historic tax credit, the Neighborhood Homes Investment Act and the HOPE Act. The pair also discuss two "bonus" tax incentives that potentially may be on the horizon, the workforce housing tax credit and the Downtown Revitalization and Main Streets Act. Finally, the two discuss banking-related bills such as the ROAD to Housing Bill and the Housing for the 21st Century Act, which may grant banks the ability to invest more in new construction and preservation developments.

Listen to the podcast.

S&P Second Party Opinion: Preservation Of Affordable Housing Inc.'s $25 Million Taxable Bonds Series 2026 (Social Bonds)

Read the S&P Second Party Opinion.

Paying for Rain: Are Stormwater Charges a Tax or Fee? PA Supreme Court to Decide in 2026.

For the last three years, the Pennsylvania Supreme Court has been grappling with whether stormwater charges imposed by local municipalities and municipal authorities throughout the Commonwealth are a tax or a fee, evaluating the still-pending case *Borough of West Chester v. Pa. State System of Higher Education and West Chester University of Pa. of the State System of Higher Education,* Dkt. No. 9 MAP 2023. In MGKF's 2024 Environmental Forecast, we previously reported on this important case, soon after it was taken up on appeal from the Commonwealth Court to the Pennsylvania Supreme Court. Briefing from all parties – including several amicus curiae – is now complete, and oral argument was held before the Pennsylvania Supreme Court on September 11, 2024. A final ruling from the Pennsylvania Supreme Court is anticipated to be issued in 2026.

The foundational question the Pennsylvania Supreme Court must decide is whether stormwater charges, which some have dubbed a "rain tax," are a fee for service provided by a municipality or municipal authority, or instead, are an unauthorized separately levied tax.

Continue reading.

Manko Gold Katcher & Fox – Diana A. Silva

January 20 2026

Public Finance Network & CDFA Send Letter to Congress Asking for Continued Protection of and Enhancements to Tax-Exempt Bonds.

Read the letter.

TAX - PENNSYLVANIA

In re Upset Sale, Tax Claim Bureau of Tioga County, Control No. 012488

Supreme Court of Pennsylvania - January 21, 2026 - A.3d - 2026 WL 168395

Property owner filed objections to upset tax sale of his residential property by county tax claim bureau, alleging that he lacked notice of sale and that sale price was grossly inadequate. Successful bidder intervened.

The Court of Common Pleas denied objections. Property owner appealed. The Commonwealth Court affirmed. Property owner filed petition for allowance of appeal, which was granted.

The Supreme Court held that:

- Evidence supported trial court's determination that bureau satisfied requirements of Real Estate Tax Sale Law (RETSL), including posting of property and personal service to property owner, and
- Absent irregularity or illegality in sale proceedings that is tied to allegedly inadequate sale price, RETSL does not permit landowner to seek equitable relief based on sale price.

IRS Rules on Tax-Exempt Status of Alaska Railroad Bonds.

SUMMARY BY TAX ANALYSTS

The IRS has ruled (Rev. Rul. 2026-4) that the private activity bond rules don't apply to tax-exempt bonds issued by the Alaska Railroad Corporation to finance the improvement, construction, or acquisition of certain property, although the bonds must satisfy other requirements to qualify for tax exemption under section 103(a).

The federal government built a railroad in Alaska for the transportation and development needs of the state and later transferred the assets of that railroad (state railroad) to the state under the Alaska Railroad Transfer Act of 1982 (Railroad Act).

The railroad corporation intends to issue financing bonds for property, including infrastructure, tracks, airports, and highways, located within Alaska as part of a project to extract, process, liquify, and transport natural gas (LNG project).

The IRS concluded that because the railroad corporation's engagement in these activities is consistent with and related to the operation of the state railroad as contemplated by the Railroad Act, the bonds issued by the railroad corporation are railroad-related bonds and are not required to satisfy the rules in sections 141 through 147 to qualify as tax-exempt bonds under section 103(a).

The IRS advised that its conclusion is limited to bonds issued by the railroad corporation to finance the construction, acquisition, and improvement of the property, all of which must be located within the state and directly related to the LNG project. The agency cautioned that its conclusion wouldn't apply if the railroad corporation were to issue bonds to finance construction of a facility that uses natural gas generated by the LNG project but has no other relationship to the LNG project because such a facility does not qualify as property.

The IRS further advised that because the Railroad Act exempts railroad-related bonds only from the rules in sections 141 through 147 governing private activity bonds, railroad-related bonds must still satisfy the rules in sections 148, 149, and 150 to qualify as tax-exempt bonds under section 103(a).

Read Rev. Rul. 2026-4

KPMG: Alaska Railroad Corporation Bonds for LNG Project Exempt from Private Activity Bond Requirements.

The IRS today released Rev. Rul. 2026-4, clarifying that bonds issued by the Alaska Railroad Corporation to finance the construction, acquisition, and improvement of property directly related to the state's liquefied natural gas (LNG) project are not required to satisfy the private activity bond rules under sections 141 through 147 to qualify as tax-exempt bonds under section 103(a).

Summary

The Alaska Railroad was originally built and operated by the federal government, then transferred to the state of Alaska under the Alaska Railroad Transfer Act of 1982 (Railroad Act). The state established the Alaska Railroad Corporation as a public corporation to operate the railroad. For the LNG project, the Alaska Railroad Corporation intends to issue bonds for facilities and infrastructure—including railroad tracks, terminals, port facilities, airports, roads, power generation, communications, and construction-related housing—located within Alaska and directly related to the project.

Under section 149(c)(2)(C)(ii), bonds issued pursuant to section 608(a)(6)(A) of the Railroad Act are treated as obligations of the state for purposes of section 103(a) and are not considered private activity bonds under section 141(a). Therefore, these bonds are exempt from the requirements of sections 141 through 147 that typically govern private activity bonds. However, the bonds must still comply with the requirements of sections 148, 149, and 150 to maintain tax-exempt status.

This ruling applies only to bonds issued by the Alaska Railroad Corporation to finance property located within Alaska and directly related to the LNG project. Facilities that merely use natural gas from the project, without other direct connections, are not covered by this exemption.

APTA, Coalition Partners Committed to Preserving Municipal Bond Tax Exemption.

APTA and a broad-based coalition, the Public Finance Network (PFN), wrote to leaders of the U.S. Senate and House of Representatives Jan. 13 to stress the importance of protecting and enhancing tax-exempt municipal bonds.

"As a coalition, PFN has continued to collectively stress that infrastructure investments are the result of a combination of funding and financing, with state and local governments shouldering the bulk of the costs," the letter stated. "As the second session of the 119th Congress begins, and as Congress works to enact infrastructure reauthorization legislation, now is the time to enhance the financing tools available to spur public investment in infrastructure and save taxpayer dollars.

“We appreciate that Congress recognized that elimination, reduction, or capping of the tax exemption would pose immediate increased costs to the critical projects financed by state and local issuers and preserved this critical local financing tool already this Congress. There is broad bipartisan support in Congress to enhance municipal bonds for state and local governments, thereby providing a more powerful, cost-effective way to drive further investment and economic growth.”

APTA and its PFN partners urge members of Congress to join in supporting these bipartisan provisions:

- Restore the Tax-Exemption for Advance Refunding Municipal Bonds
- Support Small Issuers
- Eliminate Sequestration for Existing Direct-Pay Bonds
- Municipal Bonds Issued as Private Activity Bonds (PABs)

Read the entire letter here.

American Public Transportation Association

1/14/2026

The Future of Tax Policy: A Public Finance Framework for the Age of AI.

Summary

- AI threatens traditional tax bases by reducing demand for human labor.
- The main burden of taxation will have to shift away from labor.
- Smart AI taxation requires distinguishing final services from productive capital investments.
- In the longer term, it may become desirable to tax the resource accumulation of AGI systems.

As artificial intelligence transforms our economy, policymakers worldwide are grappling with how to adapt our systems of taxation and public finance for an automated future. Common proposals—which we explore in more detail below—range from taxing robots and computing power to levying fees on AI-generated tokens and digital services. Yet without a coherent framework for evaluating these options, we risk implementing policies that could hinder innovation and undermine competitiveness while failing to address the fundamental fiscal challenges ahead.

Our recent research provides a framework for addressing these challenges by examining how taxation systems should evolve as AI transforms production and employment. We find that timing is key: Certain reforms make sense now, as AI is starting to displace labor, that would complement innovation and economic growth, while others could undermine efficiency and would be counterproductive until AI systems become far more autonomous. Understanding this distinction is crucial for policymakers seeking to manage the economic transition and maintain fiscal sustainability while fostering the innovation that will drive future prosperity.

Continue reading.

The Brookings Institution

by Anton Korinek and Lee M. Lockwood

January 8, 2026

U.S. Treasury Releases New Markets Tax Credit Qualified Equity Investment Issuance Report.

View the Treasury Report.

Chicago's New Social Media Amusement Tax: Reed Smith

Key takeaway

- The City of Chicago's new Social Media Amusement Tax raises several questions regarding its implementation. Key uncertainties include how social media providers will distinguish "Chicago consumers" from temporary visitors, the definition of "amusement," and the scope of the exemption for a "bona fide news website." The SMAT also is subject to challenge as a discriminatory tax on electronic commerce that violates the Internet Tax Freedom Act. These and other ambiguities suggest the SMAT is likely to face legal challenges.

The City of Chicago has enacted a new Social Media Amusement Tax (SMAT), codified in Chapter 4-156, Article VIII of the Municipal Code of Chicago. This client alert outlines the key provisions and definitions of this new tax.

Key Provisions

- **Effective dates and scope**: Applies beginning January 1, 2026 to for profit "social media businesses" that collect consumer data from more than 100,000 Chicago consumers in a calendar year.
- **Tax rate and computation**: $0.50 for each Chicago consumer above 100,000, calculated monthly; each month is a separate reporting period.
- **Filing and payment**: Monthly payments are due by the 15th of the following month, with an annual return due each August. The first payments, covering the month of January 2026, will be due February 16, 2026, because February 15 falls on a Sunday. The first return, covering January 1–June 30, 2026, is due August 17, 2026, because August 15 falls on a Saturday.

Key Definitions

- "Amusement" means engagement with media content delivered through the use of social media for the substantial purpose of entertainment and enjoyment.
- "Social media" broadly covers websites/apps/platforms enabling users to view/share/engage with images, video, and audio (including AI and live streams). "Social media" does not include any bona fide news website, application, or platform.
- "Consumer data" includes any information that can identify or be linked to a consumer (beyond basic contact details).
- "Chicago consumer" focuses on Chicago residents using social media in the City via an account whose data is collected. There is a rebuttable presumption that a consumer with a Chicago home or mailing address or with an internet protocol (IP) address is a Chicago consumer.

Exclusions and Grouping

- For purposes of the SMAT, a social media business does not include an internet search provider, internet service provider, email service, certain streaming service where the content is not user-generated, ad network solely delivering commercial content, telecommunication carrier, cloud computing service, and or news gathering organization. Controlled groups under IRC §1563(a) are treated as a single entity.

Reed Smith LLP – David P. Dorner and Michela V. Petrosino

January 5 2026

District Court Affirms Judgment in Favor of Kansas City Park Tax.

Rodrock Homes of Johnson Cnty LLC v. City of Olathe

Summary by Tax Analysts

In Rodrock Homes of Johnson County LLC v. City of Olathe, Judge John W. Broomes of the U.S. District Court for the District of Kansas affirmed the previous judgment finding that the home development company failed to present any evidence that supported its claim that there was a clear error or injustice in the judgment.

Continue reading.

JAN. 5, 2026

IRS PLR: Nonprofit's Income Was From Government Function

SUMMARY BY TAX ANALYSTS

The IRS ruled that a nonprofit corporation's income is excludable from gross income under section 115(1) because it is derived from the exercise of an essential governmental function and the income accrues to a state or political subdivision of a state.

Continue reading.

12/30/2025

TAX - OHIO

State ex rel . Martens v. Findlay

Supreme Court of Ohio - December 18, 2025 - N.E.3d - 2025 WL 3672217 - 2025-Ohio-5589

Taxpayer brought mandamus action against city and municipal employees, alleging that city failed to comply with municipal income tax statutes and seeking to prohibit city from commencing tax

collection efforts against taxpayer and all other delinquent municipal taxpayers.

The Third District Court of Appeals granted city's motion to dismiss. Taxpayer appealed.

The Supreme Court held that taxpayer did not have standing to bring mandamus action to prevent city from commencing tax collection efforts against taxpayer and other delinquent taxpayers.

Taxpayer did not have standing to bring mandamus action against city and municipal employees to prevent city from commencing tax collection efforts against taxpayer and other delinquent taxpayers; taxpayer did not set forth any facts showing that he himself was party to any tax-collection lawsuit filed by city that was pending when he initiated instant mandamus action, he did not set forth any facts showing that he personally suffered or was threatened with any direct and concrete injury, and, thus, he did not show that he would have been directly benefited or injured by judgment in instant case.

TAX - CALIFORNIA

Howard Jarvis Taxpayers Association v. Coachella Valley Water District

Court of Appeal, Fourth District, Division 2, California - November 26, 2025 - Cal.Rptr.3d - 2025 WL 3295747

Taxpayers' association filed combined petition for writ of mandate and reverse validation actions against water district challenging the constitutionality of groundwater replenishment charges that water district imposed indirectly on its domestic customers.

The Superior Court sustained a demurrer. Association appealed. The Court of Appeal affirmed in part and reversed in part. Thereafter, the Superior Court determined that the replenishment charges were unconstitutional taxes, after which the Superior Court entered a remedies order. Water district appealed, association cross-appealed, and appeals were consolidated.

The Court of Appeal held that:

- Domestic customers sustained economic injury, as required for association's standing as customers' representative;
- Replenishment charges were unconstitutional "taxes" without voter approval;
- Pleadings and government claims sufficiently informed water district that all three of its areas of benefit were subject of challenge;
- No prejudicial error resulted from grant of injunctive relief requiring water district to comply with constitutional amendment defining "tax";
- Replenishment charges were "assessments" subject to validation statutes; and
- Statute of limitations imposed by validation statutes were not equitably tolled by water district's purported fraud.

TAX - CALIFORNIA

Morgan v. Ygrene Energy Fund, Inc.

Supreme Court of California - December 4, 2025 - P.3d - 2025 WL 3483108

Homeowners over age of 65, who had entered into Property Assessed Clean Energy (PACE) loans to

finance energy and water conservation improvements to their properties, brought actions against private companies that made loans, were assigned rights to payment, or administered PACE programs for municipalities, alleging violations of Unfair Competition Law (UCL), and they sought property tax refunds, injunction against future tax assessments, and removal of tax liens.

The Superior Court sustained demurrers without leave to amend and dismissed action. Homeowners appealed, and appeals were consolidated. The Court of Appeal affirmed. Review was granted.

The Supreme Court, Kruger held that:

- Homeowners were required to follow exclusive Revenue and Tax Code's tax refund procedures for challenging taxes when seeking to invalidate underlying obligation to pay PACE assessments;
- Homeowners were not required to follow statutory tax relief procedures in order to pursue other, nontax-related, remedies concerning administration of PACE loans;
- Homeowners were not required to comply with requirements for seeking assessment reduction to challenge underlying obligation to pay PACE assessments;
- Challenges to PACE assessments were subject to refund procedures contained in Revenue and Taxation Code for ad valorem taxes; and
- Trial court had to consider whether homeowners should be granted leave to amend.

Homeowners over age of 65, who had entered into Property Assessed Clean Energy (PACE) loans to finance energy and water conservation improvements to their properties, were required to follow exclusive Revenue and Tax Code's tax refund procedures for challenging taxes when directly or indirectly seeking to invalidate underlying obligation to pay PACE assessments, i.e., they should have started by paying PACE assessments and then seek administrative tax relief from local tax authorities, rather than filing suit in court against private companies that made loans, were assigned rights to payment, or administered PACE programs for municipalities; although homeowners' claims for relief did not, in terms, explicitly ask for injunction against any collection of assessments, their central claims for relief effectively sought to invalidate PACE assessments and prevent their future collection outside of statutory tax relief process.

The Quicker Picker Upper – Private Business Use Absorbed by Qualified Equity: Squire Patton Boggs

Tax lawyers love when tax-exempt bond-financed projects owned by governmental entities[1] ("TEB Projects") are also financed with qualified equity. Why you ask? Because it makes their job easier. Since you are likely interested in making your tax lawyer's life more pleasant, keep reading, as this blog post explains what qualified equity in a TEB Project is and why it is beneficial.

What is qualified equity? Qualified equity is basically any funds that go into a TEB Project that are not from tax-advantaged bonds (the "Bonds") – so it covers cash on hand, financing from a taxable line of credit,[2] donations, etc. Another less obvious source of qualified equity is capitalized interest (from a federal income tax standpoint)[3] paid on the Bonds from sources other than Bond proceeds.

Continue reading.

By Cynthia Mog on December 1, 2025

The Public Finance Tax Blog

Squire Patton Boggs

IRS PLR: Set-Aside of Public High School Construction Funds Approved

The IRS approved a private foundation's request to set aside funds that will be used to construct a public high school in a distressed community.

Read IRS LTR 202549022.

TAX - NEW YORK

First United Methodist Church in Flushing v. Assessor, Town of Callicoon

Court of Appeals of New York - November 24, 2025 - N.E.3d - 2025 WL 3259878 - 2025 N.Y. Slip Op. 06526

Church commenced article 7 proceedings against town's property tax assessor and board of assessment review challenging town's denial of religious use tax exemption for parcel of land it owned in rural zoning district.

The Supreme Court granted church's petitions, and defendants appealed. The Supreme Court, Appellate Division, affirmed. Leave to appeal was granted.

The Court of Appeals held that record supported trial court's finding that town failed to discharge its burden to prove zoning violation sufficient to defeat church's entitlement to exemption.

Record supported trial court's finding that town failed to discharge its burden to prove zoning violation sufficient to defeat church's entitlement to religious use tax exemption for either of tax years in question, in light of evidence that, although church may have purchased property in rural zoning district with intention of using it as "retreat," its actual use of property was to clear approximately one acre of parcel and, on that cleared area, grow vegetables for charitable distribution to low-income residents.

GFOA Member Alert: IRS Unveils "No Tax on Overtime" Guidance

The Internal Revenue Service (IRS) published guidance for employees to deduct qualified overtime compensation from federally taxable income, also known as "no tax on tips," beginning in 2025. This new, temporary deduction will have significant implications for government finance officers as governmental entities are one of our nation's largest employers and adhere to a combination of federal, state and local regulations on overtime pay.

Read more.

Mich. Justices To Weigh Burden Of Proof In Hangar Tax Fight.

The Michigan Supreme Court agreed to weigh a city's appeal of a decision that said the municipality had the burden of proof to show that a company's hangar leased from a regional airport authority was subject to tax.

The state's justices issued an order Friday granting oral arguments on Traverse City's appeal application, instructing the parties to file supplemental briefs addressing whether the city has the burden to prove that its lessee-user tax applied to Bodeco LLC for 2021 and subsequent years. The state Court of Appeals held in a published decision remanding the case that the Michigan Tax Tribunal incorrectly said it was incumbent on Bodeco to show that it was exempt from the city's tax.

Judge Christopher P. Yates said in the appellate court's March opinion that while Michigan precedent says taxpayers have the burden of proof to show that an exemption statute applies to their situations, "there is a paucity of authority allocating the burden of proof for establishing that tax-imposing statutes apply."

Continue reading.

law360.com

By Paul Williams ·

2025-11-24

Mich. High Court Won't Rethink Rejecting 'Rain Tax' Case.

The Michigan Supreme Court declined for a second time to review a pair of challenges to Detroit's stormwater fees, allowing to stand lower court opinions that said the fees were not taxes subject to constitutional limits.

In orders issued Friday, Michigan's highest court said it would not reconsider its decision of Sept. 19, when it declined to review the challenges to the Detroit fees for the first time and rejected a challenge to similar fees imposed by Ann Arbor.

In a motion for reconsideration Sept. 26, the Detroit Alliance Against the Rain Tax asked the court to rethink turning away its challenge to the fees, which the group alleged are unconstitutional. A group of property owners behind the other Detroit challenge, led by city resident Nicola Binns, also asked the court to reconsider.

Continue reading.

law360.com

By Maria Koklanaris

2025-11-24

Delaware's Supreme Court Affirms Decision Denying New Castle County Property Owners' Challenge to Split-Rate 2025-26 Residential and Non-Residential Property Taxes: Richards, Layton & Finger

On November 12, 2025, the Supreme Court of the State of Delaware affirmed the Court of Chancery's decision in *Newark Property Association, et al. v. State of Delaware, et al.*, 2025 WL 3041907 (Del. Ch. Oct. 30, 2025), in which the Court of Chancery held that House Bill 242 ("HB242"), which permits school property tax rates to temporarily be reset and differentiated between residential and non-residential properties, does not violate the United States Constitution, the Delaware Constitution, or Delaware statutes.

The Plaintiffs appealed the Court of Chancery's decision, arguing that the Delaware Constitution's Uniformity Clause prohibits the state from charging different property tax rates between residential and non-residential properties, and arguing further that the reclassification of certain properties (from residential to non-residential) for tax purposes to correct classification errors violates HB242's provision regarding revenue neutrality. Both arguments failed.

Now that the Court of Chancery's ruling has been affirmed, New Castle County property owners should still expect to see supplemental tax bills based on the bifurcated rates and any property reclassifications soon. The extended deadline for payment of New Castle County property tax bills is currently November 30, 2025; however, there is legislation pending that would further extend the deadline to December 31, 2025, if signed by Governor Matthew Meyer.

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November 17, 2025

IRS Releases Complete Revision of IRM 3.12.26, Tax Exempt Bond Error Resolution Procedures

View the Revised 3.12.26 Tax Exempt Bond Error Resolution Procedures.

TAX - SOUTH CAROLINA

Thompson v. Killian

Supreme Court of South Carolina - November 5, 2025 - S.E.2d - 2025 WL 3085990

Residents filed suit, individually and as a class, against county administrator, county treasurer, county council, county, city, city council, and city manager, seeking declaratory and monetary relief for city's and county's imposition of road maintenance fees.

The Court of Common Pleas granted defendants' motion to dismiss for lack of subject matter jurisdiction and for failure to state a claim, and subsequently granted in part and denied in part county defendants' motion to alter or amend the dismissal order. Residents appealed, and subsequently requested certification of appeal to the Supreme Court, which was granted.

The Supreme Court held that:

- County's and city's road maintenance fees did not fall within Revenue Procedures Act's (RPA) definition of "taxes;"
- RPA's class-action prohibition bars class actions against political subdivisions only in disputes concerning value-based property taxes;
- Treasurer was not subject to suit under statutory provision imposing liability on public officers for improperly-charged fees;
- Quasi-contract equitable claims do not fall under South Carolina Tort Claims Act's (SCTCA) exception to sovereign immunity for contract-based claims; and
- Stipulated dismissal of residents' state due-process challenge to fees was law of the case.

County and city road maintenance fees did not fall within Revenue Procedures Act's (RPA) definition of "taxes," and thus RPA did not deprive trial court of subject matter jurisdiction over residents' individual and putative class action seeking to challenge county's and city's impositions of such fees, even though residents challenged fees as unlawful taxes; fees were not established under "Taxation" statutory title, but rather under statutory titles that allowed local governments, i.e. counties and cities, to impose and collect service or user fees, and General Assembly had not granted Department of Revenue authority to collect road maintenance fees.

NASBO: Disaster-Related Tax Extensions Can Pose Challenges for States

Read the NASBO report.

National Association of State Budget Officers

By Brian Sigritz

Amid Data Center Boom, Public Utilities Push for More Flexibility with IRS Bond Rules.

Public power utilities are pushing for regulatory and legislative changes to allow them to float more tax-exempt bonds to finance the energy-hungry data center boom even as the utilities, and their bondholders, face risks from the large and growing capital plans required to keep pace with the boom.

The industry for years has lobbied Congress and the Treasury Department to make the changes, which would loosen terms on private use rules for tax-exempt financing. The issue now has taken on more urgency amid a data center boom that promises to transform the U.S. energy landscape. The Trump administration has prioritized building out artificial intelligence infrastructure as part of "America's AI Action Plan" and the Department of Energy has launched the "Speed to Power" initiative to "accelerate the speed of large-scale grid infrastructure project development for both transmission and generation."

"Data centers have huge electricity demands and they want it yesterday," said John Godfrey, senior government relations director at American Public Power Association, which represents public power utilities. "We've gotten instructions from the top that we need to accommodate those needs, and we

want to, but we need to get unnecessary hurdles out of the way."

Under current IRS private use rules for tax-exempt bonds, public power utilities are restricted to three-year contracts with non-government customers, and less than 10% of a bond issue, or $15 million, that would go to a private use.

Eliminating the three-year contract restriction alone would "unlock billions in grid upgrades, strengthen America's economy, and ensure public power communities aren't left to shoulder the costs alone," the Large Public Power Council said in a July blog post.

Godfrey says industry advocates are talking with the Treasury Department and congressional tax writers and staffers to promote the changes. The hope is that the current AI race will provide a "fresh look at a longstanding problem," he said.

There is no sign the proliferation of data centers, which already numbered 5,426 as of March, according to Statista, is slowing. Investment in electricity infrastructure by electric utilities is projected to be $1.4 trillion from 2025 to 2030, according to Morningstar (MORN). That's double the amount invested in the prior 10 years.

The growth is reflected in the spike of public power municipal bond issuance since 2023 after years of relatively flat issuance. Electric power issuance rose 48% in the first half of 2025, totaling $15.2 billion in the first six months, the fastest-growing sector in the municipal bond market. New-money issuance for the first half was up 104.1%.

In 2024, public power bond issuance totaled $26.8 billion. That's up from a 10-year annual average of $14 billion, Nuveen noted in an April piece on data centers.

"It's pretty shocking if you look at the numbers," Godfrey said. "It's a dramatic increase."

That issuance would be higher if the industry wins its proposed changes to the private use test.

The scale and cost of the projects, the tech companies' need for speed, and the lag between a commitment to build and actual construction pose risks to utility credits, the ratepayers and investors that buy the debt, experts said.

Some utilities are being asked to plan for projects that will never get built. Other projects may not materialize after bonds have been sold. Rising electricity bills are increasingly sparking political pushback, as are the water requirements for what Moody's, in a March report, called among the most "resource-intensive facilities in modern infrastructure."

Public utilities are "exploring and implementing strategies to help mitigate the risks" associated with the data center boom, said Patricia Taylor, APPA's director of policy and research. "The scale of the data centers, the speed, the operating profiles – those are some of the big challenges," she said.

Some utilities, facing a huge number of interconnection requests, are asking tech companies to pay a fee to discourage companies from clogging the queue with speculative projects. Some are imposing specific rates for data centers or other large-load customers. Others are entering into power purchase agreements for new plants to hedge potential risks.

"We're identifying these risks but also we're seeing the opportunities," Taylor said. "They're bringing load and revenue to the communities but we want to make sure they're not negatively impacting the communities."

In a report released Wednesday titled “AI is racing ahead and energy infrastructure needs to catch up,” Tom Kozlik, head of public policy and municipal strategy at Hilltop Securities, said the tech companies driving the boom should shoulder the financial burden and risks.

“It’s important that there is coordination between the public and private side and that the public side isn’t ask or isn’t forced to take on more risk than what they should especially during these individual massive projects,” Kozlik told The Bond Buyer.

The stakes are high, Kozlik said in the report, saying the country’s economy and security depends on a developing a powerful AI sector. Modernizing the outdated IRS rules to allow for more tax-exempt financing would help break the “energy bottleneck” that is endangering the country’s AI sector, Kozlik said.

“Financing matters,” he said. “Modernizing those rules and protecting the municipal-bond tax exemption is not optional. It’s critical.”

By Caitlin Devitt

BY SourceMedia | MUNICIPAL | 11/07/25 01:34 PM EST

CDFA Intro Tax Increment Finance Course.

November 18-19, 2025 | 12:00 PM – 5:00 PM Eastern

The Intro Tax Increment Finance Course offers an in-depth look at the guiding principles and appropriate application of TIF. Topics discussed include the basics of TIF, negotiating and structuring TIF deals, understanding various financing structures, and combining TIF with different capital sources. Several case study examples from active TIF deals will be presented with explanations for how the community was proactively engaged in the process.

The Intro Tax Increment Finance Course is designed to bring TIF deal-making and best practices into focus and support the entire TIF community including economic developers, public agencies, bond issuers, legal professionals, developers, financial advisors, and other stakeholders.

This course qualifies for the CDFA Training Institute’s Development Finance Certified Professional (DFCP) Program. Join us online, and start down the road to personal and professional advancement today.

Click here to learn more and to register.

CDFA Advanced Tax Increment Finance Course.

November 20, 2025 | 11:00 AM – 5:00 PM Eastern

The Advanced Tax Increment Finance Course builds upon curriculum from the Intro Tax Increment Finance Course by focusing more concretely on structuring the deal and developing short- and long-term policies. Attendees will also learn about performance monitoring, feasibility analysis, and using TIF in conjunction with other development finance tools.

This course qualifies for the CDFA Training Institute's Development Finance Certified Professional (DFCP) Program. Join us online, and start down the road to personal and professional advancement today.

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TAX - LOUISIANA

Belaire Development & Construction, LLC v. Succession of Shelton

Supreme Court of Louisiana - October 24, 2025 - So.3d - 2025 WL 2990280 - 2025-00151 (La. 10/24/25)

Tax-sale purchaser brought quiet-title action against succession of prior owners of parcel of real property, seeking to be declared owner of a 99% interest in property.

Succession's executrix filed a reconventional demand and petition to annul tax sale, adding third-party defendants including city that had obtained for a period a 1% interest in parcel through a series of tax sales, alleging that the tax sales were null and void because executrix did not receive proper pre- and post-sale notice and not all co-owners of parcel were provided requisite notice.

The District Court sustained tax-sale purchaser's and city's peremptory exception of prescription as to executrix's reconventional demand and later granted purchaser's quiet-title petition. On executrix's appeal, the Court of Appeal reversed and remanded. Certiorari was granted.

The Supreme Court held that:

- Tax sale could not be attacked as absolute nullity for failure to provide succession's executrix with statutorily required pre-tax sale notice;
- Reconventional demand was not prescribed on its face, and thus, tax-sale purchaser and city bore burden of proving that executrix's nullity action was prescribed; and
- Executrix was not "duly notified" of tax sale, and thus, redemption nullity action filed within six months of notice was not prescribed.

Succession's executrix was not "duly notified" of tax sale of succession's property to tax-sale purchaser by notice sent via ordinary mail by purchaser, and thus, executrix's redemption nullity action filed within six months of notice was not prescribed, in purchaser's quiet-title action seeking to be declared owner of 99% interest in property; notice failed to meet statutory and due process requirements by failing to inform executrix of correct time period within which she had to challenge tax sale, and fewer than five years had elapsed since filing of tax sale certificate.

Industry Looks Boldly Toward the Future as Low Income Housing Tax Credit Bond Financing Threshold Requirements are Halved

For years, housing advocates have sought tweaks to the Low Income Housing Tax Credit program that intend to bolster the number of affordable units produced each year.

Recently, those advocates succeeded in their efforts, as two essential changes were codified as part of the sprawling One Big Beautiful Bill Act (H.R. 1), signed into law early last month.

The first is important, and increases the annual amount of nine percent credits by 12 percent (indexed for inflation moving forward).

Continue reading.

taxcreditadvisor.com

By Abram Mamet

August 18, 2025

TAX - PENNSYLVANIA

National Hockey League Players Association v. City of Pittsburgh

Supreme Court of Pennsylvania - September 25, 2025 - A.3d - 2025 WL 2745552

Professional athletes and players' associations filed action against city, alleging its facility tax, which imposed a 3% tax on income derived by nonresidents' use of city's publicly funded stadiums and arenas, while imposing 1% tax on income derived by residents' use of such facilities, and seeking injunction to prevent city from imposing and collecting tax.

The Court of Common Pleas held the tax violated the Uniformity Clause of the State Constitution and issued the requested injunction. City appealed, and the Commonwealth Court affirmed. City petitioned for allowance of appeal, which was granted.

The Supreme Court held that facilities tax violated the Uniformity Clause of the state constitution.

City facility tax, which imposed a 3% tax on income derived by nonresidents' use of city's publicly funded stadiums and arenas, while imposing 1% tax on income derived by residents' use of such facilities, violated the Uniformity Clause, even if total tax burden on residents, who were subject to 2% school district tax, and nonresidents, who were not subject to the school district tax was equal.

There's No Good Way to Pay for Property Tax Repeal.

Key Findings

- Property taxes currently generate 70 percent of all local tax revenue, some or all of which would have to be replaced with other taxes under property tax repeal.
- Replacing the property tax with newly granted local taxing authority is exceedingly difficult, because local sales and income tax bases vary widely across jurisdictions; there may, for instance, be no feasible sales tax rate by which an agricultural county or bedroom community could replace its property tax revenue.
- Backfilling forgone local property tax revenue through new state taxes is difficult because it dramatically shifts overall tax burdens, undermines local accountability, and cannot easily adjust for changing population mixes.
- All revenue alternatives are less conducive to economic growth than the existing property tax regime, but some transfer regimes are sharply degrowth.
- Taxpayers should have the opportunity to evaluate plans for replacing property tax revenue, not

just promises of repeal without trade-offs.

Continue reading.

Tax Foundation

By: Jared Walczak

October 7, 2025

After OBBBA, What's Next for Clean Energy Tax Credits? Here are Some Considerations - Novogradac

The only constant is change. It's inevitable.

Policy and legislation changes shaping the current energy landscape will require renewables to adapt. The increasing need for new generation after decades of relatively flat demand growth will also drive changes. The ability of renewable energy stakeholders to provide more timely and cost-effective solutions will keep clean power in the mix, albeit at a slower pace of uptake, at least in the immediate future.

At the same time, the climate will continue to be an existential issue and the United States needs steady jobs and resilient sources of clean energy. We will inevitably have the opportunity to change, reinvent or resurrect tax credits and other public incentives for renewable energy solutions. How should we use lessons learned from both the Inflation Reduction Act (IRA) of 2022 and the One Big Beautiful Bill Act experiences to inform future strategy?

We offer a few thoughts and considerations:

Consider Partnering with Other Energy Markets (e.g., Oil and Gas) to Protect the Concept of Public Support for Public Goods, Including Reliable Energy

An effective partnership with oil and gas players would enable renewables to be viewed as complementary to baseload technologies and an important part of economic and energy security. It would also undercut the argument that renewables are too mature to warrant continued support. If the fossil industry receives financial support, renewables should too. Given that many "big oil" players are already invested in renewable companies, this may be a real possibility.

Consider the Rate at Which Tax Credits are Still Effective But are More Manageable for Budget and Messaging

Tax credits had a much more robust impact in the context of a 35% corporate tax rate. With the current corporate rate at 21% and many corporations unwilling to go lower than an effective tax rate of 15%, the demand for tax credits is not unlimited.

Constrained access to tax investors may be more acutely felt in middle-market deals. The added value and volume of tax investing after the IRA was and is highly concentrated in storage systems, very large installations and manufacturing plants.

Further, the credit adders increase the difficulty of finding budget "pay-fors" at the federal level and

may increase unwanted political attention. The domestic content adder seems redundant in the face of FEOC requirements, and it is unclear that any of the “community” adders had the desired impact on communities, in large part due to the time needed to develop sites to the federal requirement and limited bandwidth at the IRS to review applications.

We suggest a smaller credit is more sustainable in the long run. A flat rate of approximately 25% may be a good compromise. It is more in line with other community development credits and would reduce the 10-year outlay for budget discussions while still promoting renewable uptake.

Broaden the Focus for Incentives and Support to More Than Tax Credits

Federal tax credits are but one of the incentives needed to move the market. State-based and regional programs have had great success. Renewable portfolio standards, community solar access, net metering and storage incentive programs are good examples.

The ability to transmit and deliver power is critical to all generating sources. The grid desperately needs investment to address access and reliability. Regional system operators and the Federal Energy Regulatory Commission should be targets of collective lobbying to encourage progress.

The federal, state and local requirements for construction permitting, interconnection and environmental reviews should be streamlined. Recent changes to the National Environmental Policy Act rules may help. An expansion of the Public Utility Regulatory Policies Act rules around priority dispatch to encompass installations larger than 5 MW would give some comfort to investors that small and medium deals have sales options for their power into the future.

The renewable community should support state and public utility programs that allow for net metering, protect renewable dispatch, guarantee access to transmission and delivery, and give benefits to low-income households.
In addition, a simplification of the federal accounting treatment for partnership investments would ease a barrier to entry for investors and developers alike. The recent introduction of proportional amortization was intended to help, but arguably made the rules more complex.

Review Experience with Various Tax Investing Structures

The current policy allows a range of investments to monetize renewable credits. This flexibility has proven useful for projects of varying sizes and market segments, each with distinct financing needs. We think the range of options should remain.

The options vary in terms of timing, return and complexity. At one end of the spectrum are sale-leasebacks, wherein the investor buys the entire project for a defined period. Then there are partnerships where ownership is shared and benefits are allocated on a negotiated split and for a defined period of time. The proportional amortization (PAM) option for partnership accounting became possible due to Financial Accounting Standards Board changes. PAM essentially allows the investor to buy into the value of tax credits and depreciation, but not cash, and can be rigid to implement. Finally, the transfer option is a straightforward purchase of the credits only–no cash or depreciation. As you progress through these options, the Generally Accepted Accounting Principles accounting gets simpler and returns decline.

Market reactions over the past two years show that simplicity sells, especially at scale. Large investors looking to offset large tax positions trend almost exclusively to transfers, irrespective of lower returns. Investors looking for a more engaged option with higher returns may still invest in individual projects and portfolios of commercial and industrial and community solar through the

sale-leaseback or partnership structures. The hybrid or T-flip structure allows for short-term equity (i.e., less than 10 years) to invest and then sell some or all the credits and depreciation. But the hybrid still ultimately relies on investors with tax appetite and may require a complex set of documents.

In summary: To achieve progress on practical, sustainable and effective public incentives for renewable energy, it's essential to find the right balance of messaging, simplicity, coverage and return potential within an "all-of-the-above" power market.

There are certainly additional strategies and actions worth considering. We encourage all stakeholders to look forward to the future development of the energy market.

Novogradac

Published by Karin Berry and Paul Holshouser on Thursday, October 2, 2025

Karin Berry is the managing director of NT Solar and Paul Holshouser is the director of solar transactions for NT Solar. NT Solar is a division of the National Trust Community Investment Corporation, a tax credit service provider for with corporate investors in renewable energy investment tax credit, historic tax credit, and new markets tax credit transactions.

The AI Revolution in Property Tax Assessment.

Accurately assessing property values is essential for ensuring that localities have the revenue to support public services like schools, roads, and law enforcement. However, traditional assessment methods face a litany of problems. Valuations can often be inconsistent and municipalities are typically understaffed and resource-constrained.

While there has been a lot of attention on generative AI systems like ChatGPT, predictive AI models trained on property characteristics, sales data, and market trends are increasingly being adopted to address the core challenges of traditional property tax assessment methods.

As home sale data and tax assessments have become easily accessible, researchers have found systematic regressivity in property tax assessment in the past decade. Lower-value properties are typically over-assessed, while higher-value homes are under-assessed. A 2022 report from the Philadelphia Fed, for example, found that "owners of inexpensive houses pay almost 50% higher effective tax rates than owners of expensive houses." Research on Atlanta's property taxes, enabled by modeling from Center for Municipal Finance at the University of Chicago, found that 69 percent of the lowest-value properties in Atlanta are over-assessed, while 32 percent of the highest-value homes are under-assessed.

Continue reading.

The American Enterprise Institute

By Will Rinehart

September 29, 2025

TAX - CALIFORNIA

Olympic and Georgia Partners, LLC v. County of Los Angeles

Supreme Court of California - August 28, 2025 - P.3d - 2025 WL 2473858 - 2025 Daily Journal D.A.R. 8392

Taxpayer, which was a hotel owner, sought review of property-tax assessment, which stemmed from dispute as to whether calculation of hotel's value should have excluded the subsidy that city paid to hotel owner, the one-time payment of "key money," which effectively was the equivalent of a price discount, that hotel owner received from companies that it hired to manage the hotel, and intangible "hotel enterprise" assets of goodwill, the workforce, and restaurant operations.

After a bench trial, the Superior Court, Los Angeles County, determined that the county's assessment appeals board was right to include the subsidy and the "key money" payment in its valuation, and remanded the issue of the "hotel enterprise" assets. Taxpayer and county appealed. The Court of Appeal affirmed in part, reversed in part, and remanded. Parties again appealed.

The Supreme Court held that:

- Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes;
- One-time "key money" payment that hotel's management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself and, thus, tax payments were properly included in income stream analysis when determining hotel's assessed value for tax purposes; and
- County assessor's failure to adequately address hotel owner's evidence as to valuation of "enterprise assets" derived from its management agreement with hotel management company required remand to county's assessment appeals board for further proceedings regarding valuation of those "enterprise assets."

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes; hotel was developed pursuant to government-facilitated contractual rights, under parties' occupancy tax agreement, that enabled property to generate more revenue than it otherwise would have, rights were integral to economic viability of project and provided means by which properties were put to beneficial use, and tax payments were related not just to development of hotel but to its continued operation in way that was beneficial to city.

Nightly "occupancy tax" city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel's enterprise activity, and, thus, tax payments were properly included when determining hotel's assessed value for tax purposes, despite contention that parties' occupancy tax agreement could not be meaningfully distinguished from nonmarket lease that was matter of owner's enterprise activity, and excludible from hotel's assessed value; there was distinction between owner negotiating lease on existing property, which was essentially a form of enterprise activity, and government-facilitated agreement that allowed property to generate elevated level of revenue as means of financing otherwise uneconomical, publicly beneficial project.

Nightly “occupancy tax” city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel’s enterprise activity, and, thus, tax payments were properly included when determining hotel’s assessed value for tax purposes, despite contention that tax should not be treated as income because underlying hotel development agreement made clear it could be transferred independent of hotel and did not run with land; assessor’s duty in valuing hotel under income method was to calculate total earnings that could be derived from use of property, and whether hotel owner could theoretically choose to transfer some portion of those earnings to another entity did not alter the fact that the earnings were generated from use of property itself.

Nightly “occupancy tax” city agreed to assign to original hotel developer as incentive to construct hotel represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel’s enterprise activity, and, thus, tax payments were properly included when determining hotel’s assessed value for tax purposes, despite contention that parties’ occupancy tax agreement was intended to finance of portion of construction costs of hotel; purpose of agreement did not dictate whether revenue generated from agreement could be considering in assessing value of hotel, and whether parties could have structured agreement differently did not alter fact that agreement they did make enabled property to be put to beneficial use as hotel, by allowing owner to generate additional revenue each time a customer rented a room.

One-time “key money” payment that hotel’s management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel’s enterprise activity, and, thus, tax payments were properly included in income stream analysis when determining hotel’s assessed value for tax purposes; money paid by company to developer was closer in nature to a commercial lease between a landlord and tenant, as it was offered to secure tangible rights in property that company then used to conduct commercial activities that generated income of their own, and brand property with its corporate logo.

One-time “key money” payment that hotel’s management company paid to original hotel developer in exchange for right to manage hotel and brand it as a company-related property for a 50-year period represented revenue from use of hotel itself, rather than revenue attributable to intangible assets resulting from hotel’s enterprise activity, and, thus, tax payments were properly included in income stream analysis when determining hotel’s assessed value for tax purposes, despite contention that prospective buyer would never increase hotel’s purchase price to reflect payment that future operations would never produce; payment represented fair market rate an owner of type of hotel would expect to receive in exchange for right to occupy and manage the property, and whatever restrictions parties might have entered into regarding payment were not material to determining hotel’s unencumbered fair market value.

County assessor’s failure to adequately address hotel owner’s evidence as to valuation of “enterprise assets” derived from its management agreement with hotel management company, including customer goodwill, value of hotel’s food and beverage operations and an assembled, stable workforce, required remand to county’s assessment appeals board for further proceedings regarding valuation of those “enterprise assets”; while particular method of valuation identified in academic article might be appropriate to account for such intangible “enterprise assets” provided under agreement, since owner identified and valued nontaxable “enterprise assets,” assessor had to provide evidence the value of those assets did not exceed the management fees.

California Supreme Court Issues Significant Opinion Concerning the Assessment of Intangible Assets in Property Taxation: Greenberg Traurig

On August 28, 2025, the California Supreme Court issued a significant, yet divided, opinion concerning the treatment of intangible assets in property taxation: *Olympic & Georgia Partners, LLC v. County of Los Angeles* (2025) – P.3d –, 2025 WL 2473858. Justice Groban authored the majority opinion. The divided Court also issued two separate dissents, authored by Justice Liu and Justice Kruger, respectively.

The case concerned the property tax assessment of the JW Marriott and Ritz Carlton Hotel in downtown Los Angeles. Three assets were in dispute. First, a subsidy that the City of Los Angeles paid to the hotel owner to incentivize construction, valued at approximately $80 million and referred to in the case as the "occupancy tax payment." Second, a one-time payment of $36 million that the hotel manager paid to the owner to secure the right to manage the hotel, referred to in the hotel industry and in the case as "key money." Third, a collection of business assets that included the hotel's flag and franchise, food and beverage operations, and assembled workforce, collectively valued at $34 million and referred to in the case as the "hotel enterprise assets."

The City of Los Angeles had decided decades ago that it needed a headquarters hotel adjacent to its unprofitable convention center to support conventions, revitalize downtown Los Angeles, and draw tourists and businesses to the City. The City concluded that a hotel in this specific location would be publicly beneficial but privately uneconomic: that it would yield extensive municipal benefits, but that no private developer would go it alone because the cost would outweigh the private payoff. So, the City solicited a developer, Plaintiff Olympic and Georgia Partners, LLC (Olympic), to develop the hotel, and it incentivized the business enterprise by investing the amount paid in transient occupancy taxes to the City by hotel guests in a unique arrangement. This public private partnership was the first of its kind in the City and realized the City's goals with success.

Continue reading.

Greenberg Traurig – Colin W. Fraser, Bradley R. Marsh and Cris K. O'Neall

September 19 2025

The Profound Implications of Opportunity Zones 2.0.

Updates enacted by Congress will make this successful program for low-income communities even more attractive to investors, particularly for housing. But there are plenty of ways to take advantage of the current program.

The "opportunity zones" (OZs) program has entered a defining moment. As part of the July 4th tax package, Congress transformed what was once considered a temporary experiment into a permanent fixture of the federal tax code. OZs are no longer a niche policy tool or a partisan flashpoint — they're an institutionalized asset class with a proven track record of catalyzing long-term capital into low-income communities to spur economic development and job growth.

For communities, policymakers and investors alike, the implications are profound. The next 18 months represent a generational window: Investors who move now can take advantage of a broader

map, favorable asset pricing and the clarity of established rules. Meanwhile, OZ 2.0 sets the stage for deeper transparency, broader geographical reach and stronger incentives for community-aligned investing, particularly when it comes to housing.

Since their inception in 2017, opportunity zones have contributed to the creation of more than 300,000 housing units in designated communities — making OZs one of the most significant drivers of housing production over the past decade. Perhaps most importantly, OZ investments have been long-term by design, unlocking capital that stays in communities for 10 years or more. This extended timeline enables deeper, more sustained transformation, from revitalized housing to broadband infrastructure to community-centered businesses.

Continue reading.

governing.com

OPINION | September 17, 2025 • Steve Glickman

TAXPAYER STANDING - MINNESOTA

Huizenga v. Independent School District No. 11

United States Court of Appeals, Eighth Circuit - August 11, 2025 - F.4th - 2025 WL 2302432

Taxpayers brought § 1983 action against school district and teachers' union, alleging that political advocacy by teachers while on paid leave, under provision of collective-bargaining agreement (CBA) allowing paid leave for the conduct of union business, violated taxpayers' free-speech rights under the First Amendment and the Minnesota Constitution, and violated the Minnesota Public Employee Labor Relations Act.

The United States District Court for the District of Minnesota dismissed claims for lack of Article III standing and declined to exercise supplemental jurisdiction over state-law claims. Taxpayers appealed. The United States Court of Appeals for the Eighth Circuit vacated and remanded. On remand, the United States District Court for the District of Minnesota granted defendants' summary judgment motion, and denied taxpayers' cross-motion for summary judgment as moot. Taxpayers appealed.

The Court of Appeals held that:

- Two taxpayers belonged to a particular taxpayer base of district residents with a special interest in the funds allocated to the school district;
- Taxpayer who had left the taxpayer base by moving outside of school district after filing complaint could not show a likelihood of future injury necessary to establish municipal taxpayer standing;
- Union leave policy caused a direct expenditure of school district funds, giving school district residents a direct interest as taxpayers;
- Taxpayers had municipal taxpayer standing; and
- Taxpayers satisfied the "fairly traceable" element for municipal taxpayer standing.

Municipal taxpayers of school district belonged to a particular taxpayer base of district residents with a special interest in the funds allocated to the school district, as would support finding that taxpayers had municipal taxpayer standing to bring § 1983 action against school district and teachers' union, alleging that political advocacy by teachers while on paid leave, under provision of

collective-bargaining agreement (CBA) allowing paid leave for the conduct of union business, violated taxpayers' free-speech rights under the First Amendment, among other claims.

Teachers' union leave policy caused a direct expenditure of school district funds, giving residents a direct interest as taxpayers, so that residents met the injury-in-fact requirement for Article III municipal taxpayer standing to bring § 1983 action against school district and teachers' union, alleging that political advocacy by teachers while on paid leave, under provision of collective-bargaining agreement (CBA) allowing paid leave for the conduct of union business, violated taxpayers' free-speech rights under the First Amendment, among other claims.

Taxpayers had a direct pecuniary injury sufficient to establish municipal taxpayer standing to bring § 1983 action against school district and teachers' union, alleging First Amendment violation, among other claims, because their taxes directly supported the activities complained of relating to union leave agreement, pursuant to which school district made non-ordinary expenditures when it paid substitute teachers while full-time teachers took paid union leave to engage in political and campaign advocacy, thereby forcing municipal taxpayers to subsidize union's political speech in violation of taxpayers' First Amendment rights, even though union reimbursed cost of substitute teachers.

Taxpayers satisfied the "fairly traceable" element for municipal taxpayer standing to bring § 1983 action against school district and teachers' union, alleging that political advocacy by teachers while on paid leave, under provision of collective-bargaining agreement (CBA) allowing paid leave for conduct of union business, violated taxpayers' free-speech rights under the First Amendment, among other claims, by establishing that teachers' salaries were paid from the school district's General Fund, notwithstanding fact that General Fund intermingled state, federal, and local funds.

Puerto Rico Nears Deadline on Opportunity Zone Changes.

The recently enacted One Big Beautiful Bill Act has permanently extended the federal Opportunity Zone program, adding reforms meant to modernize the initiative, expand community impact and reshape investment strategy — particularly in Puerto Rico.

The law makes the program a permanent part of the U.S. tax code and requires new compliance, reporting and impact measures. It also mandates a nationwide redesignation of eligible census tracts by mid-2026. Without those changes, investments made after Dec. 31, 2026, would have lost eligibility for key tax benefits.

The program, originally created as a short-term tax deferral mechanism, is shifting to a permanent framework. The law preserves the 10-year capital gains exclusion for investments held through Qualified Opportunity Funds but phases out older incentives.

Continue reading.

newsismybusiness.com

by Maria Miranda

September 9, 2025

Puerto Rico Unlocks $1.4B in Opportunity Zone Projects.

Puerto Rico's Economic Development and Commerce secretary, Sebastián Negrón-Reichard, said Thursday that the agency is unblocking $1.4 billion in eligible investments and more than 2,000 jobs tied to Opportunity Zone projects across 13 municipalities in Puerto Rico.

As News is my Business reported earlier this week, Puerto Rico is approaching a key deadline to redesignate eligible census tracts, a process that will reduce the coverage area from 98% of the island to 25% by the end of 2026.

Speaking at his weekly briefing at the La Fortaleza executive mansion, Negrón-Reichard said that while 38 projects had already secured decrees under the Puerto Rico Economic Development and Opportunity Zones Act of 2019, most had been limited to a basic 5% tax credit. Only three projects had advanced to receive the additional credits available by law.

Continue reading.

newsismybusiness.com

Maria Miranda September 11, 2025

What Makes DC's Bridge District a Model OZ Project?

Washington DC's Bridge District is quickly emerging as one of the nation's most ambitious Opportunity Zone projects, transforming vacant land into a thriving new neighborhood. With thousands of multifamily units, new retail, and vital community amenities, the Bridge District is showing how OZ capital can deliver long-term, transformative impact in one of the most underserved parts of the nation's capital.

Jeff Tompkins of Altes Capital and Sohael Chowfla of Redbrick LMD join the show to discuss the outlook for Opportunity Zones 2.0, the unique supply-and-demand dynamics of Washington DC's multifamily housing market, and how Redbrick is using OZ equity to deliver the Bridge District as a model for sustainable, community-driven development.

Listen to podcast.

opportunityzones.com

by Jimmy Atkinson

September 10, 2025

OBBBA Makes OZ Incentive Permanent, With Some Significant Changes.

When President Donald Trump signed the One Big Beautiful Bill Act (OBBBA) into law July 4, it included permanence and modernization of the opportunity zones (OZ) incentive. While much of the

OZ incentive is unchanged, there are key modifications.

Road to Permanence

The original OZ incentive was enacted in 2017 as part of the Tax Cuts and Jobs Act (TCJA) and was scheduled to sunset for capital gains realized after Dec. 31, 2026. Many other provisions of the TCJA were scheduled to expire at the end of 2025, so it was widely expected that major tax legislation would be introduced to address the expiring business and individual tax provisions.

OZ Working Group Recommendations

In anticipation of this expected legislative activity, the Novogradac Opportunity Zones Working Group (OZWG) began work in 2022 to compile an in-depth list of recommendations to enhance and modernize the OZ incentive. These consensus recommendations were shared with numerous OZ stakeholders, the Trump administration's transition team, the Senate Finance Committee and key members of the Senate and House, including Sen. Tim Scott, R-South Carolina. The OZ incentive was originally introduced in the Senate by Sen. Scott, who has consistently been the biggest proponent of the incentive and spearheaded the inclusion of the OZ 2.0 in the OBBBA. We were pleased to learn that several of the OZWG's key recommendations were ultimately included in the OBBBA.

Continue reading.

novoco.com

Published by Jason Watkins, CPA on Monday, September 8, 2025

September 2025

TAX - CALIFORNIA

Sceper v. County of Trinity

Court of Appeal, Third District, California - August 8, 2025 - Cal.Rptr.3d - 113 Cal.App.5th 548 - 2025 WL 2267738 - 2025 Daily Journal D.A.R. 7534

After passage of proposition expanding ability of certain taxpayers to transfer base year property values between counties, taxpayer brought action against county, alleging breach of contract and fraud in the inducement in connection with decision of county tax assessor to decline to adjust base year value of property that taxpayer had purchased in one county to base year value of property that taxpayer had purchased in another county for real property tax purposes, notwithstanding settlement agreement between taxpayer and county Board of Supervisors providing that county would allow transfer if it later adopted ordinance or if any change in law required county to accept transfers, and fact that new enactment was a qualifying change in the law under the settlement agreement.

After bench trial, the Superior Court found county in breach of settlement agreement and ordered county to specifically perform agreement and pay taxpayer damages. County appealed.

The Court of Appeal held that:

- Settlement agreement was void and unenforceable, but

- County was not entitled to prevailing-party attorney fees.

County Board of Supervisors lacked authority to grant agreed-upon relief in settlement agreement between taxpayer and Board related to exercise of judgment as to value of property for real property tax purposes by agreeing to transfer of base year values inter-county upon change in law allowing such transfers in certain circumstances, and thus settlement agreement was void and unenforceable; transfer of base year values was a duty assigned to county tax assessor, and Board's supervisory authority over tax assessor did not permit Board to control how tax assessor performed any duties of office of tax assessor.

County was not entitled to prevailing-party attorney fees associated with successful defense on appeal of taxpayer's action alleging breach of contract and fraud in the inducement in connection with settlement agreement by county Board of Supervisors to transfer property base year values inter-county upon change in law allowing such transfers in certain circumstances, although costs were typically awarded to the prevailing party on appeal.

TAX - NEBRASKA

State ex rel. Douglas County School District No. 66 v. Ewing

Supreme Court of Nebraska - August 22, 2025 - N.W.3d - 319 Neb. 663 - 2025 WL 2423559

County school district brought action against county treasurer for a writ of mandamus directing treasurer to correct erroneous distributions of payments in lieu of taxes (PILOT) funds that resulted in school district being underpaid.

The District Court issued the writ, but later vacated it after city school district, which had been overpaid, moved to intervene. School district renewed its motion for a writ of mandamus. The District Court denied school district's motion, granted treasurer's motion to enforce settlement agreement that was intended to rectify underpayments, and then dismissed the case. School district appealed, and city school district's motion to intervene was granted.

The Supreme Court held that:

- Constitutional and statutory provisions created a ministerial duty to properly distribute PILOT funds;
- Initial writ specifying when, where, how, and in what amounts reimbursements were to be made exceeded treasurer's ministerial duty;
- Renewed motion for writ of mandamus was not foreclosed by settlement agreement;
- Renewed motion for writ of mandamus was not foreclosed by its substance;
- Intervenor city school district was judicially estopped from arguing that other adequate relief was available; and
- School district had no other plain and adequate remedies available.

County treasurer's obligation under relevant constitutional and statutory provisions to properly distribute payments in lieu of taxes (PILOT) funds to school districts was a "ministerial" duty enforceable by writ of mandamus, in county school district's suit seeking treasurer's corrections of erroneous distributions that resulted in its underpayment by millions of dollars; both provisions plainly and clearly required treasurer to collect and distribute PILOT funds, and they provided an exact and detailed formula to be followed in calculating amount of such distributions, leaving no room for discretion in the process.

2025 Affordable Housing Tax Changes: Understanding LIHTC, Bonds, OZ and 45L Deadlines

With the passage of the One Big Beautiful Bill Act (OBBBA) on July 4, 2025, Congress enacted the most significant expansion of housing incentives in more than two decades. For developers, investors and capital providers, this means new tools, more flexibility and a broader opportunity set.

At the heart of the legislation are updates to the Low-Income Housing Tax Credit (LIHTC) program, alongside permanent extensions to the Opportunity Zone (OZ) and New Markets Tax Credit (NMTC) incentives. Analysts estimate these changes could support the creation of up to 1.2 million additional affordable housing units over the next decade. According to Novogradac, the LIHTC enhancements alone could finance 1.22 million new affordable rental homes between 2026 and 2035.

Opportunity doesn't always mean simplicity, though. These changes introduce new tools, but also new complexities.

Continue reading.

northmarq.com

September 1, 2025

Novogradac: A Deeper Dive into Opportunity Zones 2.0

The One Big Beautiful Bill Act (OBBBA), signed into law July 4, made the opportunity zone (OZ) incentive a permanent part of the Internal Revenue Code. In this episode of the Tax Credit Tuesday podcast, Michael Novogradac, CPA, and Novogradac partner Jason Watkins, CPA, review the changes to OZs instituted by the OBBBA. They explore the Opportunity Zones (OZ) 2.0 Mapping Tool, which Novogradac launched Aug. 19. Novogradac and Watkins also discuss the emphasis on investing in rural areas for the next set of OZs, nominations which begin July 1, 2026. Finally, the pair the new reporting requirements for OZs and the upcoming "dead zone" for investments, which is projected by some to occur next year.

Watch video.

Published by Michael J. Novogradac, CPA on Aug. 26, 2025, 12:15 p.m.

Beverly Hills Resort Wins Tax Status to Set Up Muni Bond Sale.

Takeaways by Bloomberg AI

- The City Council voted 4-0 to support the creation of a community facilities district to raise as much as $550 million through the municipal bond market for an ultra-luxury resort in Beverly Hills.
- Vice Mayor John Mirisch said "this result truly is the definition of win-win" after the city council extracted concessions from developer Cain International valued at $140 million.

- The proposed community facilities district would levy a new tax on properties within the designated improvement areas to pay for improvements, including streets, parks, and other public infrastructure for the One Beverly Hills development.

Continue reading.

Bloomberg Markets

By John Gittelsohn and Maxwell Adler

August 20, 2025

California, Other States Begin to Implement New 25% Test for 4% LIHTC and Bond Developments

State housing agencies have begun the work of implementing federal legislation signed July 4, which–among other things–lowers the minimum eligibility requirement for 4% federal low-income housing tax credits (LIHTCs) from 50% to 25% thereby expanding the volume cap of tax-exempt bonds.

This blog post focuses on regulations adopted Aug. 5 by the California Tax Credit Allocation Committee (CTCAC) and the California Debt Limit Allocation Committee (CDLAC) and the impact they will have. At the time of this writing, Georgia and Wisconsin have also issued revised guidance related to this change.

Background

The One Big Beautiful Bill Act was signed into law July 4, 2025. Among many other things, the bill permanently lowers the private activity bond (PAB) financing threshold from 50% to 25% of land and building costs for properties placed in service after Dec. 31, 2025, as long as at least 5% of the aggregate land and building costs are financed with PABs issued after Dec. 31, 2025. This change expands the volume cap of tax-exempt bonds.

Continue reading.

novogradac.com

Published by Thomas Stagg, CPA on Monday, August 25, 2025 – 8:17AM

TAX - CALIFORNIA

Sceper v. County of Trinity

Court of Appeal, Third District, California - August 8, 2025 - Cal.Rptr.3d - 2025 WL 2267738

After passage of proposition expanding ability of certain taxpayers to transfer base year property values between counties, taxpayer brought action against county, alleging breach of contract and fraud in the inducement in connection with decision of county tax assessor to decline to adjust base year value of property that taxpayer had purchased in one county to base year value of property that

taxpayer had purchased in another county for real property tax purposes, notwithstanding settlement agreement between taxpayer and county Board of Supervisors providing that county would allow transfer if it later adopted ordinance or if any change in law required county to accept transfers, and fact that new enactment was a qualifying change in the law under the settlement agreement.

After bench trial, the Superior Court found county in breach of settlement agreement and ordered county to specifically perform agreement and pay taxpayer damages. County appealed.

The Court of Appeal held that:

- Settlement agreement was void and unenforceable, but
- County was not entitled to prevailing-party attorney fees.

County Board of Supervisors lacked authority to grant agreed-upon relief in settlement agreement between taxpayer and Board related to exercise of judgment as to value of property for real property tax purposes by agreeing to transfer of base year values inter-county upon change in law allowing such transfers in certain circumstances, and thus settlement agreement was void and unenforceable; transfer of base year values was a duty assigned to county tax assessor, and Board's supervisory authority over tax assessor did not permit Board to control how tax assessor performed any duties of office of tax assessor.

Treasury Department Sets Limits on Remaining Wind and Solar Tax Credits.

The Treasury Department issued guidance Friday that narrows which wind and solar energy projects can receive the remaining tax credits that were largely eliminated under the Republicans' "big, beautiful bill."

The legislation passed by Republicans last month axes the credits for projects that don't begin producing electricity by 2028.

However, it contains an exemption for projects that begin construction over the next year. Under the law, those projects would remain eligible for the subsidies even if they don't produce electricity under the specified time frame.

Continue reading.

The Hill

by Rachel Frazin – 08/15/25 5:05 PM ET

AMT: One Big Beautiful Opportunity in the Municipal Bond Market

A primary risk that may have once deterred investors from these instruments has significantly diminished.

For many investors, the phrase "alternative minimum tax" tends to raise eyebrows or trigger confusion, if not concern. However, within the municipal bond market, AMT-designated bonds are

quietly offering one of the most attractive opportunities in today's investment-grade sector. And thanks to recent tax legislation, a primary risk that may have once deterred investors from these instruments has, in our opinion, significantly diminished.

Understanding AMT and Its Impact on Bonds

The individual alternative minimum tax is part of a parallel tax system that requires some taxpayers to calculate their tax liability twice—once using the standard rules and again using AMT rules. The AMT calculation includes certain deductions and additional adjustments. Taxpayers must pay the higher liability from the two calculations.

Some municipal bonds—generally those issued in sectors where private entities may benefit, such as airports or solid waste facilities—are designated as AMT. Although interest from these bonds is technically tax-exempt, it may be included in an investor's AMT calculation, reducing the overall tax advantage. AMT bonds are generally issued at higher yields than comparable non-AMT bonds to offset this risk.

Continue reading.

wealthmanagement.com

by Peter Aloisi

August 12, 2025

TAX - VERMONT

Salisbury AD 1, LLC v. Town of Salisbury

Supreme Court of Vermont - August 8, 2025 - A.3d - 2025 WL 2264355 - 2025 VT 43

Taxpayer that owned anaerobic digester facility appealed town's decision denying taxpayer's request for reconsideration of town's denial of taxpayer's untimely appeal of town listeners' decision denying taxpayer's grievance appeal of town's tax assessment.

The Superior Court denied town's motion for summary judgment, granted taxpayer's motion for summary judgment, and issued order granting mandamus relief. Town appealed.

The Supreme Court held that town's notice was sufficient to satisfy taxpayer's procedural due process rights.

Town provided taxpayer that owned anaerobic digester facility with actual notice of town listers' decision denying taxpayer's grievance appeal of town's tax assessment for certain tax year, and thus town's notice was sufficient to satisfy taxpayer's procedural due process rights, even though town did not mail notice of the decision to both taxpayer and its counsel; town mailed the decision directly to taxpayer at its address of record via certified mail with receipt requested and heard nothing back indicating that anything had gone awry, and received confirmation that taxpayer had received notice of the decision.

Congress Has Increased the Tax on College and University Endowments: How Should We Think about This Policy Change?

The reconciliation bill passed by the House of Representatives in May 2025 includes a significant increase to the current tax on the incomes from the endowments of private nonprofit colleges and universities. This brief examines the logic behind the long-standing exemption from taxation for educational institutions and other nonprofit charitable organizations, as well as the role of endowments, as context for evaluating this policy change and related proposals.

Why This Matters

The income tax system has always included a tax exemption for charitable institutions, the definition of which clearly includes colleges and universities. A significant tax on income from endowments and other financial assets limits the ability of affected colleges and universities to carry out their missions, which include educating undergraduate and graduate students, performing research, and engaging in other activities benefiting their communities. It is unlikely that the revenues from such a tax will be directed toward any related goals. And it is easy to view excluding selected colleges and universities from receiving the long-standing exemption from taxation for charitable institutions as an arbitrary strategy inconsistent with sound public policy.

What We Found

Nonprofit colleges and universities clearly meet the criteria for tax exemption.

- Concerns about the disproportionate share of students from affluent families at elite colleges and universities are valid but not disqualifying for exemption from taxation.
- The restrictions on political activity by tax-exempt organizations do not extend to the viewpoints or ideologies of the organizations or their members.
- Colleges and universities are fundamentally different from private foundations, so it is logical for their tax treatment to be different.
- The tax exemption is generally viewed as a “tax expenditure,” which has the same effect on the federal budget as a direct subsidy, but it might also be thought of as a separation between the government and charitable organizations, as is the case for churches.
- Unlike the 21 percent tax on corporate profits, the endowment tax does not subtract costs of production from income before calculating taxes due.

Endowments allow colleges and universities to support their missions far into the future, not just to fund current activities. They supplement other revenue sources and protect against an uncertain future.

- There is no clear optimal size for an endowment.
- Endowment per student is a better metric than total endowment size for comparing wealth across institutions, but it is far from a perfect indicator.
- The new tax on investment income will affect fewer institutions than the 1.4 percent tax imposed in 2017 because of the exclusion of small colleges. Neither policy generates significant federal revenue.
- The goal of taxing endowments might be to change institutional behaviors or, like the new tax and the one it replaces, simply to transfer funds from colleges and universities to the federal government.

If the motivation for taxing the endowment income of wealthy colleges and universities is to provide incentives for these institutions to enroll more low-income students, other policy approaches directly

related to this goal are likely to be more effective. The government could provide support for college preparation among disadvantaged youth and increase grant aid for low- and moderate-income students. If the concern is the inequality in resources across postsecondary institutions, direct subsidies to the underresourced institutions and their students are more likely to improve educational opportunities.

Download Report.

Tax Policy Center

by Sandy Baum

August 13, 2025

Can PILOT Programs Plug Holes in Municipal Budgets?

Some American cities turn to "payments in lieu of taxes" programs to fill budget gaps. The jury's still out on how effective they are.

Should municipalities ask nonprofits to pay fees for the land they use?

It's a provocative question that, for years, has evoked strong responses for and against the idea. As many American cities grapple with declining property tax revenue in the wake of COVID-19 and the rapid adoption of remote work, the topic has received renewed interest.

One way municipalities may seek to add more dollars to their coffers is through "payments in lieu of taxes" programs, or PILOTs. These are agreements that require individual nonprofits to pay set amounts to their local municipality. The idea is to offset the cost of services that a nonprofit receives from the city, such as garbage removal or policing.

Continue reading.

cfo.com

by Dan Niepow

Published Aug. 8, 2025

Orrick: To Infinity and Beyond! A New Tax-Exempt Bond to Finance Spaceports

The One Big Beautiful Bill Act, signed into law on July 4, authorizes tax-exempt bond financing for spaceports, treating them similarly to bonds issued by public authorities for airport improvements.

This new category of bond financing offers numerous benefits for private entities and corporations, as well as space agencies involved in space exploration and related activities.

- **Lower Cost of Capital.** Spaceports can utilize tax-exempt private activity bonds ("PABs") for

spaceport development, lowering financing costs.
- **Encouraging Private Investment.** This new bond provision aims to shift the funding burden away from taxpayers by leveraging public-private partnerships for spaceport construction, expansion, and related improvements.
- **No Volume Cap.** Unlike many other types of PABs, bonds issued for spaceports are not subject to volume cap, meaning that there is no statutory limit on the amount of bonds that may be issued.

Under this new provision, a "spaceport" is defined as any facility (including fixed assets and related equipment) located at or in close proximity to a launch site or reentry site used for the following:

- Manufacturing, assembling or repairing spacecraft, space cargo, other facilities described below, or any component of the foregoing,
- Flight control operations,
- Providing launch services and reentry services, or
- Transferring crew, spacecraft participants, or space cargo to or from spacecraft.

Similar to airport improvements financed with PABs, spaceport bonds would be issued by authorized governmental issuers to finance spaceports. Pursuant to the governmental ownership requirements applicable to this category of PABs, the financed spaceport assets must be owned by a State or local government unit, but could be leased to a private entity/operator, where such lease payments (and possibly other amounts) would pay debt service on the bonds.

The statute contains numerous defined terms which are beyond the scope of this summary, however, some of the more critical defined terms are set forth below:

- **Launch Site:** The location on Earth from which a launch takes place and the necessary facilities at that location.
- **Launch:** To place or attempt to place a launch vehicle or reentry vehicle, along with any payload or human being from Earth, into a suborbital trajectory, Earth orbit in outer space, or otherwise in outer space, including activities involved in the preparation of a launch vehicle or payload launch.
- **Reentry Site:** The location on Earth to which a reentry vehicle is intended to return.
- **Reentry Vehicle:** A vehicle designed to return from Earth orbit or outer space to Earth, or a reusable launch vehicle designed to return from Earth orbit or outer space to Earth, substantially intact.

Importantly, given the federal government's interaction with respect to space operations and space flight, the legislation makes helpful accommodations regarding federal use and payments which would otherwise create tax concerns for the bonds.

As a general matter, tax-exempt bonds may not be directly or indirectly guaranteed by the federal government. The statute provides that a spaceport bond will not be treated as federally guaranteed because of the payment of rent, user fees, or other charges by the United States (or agency thereof) in exchange for the use of the spaceport.

For example, assume an authorized issuer issues bonds to finance a spaceport to be leased to Space Co. The bonds are secured and paid with Space Co. lease payments. Space Co. has long-term contracts with NASA and other federal agencies for use of the spaceport, including services provided by Space Co. for satellite operations. The lease payments made by Space Co., which will include payments made by federal agencies, will not cause the bonds to be federally guaranteed.

Effective Date: Bonds may be issued to finance spaceports on or after July 5, 2025.

Orrick, Herrington & Sutcliffe LLP

August.06.2025

Taxable Local-Government Bonds Shine in Middling Muni Market.

Takeaways

- Taxable state and local-government debt has returned 4.7% this year, according to data compiled by Bloomberg.
- The strong showing for taxable munis is driven by a sharp falloff in terms of how much of the market they make up, said Cooper Howard, a strategist at Charles Schwab.
- “Supply has been muted for taxable munis,” said Gabe Diederich, senior portfolio manager at Baird Funds.

The bright spot in a lackluster year for municipal-bond returns is debt subject to federal income taxes, as a dearth of new sales in the sector fuels gains.

Taxable state and local-government debt has returned 4.7% this year, the best performance on a year-to-date basis since 2020, according to data compiled by Bloomberg. That’s beating the 0.1% gain for tax-exempt debt broadly, and a 1.4% decline in an index of high-yield securities.

Continue reading.

Bloomberg Markets

By Shruti Singh

August 8, 2025

One Big Act: Tax-Exempt Bonds Avoid Annihilation - Squire Patton Boggs

On July 4, 2025, the president signed into law the so-called “One Big Beautiful Bill Act” (the “OBBBA”). While technically no longer a bill and its beauty is in the eye of the beholder, the OBBBA certainly is big. Even before the almost-1,000-page OBBBA took shape, the public finance community was on alert about lawmakers entertaining possibly peeling away or even eliminating the tax exemption of interest on municipal bonds in an effort to pay for the extension of the 2017 Tax Cuts and Jobs Act (the “TCJA”). Understandably so, because in 2017, to help offset the costs of the TCJA, lawmakers proposed eliminating tax exemption for qualified private activity bonds entirely and ultimately ended up scrapping tax-exempt advance refundings. Fortunately, tax-advantaged bonds survived the OBBBA intact and, in fact, have expanded in areas[1].

Space: The Latest Frontier

The OBBBA expands the airport category of exempt facility bonds under Section 142 of the Code to include spaceports[2]. A spaceport is defined as “any facility located at or in close proximity to a launch site or reentry site used for (A) manufacturing, assembling, or repairing spacecraft, space cargo, other facilities described in this paragraph, or any component of the foregoing, (B) flight

control operations, (C) providing launch services and reentry services, or (D) transferring crew, spaceflight participants, or space cargo to or from spacecraft." Space cargo includes "satellites, scientific experiments, other property transported into space, and any other type of payload, whether or not such property returns from space." Spacecraft means "a launch vehicle or reentry vehicle[3]." Other terms take their meaning from existing definitions in Title 51 of the U.S. Code concerning "National and Commercial Space Programs" which was enacted in 2010. Section 142 will generally treat spaceports like airports with a few notable exceptions:

Continue reading.

The Public Finance Tax Blog

By Robert Radigan on July 14, 2025

Squire Patton Boggs

TAX - IDAHO

East Side Highway District v. Kootenai County

Supreme Court of Idaho, Boise, May 2025 Term - July 9, 2025 - P.3d - 2025 WL 1888413

Several local taxing districts and cities within county brought separate actions against county and county treasurer, as ex officio tax collector, seeking declaratory judgments that county is required to distribute proportionate share of late charges and interest collected on delinquent property taxes to taxing districts, and seeking writs of mandamus requiring treasurer to do so.

Cases were consolidated. The First Judicial District Court granted taxing districts' motions for summary judgment and for judgment on the pleadings, denied county's motion for judgment on the pleadings, and thereafter denied county's motion for reconsideration, and awarded attorney fees to taxing districts as prevailing parties. County appealed.

The Supreme Court held that:

- Plain statutory language indicated that the amount paid, whether in part or in full, to redeem a property in delinquency includes more than just the past-due property taxes;
- Statutes unambiguously provided that late charges and interest associated with delinquent property taxes were required to be apportioned to taxing districts;
- Trial court was not required to find that county acted without a reasonable basis in law or fact before awarding prevailing-party attorney fees and costs to taxing districts; and
- Taxing districts were entitled to costs and attorney fees as prevailing parties on appeal.

TAX - NEBRASKA

Johnson v. City of Omaha

Supreme Court of Nebraska - July 11, 2025 - N.W.3d - 319 Neb. 402 - 2025 WL 1909587

Resident taxpayer brought action against city and city's new residential solid waste collection contractor that was subsidiary of successful bidder in the competitive bidding process, seeking a declaration that the contract was an illegal expenditure of public funds and violated the Integrated Solid Waste Management Act (ISWMA).

The District Court denied taxpayer's motion to amend complaint, granted summary judgment for city and contractor, and overruled taxpayer's cross-motion for partial summary judgment as moot. Taxpayer appealed.

The Supreme Court held that:

- Taxpayer had taxpayer standing;
- Denial of motion to amend to add new legal theory on eve of summary judgment hearing was within trial court's discretion;
- Successful bidder's post-opening bid clarification about its yard waste sticker fee did not materially vary from original bid;
- City did not act with bad faith and favoritism in bidding process by seeking a post-opening bid clarification; and
- Yard waste sticker fee was not subject to voter approval requirement in ISWMA.

Final Reconciliation Bill Permanently Expands LIHTC, NMTC and OZ Incentive; but Does Not Include HTC Provisions.

The House passed July 3 the final version of the fiscal year 2025 reconciliation bill, formerly known as the One Big Beautiful Bill Act, following Senate passage July 1. The bill includes some changes to the Senate Finance Committee (SFC) and initial House-passed versions. The bill now goes to the president, who is expected to sign it into law.

The following is an overview of the final reconciliation bill provisions affecting housing and community development tax incentives. A forthcoming blog post will describe the final bill's energy tax provisions.

Permanent LIHTC Expansions

The final reconciliation bill kept the LIHTC provisions of the SFC version reconciliation bill intact, namely:

1. ***Permanent 25% Test.*** The final reconciliation bill permanently lowers the private activity bond (PAB) financing threshold from 50% to 25% of land and building costs for properties placed in service after Dec. 31, 2025, as long as at least 5% of the aggregate land and building costs are financed with PABs issued after Dec. 31, 2025. It also should be noted that acquisition and rehabilitation property can separately qualify so that the rehabilitation portion placed in service in 2026 or later could qualify for the 25% test even for property acquired in 2025.
2. ***Permanent 12% Increase***. The final reconciliation bill permanently increases 9% allocations for the LIHTC by 12% starting in 2026. (The House-passed reconciliation bill would have increased the LIHTC by 12.5% for four years.)

Continue reading.

Published by Peter Lawrence on Thursday, July 3, 2025 – 11:29AM

Novogradac

Taxing the Crisis: Can Municipal Tax Hikes Mitigate Bondholder Risks in Stressed Districts?

The fiscal health of U.S. municipalities hangs in a precarious balance, with states like Illinois, cities like Chicago, and California's major urban centers grappling with deficits, pension obligations, and climate-driven costs. As these regions turn to tax hikes to stabilize budgets, bondholders face a critical question: Can these measures effectively mitigate risk, or do they merely mask deeper systemic vulnerabilities?

The Fiscal Abyss

Illinois leads the parade of distressed states, projecting a **$3 billion shortfall** in fiscal year 2026 amid rising pension liabilities and stagnant revenues. Chicago's FY 2025 budget is **$1 billion out of balance**—over 5% of its revenue—driven by unfunded retiree healthcare costs and dwindling federal aid. Meanwhile, California's San Francisco faces an **$876 million deficit**, while Los Angeles and Oakland grapple with similar shortfalls. These gaps are exacerbated by climate-related expenses: Houston's $100 million drainage mandate and Cape Cod's wastewater upgrades highlight how environmental costs are now a fixed fiscal burden.

Tax Increases as a Band-Aid or Lifeline?

To close gaps, stressed issuers are leveraging tax policy:

- **Illinois** raised gas taxes to $0.483/gallon, imposed a $1/cigarette pack surcharge, and expanded sales taxes to online services.
- **Chicago** is considering a $0.50/bet fee on sports gambling and exploring higher property taxes on vacation rentals.
- **California** is debating a $2.7 billion sales tax expansion on services, while Seattle's payroll tax on high earners funds affordable housing.

Continue reading.

aiinvest.com

by Cyrus Cole

Monday, Jul 7, 2025 8:53 am ET

The Affordable Housing Easter Egg in Trump's 'Beautiful' Bill.

Incentive to Build

President Donald Trump's "One Big Beautiful Bill" is known mainly for what it cuts: taxes, Medicaid coverage and food assistance among other things. But tucked inside the almost-900-page legislative text are a few lines that represent the biggest increase in incentives to build affordable housing in a generation.

That has both real estate developers and housing advocates cheering.

The revamp of three tax-based community development programs is expected to boost construction of new apartment buildings and renovation of older ones. Housing analysts saying they could spark the building of as many as 1.2 million more affordable units over the next 10 years than they would have without the changes.

Continue reading.

Bloomberg

By Emily Flitter

July 10, 2025

What City Leaders Need to Know About the Senate's Budget Reconciliation Bill.

The Senate's version of the "One Big, Beautiful Bill" has arrived, with major implications for local governments. While it mirrors several provisions in the House-passed bill (H.R. 1), it also includes key differences, particularly around Medicaid. The path to passage in the Senate is not straightforward, with negotiations still ongoing on Medicaid, clean energy tax credits and public lands. As the House and Senate move toward negotiations on a final package, local leaders should understand how the Senate's proposal could shape city budgets, services and infrastructure planning.

Key Takeaways

- Significantly, key outreach from local leaders across the country ensured that the tax-exemption on municipal bonds remains preserved in both the House and Senate bills, for now.
- As it pertains to Medicaid, there is a divide between Republicans who have voiced concerns about the Senate Finance Committee's steep proposed cuts and those who are urging even deeper cuts. While a new fund is expected to be inserted to help rural hospitals, it remains unclear if this will be enough to garner the necessary votes.
- While the Direct Pay provision supporting local government clean energy projects remains intact, the tax credits are proposed to be phased out considerably sooner than the current timeline; other changes are likely to make the tax credits usable for local governments.
- The Senate parliamentarian has ruled against the inclusion of many of the proposed changes to the SNAP and Medicaid programs, as well as provisions related to grant programs and public lands.
- The final text that will be voted on by the Senate is still a work in progress, and the chamber is running up against its self-imposed deadline of having the bill clear the floor by July 4.

Continue reading.

National League of Cities

by Dante Moreno, Stephanie Martinez-Ruckman & Carolyn Berndt

June 26, 2025

The One Big Beautiful Bill Act: A Comprehensive Holland & Knight Analysis

View the Holland & Knight Analysis.

Holland & Knight LLP

USA July 3 2025

Mintz Reconciliation Update: Latest Developments for Tax-Exempt Bonds & Public Finance and What to Expect Next

Tax-exempt municipal bonds avoided a potential worst-case scenario of elimination in the House-passed budget reconciliation bill — the One Big Beautiful Bill Act. The recently released tax language from the Senate Finance Committee for its version of the Act also preserves access to tax-exempt bonds, which are a critical tool for infrastructure development in communities across the nation.

Read on to learn more about efforts to preserve access to this critical financing tool, how Congress has shown support for tax-exempt municipal bonds, and what to expect as the reconciliation bill moves forward.

First, a quick rewind to set the stage.

To discuss recent developments for tax-exempt bonds in the budget reconciliation bill, we need to first briefly look back to 2017 when the Republican-controlled US House of Representatives approved a budget reconciliation bill that eliminated tax-exempt private activity bonds used for various purposes, including projects for affordable housing projects, airports, water and sewage facilities, solid waste disposal facilities, certain manufacturing facilities, and qualified 501(c)(3) tax-exempt organizations like colleges and hospitals.

Continue reading.

by R. Neal Martin & Matthew Page

June 24, 2025

Mintz – ML Strategies

TAX - MARYLAND

Frederick v. Baltimore City Board of Election

Supreme Court of Maryland - July 1, 2025 - A.3d - 2025 WL 1802937

Plaintiffs brought action challenging city board of elections' decision rejecting proposed charter amendment petition seeking to impose cap on Baltimore City's real property tax rate that incrementally decreased over seven years.

City and city board intervened. The Circuit Court entered summary judgment in defendants' favor, and plaintiffs appealed.

The Supreme Court held that proposed charter amendment seeking to impose cap on Baltimore City's real property tax rate was not proper charter material.

Final Tax Bill Preserves Tax-Exempt Bonds and Expands Affordable Housing and Public Finance Provisions: Taft Stettinius & Hollister

On July 3, 2025, the U.S. House of Representatives voted on final passage of H.R.1, an omnibus budget reconciliation tax and spending package referred to as the "One Big Beautiful Bill Act." The bill, which passed on a vote of 218-214, now heads to President Trump's desk for final signature, which is expected to take place on July 4, 2025. The Senate narrowly passed its version of the tax bill just two days prior, on July 1, 2025, which was voted on by the House in lieu of taking the bill to a conference committee. The Senate made a number of changes to the bill previously approved by the House on May 22, 2025.

The municipal market can be encouraged that the final bill preserves the federal tax exemption for municipal bonds. In fact, the final bill includes a number of expansions of interest to the public finance community. We will continue to provide updates as these provisions are implemented. For now, some key takeaways:

- **Municipal Bonds – Tax Exemption Preserved**: Although the House Budget Committee initially identified the elimination of the tax-exemption as a potential revenue source, both the Senate and House versions preserve federal tax exemption for all municipal bonds, including both governmental purpose and qualified private activity bonds
- **9% Low-Income Housing Tax Credit – Increased Annual Allocations**: The final tax bill provides for a 12% increase in the amount of low-income housing tax credits (LIHTC) that states can allocate from the state credit ceiling (commonly referred to as 9% credits) in a given year. The final tax bill includes a permanent increase, beginning in calendar year 2026.
- **4% Low-Income Housing Tax Credit – 25% Test**: The final tax bill reduces the threshold required for 4% LIHTC buildings financed with private activity bond volume cap limited tax-exempt bonds from 50% to 25% of aggregate basis. The reduced threshold would apply to buildings placed in service after December 31, 2025, so long as at least 5% of the aggregate basis of the building and land is financed with bonds issued after December 31, 2025. The final tax bill makes this a permanent reduction to the aggregate basis test
- **New Markets Tax Credit – Extension**: The New Markets Tax Credit, which would otherwise have sunset this year, will now become a permanent credit.
- **Opportunity Zones – Renewed**: The final tax bill makes permanent the Opportunity Zone tax incentive
- **Energy Incentives – Rollback**: The final tax bill terminates a large number of clean and renewable energy incentives authorized by the Inflation Reduction Act of 2022, though on different timetables.
- N**ew Category of Exempt Facility Bonds – Spaceports**: The final tax bill creates a new category of exempt facility bonds under Section 142(a). "Spaceports," which include certain facilities at or near launch sites or reentry sites, will now be treated like airports.
- **Qualified Small Issue Bonds – Change to Calculation of Expenditures**: The final tax bill modifies the calculation of research and development expenditures for purposes of qualified small issue bonds.

Taft Stettinius & Hollister LLP – William Vietti, Rachel Lochner, Cory G. Kalanick and T. Parker Schenken

July 3 2025

Congress Passes One Big Beautiful Bill Act With Impacts on Housing: McGuireWoods

On July 3, 2025, the U.S. House of Representatives passed the Senate's version of the One Big, Beautiful Bill Act, which contains provisions impacting the low-income housing tax credit (LIHTC), opportunity zones (OZs) and homeownership incentives. The bill permanently increases the LIHTC's state allocation to 12% and lowers the bond-financing threshold to 25% beginning in 2026. These are provisions from the Affordable Housing Credit Improvement Act, which some analysts believe could add around one million affordable units to the severely limited supply of housing in the United States.

The reconciliation bill also establishes a permanent policy for OZs that creates a recurring 10-year designation period beginning in 2026. The updated bill passed by the House and Senate also repeals contiguous-tract rules for low-income areas and replaces them with standards for each designated OZ. Among other key changes to OZs, Congress eliminated the December 2026 sunset date for deferring capital gains, allowing investors to defer gains for up to five years or until the investment is sold.

For homeownership incentives, the reconciliation plan temporarily increases the state and local tax deduction to $40,000, with a phase-out for individuals earning over $500,000 per year. The One Big Beautiful Bill Act also permanently extends the deduction on mortgage interest that was established in the Tax Cuts and Jobs Act. This provision allows homeowners to deduct interest on the first $750,000 of mortgage debt and restores their ability to deduct mortgage interest premiums.

by Jeremy L. Green, Gregory A. Riegle, and Scott E. Adams

Insight | July 3, 2025

McGuireWoods LLP

Senate-Passed Bill Does Not Change Ability to Claim Energy Tax Credits Through Elective Payment

The One Big Beautiful Bill Act of 2025 (H.R. 1) passed by the U.S. Senate on July 1 will not change the ability to claim energy tax credits through elective payment and also leaves intact the tax exclusion for municipal bonds.

The American Public Power Association on July 1 noted that the Senate Finance Committee draft of the tax title would have repealed the statutory exception to the domestic content requirements for elective payment. However, the provision was dropped due to the vocal advocacy from APPA members in coordination with allied stakeholders.

The bill also leaves intact the tax exclusion for municipal bonds, again thanks to the work of public power utilities and allied stakeholders, APPA said.

The House Committee on Rules met on Tuesday to consider the rules under which the House will debate H.R. 1.

If passed by the House, President Trump has said he will sign the bill into law.

Senate-Passed Bill Continues Aggressive Phaseout of ITC, PTC for Wind and Solar Projects

The Senate-passed bill continues the aggressive phaseout of the investment tax credit (ITC) and production tax credits (PTC) for wind and solar projects but does provide some relief (compared to an initial version of the bill) to projects currently under development.

As passed by the Senate, the ITC and PTC for wind and solar projects would be unavailable for a project placed in service after 2027.

However, this new deadline would only apply to projects the construction of which begins more than 12 months after the date of enactment. The original version of the Senate bill would have imposed the new 2027 placed in service deadline on any project construction of which began after the date of enactment.

The Senate also dropped a proposed federal excise tax on wind and solar projects.

The bill would also delay the effect of foreign entity of concern (FEOC) provisions – including restrictions on ownership and "material assistance."

The material assistance provisions are most likely to be relevant to public power utilities seeking to claim energy tax credits, but the ownership provisions could also be.

Specifically, there is a provision that would deny energy tax credits to a taxpayer with more than 15 percent of its debt held by a specified foreign entity.

APPA said that it has heard conflicting guidance as to how readily an issuer can determine the owners of its debt, but the real issue may be in proving that bond holders are not specified foreign entities.

APPA was unable to obtain a clarification in the bill that public offerings are excluded from the FEOC debt test. If enacted, it will seek regulatory guidance doing so.

Pay-as-You Go Sequestration

Of concern to public power is how the bill will be scored for Statutory Pay-As-You-Go Act (PAYGO) purposes, APPA said.

Under PAYGO, tax cuts and spending increases which are not offset by tax increases or spending cuts must be offset with across-the-board spending cuts (sequestration) that would begin in the January of the year following enactment.

This would affect federal payments for direct payment bonds and energy tax credit elective payments.

Under normal PAYGO scorekeeping conventions, the roughly $3.4 trillion in deficits caused by H.R. 1 would effectively require the elimination of such payments through 2034. Congress could later

pass legislation to waive PAYGO as it has in the past.

However, early in the Senate's debate of H.R.1, Republicans successfully defended a ruling of the parliamentarian authorizing the use of a "current policy" baseline instead of a "current law" baseline.

APPA said that it is too early to say how this will play out, but noted that if H.R. 1 is enacted, it is possible this could help avoid PAYGO sequestration.

publicpower.org

by Paul Ciampoli

July 1, 2025

SALT Cap Deal: A Crossroads for Real Estate and Municipal Bonds

The Republican SALT (State and Local Tax) deduction cap deal, now in its final legislative phase, presents a pivotal moment for investors in real estate and municipal bonds. With the House pushing to raise the deduction cap to $40,000—a temporary five-year increase—and the Senate resisting any change, the outcome will reshape fiscal incentives in high-tax states, alter housing demand dynamics, and test the financial stability of local governments. This article examines the implications for investors and offers strategies to navigate the uncertainty.

The SALT Cap's Impact on Real Estate Markets

The SALT deduction has long influenced where affluent taxpayers choose to live. Before the 2017 tax reforms, homeowners in high-tax states like New York, New Jersey, and California could fully deduct state and local taxes, including property taxes. The $10,000 cap imposed in 2017 reduced this benefit, dampening demand for high-end housing in these states. For example, , as buyers in high-income brackets sought more SALT-friendly states like Texas or Florida.

If the Senate's current stance prevails, maintaining the $10,000 cap, this trend would likely continue. However, a House compromise—raising the cap to $40,000—could reverse it. Wealthy buyers in high-tax states would regain a financial incentive to purchase expensive homes, boosting demand in affluent neighborhoods. illustrates how tax policies have skewed migration patterns.

Continue reading.

AInvest.com

by Edwin Foster

Friday, Jun 27, 2025

TAX - NEW HAMPSHIRE

Rand v. State

Supreme Court of New Hampshire June 10, 2025 - A.3d - 2025 N.H. 27 - 2025 WL 1634480

Property owners brought action against state, seeking permanent injunction requiring state to discontinue public education funding scheme, and alleging that state violated state constitution through practice of permitting property-wealthy towns to retain funds raised by Statewide Education Property Tax (SWEPT) beyond those necessary to pay for cost of adequacy of education and by setting negative local education tax rates in unincorporated places.

The Superior Court granted property owners' motion for partial summary judgment, denied state's and intervenor's cross-motions for summary judgment, and enjoined state from permitting communities to retain excess SWEPT funds or offset SWEPT rate via negative local tax rates. State and intervenor appealed.

The Supreme Court held that:

- Tax was administered in a manner that was equal in valuation and uniform in rate throughout state;
- Legislature did not intend to exempt unincorporated places from SWEPT;
- Department of revenue administration's (DRA) practice of setting negative local education tax rates in unincorporated places violated legislature's constitutional power and authority to impose proportional and reasonable tax; and
- Determination that state violated legislature's constitutional power and authority to impose proportional and reasonable tax warranted vacatur of trial court's injunction remedy.

By its plain language, statute imposing education tax on property across the state, directing how Statewide Education Property Tax (SWEPT) revenue was required to be spent, and requiring each municipality's selectmen or assessors to assess SWEPT revenue and pay it to the municipality for school districts' use, administered tax in a manner that was equal in valuation and uniform in rate throughout state, which, standing alone, did not implicate legislature's constitutional power and authority to impose proportional and reasonable tax, notwithstanding any theoretical indirect effects of scheme on municipalities; fact that scheme permitted a locality to spend SWEPT funds beyond what was needed to fund cost of providing opportunity for an adequate education in that locality had no effect on uniform SWEPT rate assessed to each taxpayer across the state.

Legislature did not intend to exempt unincorporated places from Statewide Education Property Tax (SWEPT) given that, to maintain harmony with statute providing for calculation of education grant funds that were issued to municipalities, and which contemplated unincorporated places being subject to SWEPT, unincorporated places were encompassed within term municipality found in statute imposing education tax on property, which required commissioner of department of revenue administration (DRA) to calculate the portion of education tax to be raised by a municipality, based on its tax base and to issue a warrant to selectmen or assessors of each municipality directing them to assess such sum and pay it to the municipality for school districts' use.

Department of revenue administration's (DRA) practice of setting negative local education tax rates in unincorporated places that nearly or completely offset Statewide Education Property Tax (SWEPT) rate in unincorporated places was administered in a manner that was not equal in valuation or uniform in rate throughout the state, and therefore violated legislature's constitutional power and authority to impose proportional and reasonable tax.

Determination that state violated legislature's constitutional power and authority to impose proportional and reasonable tax by administering Statewide Education Property Tax (SWEPT) in a manner that was not equal in valuation or uniform in rate throughout the state through department of revenue administration's (DRA) practice of setting negative local education tax rates in unincorporated places warranted vacatur of trial court's injunction remedy of enjoining the state

from permitting communities to offset the equalized SWEPT rate via negative local tax rates.

TAX - GEORGIA

Atlanta Restaurant Partners, LLC v. Clayton County

Court of Appeals of Georgia - June 10, 2025 - S.E.2d - 2025 WL 1637362

Taxpayer that operated food concessions at airport brought action against county and city, among other parties, seeking refund of real property ad valorem taxes assessed and collected on airport concession agreement, alleging spaces were nontaxable usufructs.

School district filed motion to intervene, which the trial court granted. City issued a tax refund to taxpayer and city and taxpayer submitted a proposed consent order to trial court dismissing city from the action, which the trial court signed. The trial court later granted school district's motion for partial dismissal of taxpayer's claims. Following dismissal order, and prior to court-ordered mediation, county refunded the remaining tax amounts at issue to taxpayer. Taxpayer appealed grant of school district's motions.

The Court of Appeals held that:

- Taxes were illegally collected from taxpayer;
- Taxes were required to be refunded to taxpayer regardless if the taxes were remitted to school district;
- School district was not entitled to intervene as of right; and
- Trial court's error in granting school district's motion to intervene as of right warranted reversal of grant of motion for partial dismissal.

Airport retail spaces were usufructs and not subject to ad valorem real estate taxes, and thus ad valorem taxes that city and county had assessed and collected from taxpayer in connection with taxpayer's food and beverage concession operations at airport pursuant to airport concession agreement between taxpayer and city were illegally collected from taxpayer, for purposes of determining whether taxpayer was entitled to refund of such taxes paid by taxpayer.

Ad valorem real estate taxes that city and county illegally assessed and collected from taxpayer that operated food concessions at airport pursuant to airport concession agreement between taxpayer and city were required to be refunded to taxpayer from funds of county, municipality, county board of education, state, or any other entity to which the taxes were originally paid, regardless whether the taxes were remitted to school district; legislature did not carve out an exception for illegally collected taxes that a county remitted to a board of education.

School district did not have a property interest in real property ad valorem taxes, which were illegally assessed and collected by city and county on airport concession agreement, and which therefore were required to be returned to taxpayer, and therefore school district was not entitled to intervene as of right in taxpayer's action against city and county, among other parties, seeking refund of such taxes paid by taxpayer, so that trial court abused its discretion by allowing school district to intervene as a matter of right, even if school district had an interest in the amount of money it received from county for its budget.

Trial court's error in granting school district's motion to intervene as of right in action brought by taxpayer that operated food concessions at airport against city and county, among other parties, seeking refund of real property ad valorem taxes which city and county had illegally assessed and

collected on airport concession agreement between city and taxpayer warranted reversal of trial court's grant of school district's motion for partial dismissal and remand to trial court.

Kutak Rock: Senate Finance Releases Tax Reform Legislation

On the Hill

Last night, the Senate Finance Committee released its long-awaited version of the tax portion of the "One Big Beautiful Bill," offering a counterpoint to the House version passed last month. Critically, like the House bill, the current draft of the Senate Finance text does not include any language limiting the tax-exemption for municipal bonds. While retaining much of the structural framework of the House bill, the draft introduces several material changes, particularly around revenue offsets and social spending reductions.

As released by the Senate Finance Committee, the current draft:

- Preserves the House changes to the 50% test for LIHTC deals, lowering the test to 25%, but makes the change permanent instead of sunsetting in 2029.
- Provides a 12% allocation increase for 9% LIHTC transactions, instead of the 12.5% the House bill included, but makes the change permanent unlike the House version.
- Does not include the designation of Indian areas and rural areas as "Difficult Development Areas" and also excludes the 30% boost in basis that the House provided.
- Adds the permanent extension of the New Markets Tax Credit program.
- Permanently extends the increased individual AMT exemption amounts and reverts phase-out thresholds to 2018 levels ($500,000/individual; $1,000,000/joint), indexed to inflation thereafter.
- Builds on original Opportunity Zone framework, making the policy permanent with rolling, ten-year designations beginning January 1, 2027 while tightening the income requirements for designation as a "low-income community" and adding a new category for rural areas.
- Lowers the "endowment tax" increases on private colleges and universities as compared to the House version (topping out at 8% instead of 21%), while still maintaining a tiered structure.
- Reverts the SALT cap back to what current law permits ($10,000), with a placeholder indicating the topic is still being heavily negotiated.
- Raises the debt ceiling by $5 trillion, as compared to the $4 trillion increase the House proposed.

What This Means for Tax-Exempt Bond Issuers

Like the House version, the Senate bill leaves the tax exemption for interest on tax-exempt municipal bonds, including qualified private activity bonds, untouched. The Senate bill goes further than the House in making the changes to the 50% test for 4% LIHTC deals permanent, which could free up volume cap for issuers and provide an easier path to satisfying the good costs/bad costs analysis. In fact, by making the LIHTC changes permanent, the Senate is signaling strong support for financing tools that encourage investment in affordable housing, one of which is private activity bonds.

What's Next

With the release of the Finance portion of the bill, all ten committees of jurisdiction have now released their pieces of the legislation. Members and staff have been meeting on a daily or near-daily basis and holding multiple in-the-weeds briefings on the content and on the schedule during the last week. One of the key themes when comparing the House version to the Senate version is that the Senate clearly prioritized permanence. In several instances, the Senate legislation might

slightly pare back a benefit but provide the benefit permanently instead of phasing it out, no doubt setting up an interesting discussion with their counterparts in the House as they negotiate behind the scenes.

While the situation is fluid, Senate leadership has indicated an aggressive timeline. Current reports indicate they are targeting a floor vote of their version of the "One Big Beautiful Bill" by the end of next week, with the ultimate goal of delivering legislation to the President before the July 4 recess. Majority Leader Thune has even threatened to keep the Senate in session if passage is not achieved before the July 4th holiday – perhaps providing some strong motivation for members to move quickly in their negotiations. If the Senate's changes are sufficiently narrow or pre-negotiated with the House, it is possible the House could vote on the Senate version and avoid a Conference Committee, expediating the enactment.

As always, we will continue to monitor legislative developments and provide timely updates as the process unfolds.

Publications – Client Alert | June 17, 2025

NH Supreme Court Rules Wealthy Municipalities Can Keep Excess Education Property Tax.

Steven Rand and other property owners, represented by attorneys Andru Volinsky, John Tobin and Natalie Laflamme, brought suit, charging that retaining the excess SWEPT and setting negative tax rates, reduced the effective rate of the tax, contrary to the constitutional requirement that state taxes be uniform in rate throughout the state.Mastering Financial Literacy Strategies For Budgeting Investing And Borrowing In Business Finance Education

In November 2023, Superior Court Judge David Ruoff ruled for the plaintiffs, holding that retaining the excess funds lowered the effective rate of the tax, which serves to measure the legitimacy of a tax. Both the state and Coalition Communities, a confederation of affluent municipalities, appealed Ruoff's order.

The court held with the state and Coalition Communities that the retention of excess SWEPT represents "a paradigmatic legislative spending directive that, standing alone, does not implicate Part II, Article 5," the tax provision of the state Constitution. Applying SWEPT funds beyond what is required to meet the cost of an adequate education, they wrote, "has no effect on the uniform SWEPT rate assessed to each taxpayer across the state." Likewise, "there is no evidence in the record that these effective rates are actually paid by taxpayers."

Continue reading.

New Hampshire Business Review

by Michael Kitch

June 10, 2025

What Trump's New Tax Bill Could Mean for Municipal Bonds - YouTube

JPMorgan raised its forecast for municipal bond sales in 2025 to $560 billion as US lawmakers deliberate over President Trump's "big, beautiful" tax and spending bill in the Senate.

Goldman Sachs Asset Management co-head of municipal fixed income Sylvia Yeh weighs in on what policy changes to the US tax code could mean for municipal bond investors, as well as valuation catalysts in comparison to Treasury yields (^TYX, ^TNX, ^FVX).

Goldman Sachs manages several municipal bond ETFs (GMUB, GCAL, GMNY, GUMI).

Watch video.

Yahoo Finance

Jun 10, 2025

A Town's Single Largest Taxpayer Is Also Its Biggest Headache.

An empty shell for years, the mall in Lanesborough, Mass., shows how difficult it is to redevelop malls in smaller towns.

In its heyday, the Berkshire Mall was the place to go in Lanesborough, Mass., drawing huge crowds of enthusiastic shoppers and producing plenty of tax dollars for the small town.

"There were times you could not find a parking place in this mall — inside, it was packed," said Timothy Sorrell, a town selectman and former police chief in rural Lanesborough, which has a population of about 3,000. For teenagers in particular, it was the place to hang out.

"It was to the point where if we had to throw a kid out of the mall, it was like we were taking away Christmas," Mr. Sorrell said. "They would actually cry. It was almost the end of the world for them."

Continue reading.

The New York Times

By Jim Zarroli

June 15, 2025

TAX - OHIO

State ex rel. New Carlisle v. Clark County Board of Elections

Supreme Court of Ohio - March 11, 2025 - 178 Ohio St.3d 289 - 258 N.E.3d 361 - 2025-Ohio-814

Relator, a city, filed mandamus action against county board of elections and its director, seeking an order requiring board to place city's proposed income tax levy on primary and special election ballot.

The Supreme Court held that:

- City lacked adequate remedy in ordinary course of law absent writ of mandamus ordering board to place city's proposed levy on ballot;
- Provision governing the levying of municipal income tax in excess of one percent only required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on; and
- Board of elections "clearly disregarded applicable law" by improperly requiring city to pass ordinance before submitting it to voters and, thus, city was entitled to writ of mandamus ordering board to place proposed levy on ballot.

City lacked "adequate remedy" in ordinary course of law absent writ of mandamus ordering county board of elections to place city's proposed income tax levy on primary and special election ballot, where election was less than two months away at time of decision.

Statutory provision governing the levying of municipal income tax in excess of one percent does not require municipality to file with board a "copy of the ordinance" that city had already enacted and wanted to present to municipality's electors for passage but, rather, only requires municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on.

Statutory provision governing the levying of municipal income tax in excess of one percent required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on, despite contention that it was possible for both city council and city's voters to "pass" the ordinance; under provision, ordinance to levy excess municipal income tax could not be effective unless it was first approved by voters.

Statutory provision governing the levying of municipal income tax in excess of one percent required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on, despite contention that provision called for "a copy of the ordinance," not a copy of the "proposed ordinance," to be filed with board; ordinance the municipality had to submit to board with resolution under provision was necessarily a "proposed ordinance," because ordinance could not be passed without voter approval, such that absence of word "proposed" to describe ordinance referred to in provision was immaterial.

County board of elections "clearly disregarded applicable law," when it refused to place city's proposed income tax levy on primary and special election ballot, by improperly requiring city to pass ordinance before submitting it to voters and, thus, city was entitled to writ of mandamus ordering board to place levy on ballot; governing statutory provision only required city to timely file with board a resolution directing board to conduct election on specified date, as well as copy of ordinance the city's electors would be voting on.

TAX - PENNSYLVANIA

CCP Berks, LLC v. Berks County Board of Assessment Appeals

Commonwealth Court of Pennsylvania - April 1, 2025 - A.3d - 2025 WL 969825

Property owner appealed decisions by county board of assessment appeals affirming valuation of five

parcels of real property for property tax purposes, and school district intervened.

After owner sold property to purchaser, who joined appeals and then resold property to third party, the Court of Common Pleas consolidated appeals, and denied school district's motion to strike discontinuance filed by owner and purchaser. School district appealed.

The Commonwealth Court held that:

- District was not required to file own tax assessment appeal in same proceeding as owner and purchaser's appeal in order to challenge discontinuance;
- Trial court could consider prejudice to district caused by discontinuance using rule of civil procedure as guidance; and
- Allowing unilateral discontinuance would deprive district of statutory appeal right.

School district, which intervened in its capacity as taxing district, was not required to file its own appeal in the same proceeding as former property owners' appeal in order to move to strike owners' praecipes to discontinue appeal challenging prior years' tax assessments; the school district retained an interest notwithstanding the filing of the discontinuance by former property owners, and school district was entitled to protect that interest by proceeding to a hearing, regardless of whether former owners continued to participate.

Orrick: Increasing Frequency of Incorrect IRS Notices to Tax-Exempt Bond Issuers Raises Concerns

In recent months, issuers of tax-exempt bonds have been facing an unexpected challenge: incorrect notices from the Internal Revenue Service (IRS) claiming that their Forms 8038 are being filed without the required signature. This issue, which has persisted for several months, appears to be escalating in frequency, causing confusion and concern among bond issuers and their legal advisors.

Issuers of tax-exempt bonds must file a version of Form 8038 with the IRS after every tax-exempt bond issue. The form is required to be filed to establish the tax-exempt status of the bonds. The erroneous notices suggest that the form was submitted without a signature, a critical error that could jeopardize the bond's tax status and result in substantial fines for late filing.

These notices have caused additional confusion and frustration among issuers and their bond counsel, as they often refer to time periods that cannot be matched to any specific return. Moreover, many issuers have filed multiple Form 8038s around the time indicated on the notice, yet the IRS fails to specify which form the notice pertains to. Generally, issuers and bond counsel have been able to confirm that all filed forms submitted around that time period were indeed signed when submitted, indicating a systemic error on the part of the IRS.

Efforts to resolve the issue have proven challenging. Issuers and bond counsel have attempted to contact the IRS using the customer service number provided on the notices but have found little success resolving their issue. When multiple forms were filed in the same period, customer service agents have been largely unable to assist and are unable to identify the specific Form 8038 for which the notice was generated.

The increasing frequency of these erroneous notices has raised concerns about the IRS's processing systems and the potential impact on issuers' operations. For many, the notices have resulted in additional administrative burdens, requiring them to verify their submissions and, in some cases,

resubmit forms to ensure compliance.

Orrick has been in communication with IRS personnel regarding these incorrect notices. During phone conversations, IRS representatives acknowledged awareness of the issue but indicated that there is currently no estimate for when it will be resolved and requested the patience of the bond community while its works towards a resolution.

In the meantime, issuers who receive an IRS notice stating that their Form 8038 or Form 8038-G was received without a signature should send the notice to their bond or tax counsel for assistance responding to the notice (or not).

May.27.2025

Orrick, Herrington & Sutcliffe LLP.

Tourism and Tax Revenues: An Overlooked Link to Municipal Bonds.

International travel plays a key role in the stability of the municipal bond market. Explore how a slowdown in tourism can impact revenue bonds, local budgets, and investor sentiment.

As investors in the municipal bond space, we spend much of our time tracking rate movements, credit trends and fiscal policy. But one external force that could quietly reshape state and local government finances, and in turn, the municipal bond market, is a slowdown in international tourism to the United States. For many municipalities, foreign visitors represent a critical stream of tax revenue. When that revenue disappears or declines meaningfully, the impact can cascade from local budgets to bond markets, particularly for investors exposed to certain kinds of revenue-backed debt.

Why International Tourism Trends Matter for the Municipal Bond Market

International travelers aren't just sightseeing, they're spending. And that spending translates into real dollars for states and cities through sales taxes, hotel and occupancy taxes, and transportation-related levies. Places like Florida, New York, Nevada, and California depend heavily on this activity to fund essential services.

In Florida, for example, state sales tax collections topped $36 billion in fiscal year 2023, equal to more than 70% of the state's general revenue according to the Florida Department of Revenue. Similarly, hotel taxes are a core revenue source in cities like Las Vegas and New Orleans — revenue that declines in lockstep with falling occupancy rates. Add to this the transportation-related taxes from rental cars and ride-hailing services in tourist-heavy metros like San Francisco or Los Angeles, and you begin to see just how embedded tourism is in municipal fiscal health.

Continue reading.

vaneck.com

by Michael Cohick
Director of Product Management

June 02, 2025

Kutak Rock: Tax Reform Passes Ways and Means Test

On the Hill

Around 8:00 a.m. (ET) this morning, the House Ways and Means Committee voted to approve its tax reform legislation. While there were spirited discussions on several issues during the almost 17-hour session, the tax-exempt status of bonds did not come up. All proposed amendments were rejected in favor of maintaining the language as initially released on Monday.

The legislation as just passed by Ways and Means:

- Provides a 12.5% allocation increase for 9% LIHTC transactions for 2026-2029
- Lowers the bond financing requirement from 50% to 25% for 4% LIHTC deals for 2026-2029
- Designates Indian areas and rural areas as "Difficult Development Areas" and adds 30% boost in basis for 2026-2029
- Permanently extends increased individual alternative minimum tax exemption amounts and phase-out thresholds
- Permits the full expensing for domestic manufacturing structures during year placed in service
- Renews, extends and modifies eligibility for another round of Opportunity Zones
- Allows the Treasury Secretary to suspend the tax-exempt status of any organization that the Department of Treasury determines has provided more than a minor amount of support to a listed terrorist organization

What This Means for Tax-Exempt Bond Issuers

Continue reading.

Kutak Rock LLP

May 14, 2025

SALT Cap Hike Risks Denting Muni Appeal in New York, California.

A long-awaited House bill could dull the allure of municipal bonds in some states by tripling the federal deduction limit to $30,000, even as the legislation looks to keep the securities tax exempt.

Filers are currently limited to deducting no more than $10,000 of their state and local taxes (SALT) on their federal tax forms. That has helped buoy demand for tax-exempt debt sold in higher-tax states such as California, New York and New Jersey. Lifting the cap to $30,000 would make such debt less appealing to investors, potentially weighing on prices for bonds sold in those states, wrote Abby Urtz, head of product strategies and economics at FHN Financial, in a report Tuesday.

"Any increase in the SALT cap would be positive for credit quality in high tax areas but negative for spreads in these places as it would create less incentive to shelter income from taxes," Urtz wrote.

States and cities sell tax-exempt bonds to pay for infrastructure upgrades on roads and bridges, school buildings, water and sewer systems, hospitals and mass transit. When investor demand for the debt declines, yields on the securities rise, increasing borrowing costs for public-works projects.

The House Ways and Means Committee released the tax bill on Monday. It allows the deduction for individuals making less than $200,000 and households earning less than $400,000. President Donald Trump in 2017 placed the $10,000 cap on the deduction, with that limit set to expire next year. Federal lawmakers are seeking to approve the bill sometime this year.

Raising the limit can benefit states. A higher limit helps states by giving their residents tools to ease their federal tax burden, said Matt Fabian, partner at Municipal Market Analytics.

“The SALT deduction is really about giving states operating flexibility,” Fabian said. “It’s giving the states a first crack at taxing their residents’ incomes.”

States are bracing for potential cuts in federal spending. The tax bill proposes states taking on more of the cost for the Supplemental Nutrition Assistance Program, known as food stamps. Republican lawmakers are also seeking to reduce Medicaid spending.

The deduction helps strengthen states’ credit quality and a higher cap could help states if the federal government pulls back on aide and grant funding.

“With all of the credit pressures coming for states, any little bit of additional operating flexibility allowing them to raise taxes a bit more or to relieve the economic burden from their current tax rates is all good,” Fabian said.

Bloomberg Markets

By Michelle Kaske

May 13, 2025

Tax-Exemption on Muni Bonds ‘Untouched’ in House Tax-Cut Plan.

Public finance lobbyists and bankers breathed a sigh of relief as the key federal subsidy underpinning municipal bonds appeared unscathed in a bill House tax writers released Monday.

The tax package released by the House Ways and Means Committee doesn’t include material changes to tax-exempt municipal bond financing. Most muni bonds pay interest that’s exempt from federal tax. Bankers and borrowers have warned for months that the tax break was at risk as lawmakers look for ways to raise revenue to offset the cost of extending President Donald Trump’s 2017 tax cuts.

“We are thrilled the House Committee on Ways and Means recognizes the importance of the tax-exemption and left the critical infrastructure financing tool untouched in its initial tax draft,” Brett Bolton, a spokesperson for the Bond Dealers of America, which represents securities dealers and banks, said in an emailed statement.

Still, he added that lawmakers have “plenty of sticky and expensive issues to work through in the coming weeks, so now is not the time to take the foot off the gas.”

The industry has been lobbying for months to safeguard the exemption. They have been spooked since the start of the year when a menu of potential spending cuts listed ending the tax-exempt status on municipal bonds as one of the options to raise revenue.

Plus, at least one adviser to Trump has spoken out against the exemption while the president himself has threatened to strip Harvard University's tax-exempt status.

"It appears the exemption lives to fight another day and most likely make it to another election season where we may go through this exercise I fear, once again," said Eric Kazatsky, municipal strategist for Bloomberg Intelligence.

Bloomberg Markets + Politics

By Shruti Singh and Amanda Albright

May 12, 2025

NYT: Republican Agenda Hits Familiar Obstacle: State and Local Taxes

A small group of Republicans is threatening to torpedo President Trump's agenda over the state and local tax deduction, long a headache for both parties.

It was perhaps inevitable that the Republican effort to pass a vast fiscal package this year would, at some point, get caught up in the thicket of the state and local tax deduction.

After all, the deduction, often called SALT, has long had the potential to cause a political standoff. Many G.O.P. lawmakers abhor it and, in 2017, imposed a $10,000 limit on the amount of state and local taxes Americans can write off on their federal returns. But to pass a tax bill this year, the party will need the support of a motivated clutch of Republicans who have made lifting that cap the animating promise of their political careers.

Those lawmakers, who represent high-tax states like New York and New Jersey where the deduction is cherished, say they are willing to tank the package over the issue. Representative Nick LaLota, Republican of New York, can already visualize voting against the bill.

Continue reading.

The New York Times

By Andrew Duehren
Reporting from Capitol Hill

May 9, 2025

I.R.S. Revenue Procedure 2025-18: Average Area Purchase Prices - Kutak Rock

On April 16, 2025, the IRS published Rev. Proc. 2025-18, which sets out the new (2025) average area purchase prices for mortgage revenue bonds and mortgage credit certificates (from those purchase prices an issuer then calculates the average area or targeted area purchase price limits, using the 90% or 110% factors). Below is a copy of the IRS Release, with a link to the Rev. Proc. itself which has all the new purchase price limits.

We have developed a short summary of the Rev. Proc. available here.

The Rev. Proc. is the same basic Rev. Proc. used by the IRS in previous years, although obviously with up-to-date numbers and different effective and transition dates.

Kutak Rock LLP

Client Alert | April 17, 2025

Last Week's Big Beautiful Budget Framework: A Potential Lifeline for the Tax-Exemption

Continued Advocacy Needed: There is no time to relax. To maintain improvements to U.S. infrastructure, advocacy and educational efforts in support of the tax-exemption must persist without slowing down. Although the threat has dropped, it will continue until Dec. 31, 2025. Additionally, future deficit reduction talks could pose an even stronger threat to the municipal bond tax-exemption after 2025.

Reduced Threat to the Tax-Exemption: The risk of eliminating the municipal bond tax-exemption has significantly decreased to around 10% for state and local governments if lawmakers target only $1.5 trillion in spending cuts, though the threat to private activity bonds remains high at 50% or greater.

Continue reading.

advisorhub.com

by Tom Kozlik, HilltopSecurities

April 17, 2025

Former Banker in Congress Sticks Up for Muni-Bond Tax Break.

A group of Republicans is standing up for the municipal tax-exemption, threatening a possible revenue raiser for their party's marquee tax bill this year.

In a letter addressed to Chairman Jason Smith of the Ways and Means Committee, seven GOP lawmakers on the Financial Services Committee lauded municipal bonds as a "critical tool that has underpinned American infrastructure and community development for over a century." They warned about the fallout if the exemption were to go away.

"We caution against any measures that could have unintended consequences on the municipal bond market for thousands of local governments and the constituents they serve," wrote US Representative French Hill, who serves as chairman of the House Financial Services Committee, in the letter dated April 11. "Preserving access to tax-exempt financing is especially critical for smaller and rural issuers, who often lack alternative pathways to affordable capital."

Continue reading.

Bloomberg Markets

By Arvelisse Bonilla Ramos, Zach C Cohen, and Amanda Albright

April 15, 2025

WSJ: Muni Tax Break Garners Key Support

Good news for state and local government bondholders: key House Republicans don't want to mess with the muni market.

The $4 trillion market finances local infrastructure like high schools, roads and sewers. Narrowing the tax break on muni bond interest was one way Congress in 2017 considered paying for the original round of Trump tax cuts.

While that plan got scrapped, some investors and local budget officials had worried that current negotiations to extend the cuts—as part of President Trump's "big, beautiful bill"—would pick it up again.

But in a letter Friday to Chairman Jason Smith of the powerful Ways and Means Committee, Financial Services Committee chairman French Hill cautioned against "any effort to eliminate or significantly curtail" muni bonds' tax-exemption. Reps Bill Huizenga, Andy Barr, Ann Wagner, Frank Lucas, Daniel Meuser and Mike Flood also signed the letter.

The Wall Street Journal

By Heather Gillers

TAX LIENS - CONNECTICUT

Cazenovia Creek Funding I, LLC v. White Eagle Society of Brotherly Help, Inc.

Supreme Court of Connecticut - April 15, 2025 - A.3d - 2025 WL 1085249

Holder of municipal tax liens, which were originally assigned to holder's predecessor in interest by city collector of revenue, brought foreclosure action against owner of real property.

The Superior Court granted holder's motion for summary judgment as to liability. Another holder was substituted as plaintiff, and subsequent holder was later substituted as plaintiff. The Superior Court rendered a judgment of foreclosure by sale, and owner appealed. The Appellate Court affirmed, and owner filed petition for certification of appeal. The Supreme Court granted petition.

The Supreme Court held that:

- Substitute lienholder met prima facie burden of establishing ability to foreclose on liens;
- Language in city council meeting agendas and minutes did not preclude assignment of tax liens for two years' grand lists;
- Liens for two years prior to fiscal year referenced in city council's meeting agendas and minutes could be encompassed in that specific fiscal year;
- City council was not required to authorize predecessor's subsequent assignment of lien to

substitute lienholder;
- Supreme Court could not determine whether trial court ruled in favor of substitute lienholder as to three of six special defenses asserted by property owner; and
- Any claims related to procedural irregularities in proceedings were deemed waived by property owner.

Substitute holder of municipal tax liens met its prima facie burden of establishing its ability to foreclose on the liens, where holder submitted certification documents including certified copies of certificates of continuing tax liens for taxes due on property relating to grand lists for two years.

Language contained in city council meeting agendas and minutes, which referenced assignment of tax liens for specific fiscal year, did not preclude assignment of tax liens for prior and subsequent years' grand lists, as required for substitute holder of municipal tax liens to have ability to foreclose on liens; city council was not required to specifically enumerate grant list year as opposed to fiscal year, governing statute section did not use terms "fiscal year" or "grand list," and although meeting agendas and minutes referenced "fiscal year," actual resolutions approved by council did not contain "fiscal year" language, instead providing for assignment of all tax liens by tax collector to secure unpaid property taxes.

Tax liens for two years prior to specific fiscal year referenced in city council's meeting agendas and minutes could be encompassed in that specific fiscal year, as required for substitute holder of municipal tax liens to have assignment of and ability to foreclose on liens; taxes assessed in connection with grand list for two years before specified fiscal year would not have been overdue until specified fiscal year, and assignment of tax liens from grand lists for two years prior to specified fiscal year were approved within two years of those grant list years.

City council was not required to authorize predecessor's subsequent assignment of municipal tax lien to substitute holder of lien, as would render subsequent assignment invalid, where assignments at issue were executed approximately six to seven years before legislature amended governing statute section to add requirement of prior written consent of subsequent assignment by city council.

Supreme Court could not determine whether trial court ruled in favor of substitute holder of municipal tax liens, in rendering judgment of foreclosure on liens by sale of real property, regarding three of special defenses asserted by owner of foreclosed property in response to holder's complaint, where trial court granted holder's motion for summary judgment as to liability, as well as on three special defenses raising question of whether holder had authority to bring tax foreclosure action, and trial court at least implicitly appeared to have considered and ruled on remaining special defenses related to liability, but there was no written memorandum of decision from trial court, given that no trial was held after summary judgment motion, and there was no clear articulation of the record.

Any claims related to procedural irregularities in proceedings wherein substitute holder of municipal tax liens obtained judgment of foreclosure by sale were waived by owner of real property subject to that foreclosure, where owner had responded to the complaint and asserted six special defenses, to which holder never replied and was never required to reply by the trial court, the trial court noted in granting holder summary judgment as to liability that three of those special defenses relating to liability would be subject of a trial, but no trial followed motion for summary judgment, and owner never objected to procedural irregularities.

TAX - LOUISIANA

University of New Orleans Research and Technology Foundation, Inc. v. White

Court of Appeal of Louisiana, Fourth Circuit - March 6, 2025 - So.3d - 2025 WL 719913 - 2024-0472 (La.App. 4 Cir. 3/6/25)

Parish tax assessor and city finance director appealed decision of the state Board of Tax Appeals, which found that taxpayer's four buildings located in research and technology park near state university were exempt from ad valorem taxes or property taxes under state constitution.

The Court of Appeal held that:

- Taxpayer was entitled to exemption from ad valorem or property taxes under state constitution;
- Taxpayer's activities, not its tenants' activities, were required to be examined to determine if taxpayer complied with statutory directives regarding dedication of property to a legislatively recognized public purpose and public use; and
- Taxpayer's president and chief executive officer's testimony was not inadmissible hearsay.

Taxpayer's four buildings located in research and technology park near state university were statutorily dedicated to a legislatively recognized public purpose and public use, and thus were exempt from ad valorem or property taxes under state constitution; under statute defining public purpose and public use of research and technology parks, legislature provided non-profit corporations, like taxpayer, with special powers necessary to accomplish that public purpose, as long as taxpayer used powers to accomplish that purpose, it was engaged in a public use for purposes of the tax exemption, and legislature gave taxpayer and university the discretion to forge connections between tenants and university in a way that best accomplished the public purpose of the park.

Taxpayer's activities at its four buildings located in research and technology park near state university, not its tenants' activities, were required to be examined to determine if taxpayer complied with statutory directives regarding dedication of property to the legislatively recognized public purpose and public use of research and technology parks, as required for taxpayer's buildings to be exempt from ad valorem or property taxes under state constitution; taxpayer's president and chief executive officer testified how taxpayer and university screened tenants to assure that they would be in harmony with taxpayer's legislative mission and how taxpayer monitored their activities to bring about as much collaboration with university as possible, and that testimony was uncontradicted.

Taxpayer's president and chief executive officer's testimony regarding activities and statements of tenants of taxpayer's four properties located in research and technology park near state university was not inadmissible hearsay with respect to taxpayer's entitlement to exemption from ad valorem or property taxes under state constitution, where president's testimony was based on her own personal knowledge or taxpayer's records.

NASBO: Governors Recommend a Wide Variety of Tax Changes for Fiscal 2026

View the NASBO article.

TAX - MICHIGAN

Sixarp, LLC v. Township of Byron

Supreme Court of Michigan - March 26, 2025 - N.W.3d - 2025 WL 921773

Taxpayer, a packaging company, sought judicial review of order of Michigan Tax Tribunal (MTT), granting township's motion for summary disposition based on lack of subject-matter jurisdiction, and denying taxpayer's due process claim relating to alleged failure of township's assessor to notify taxpayer about taxpayer's appeal rights and to provide an adequate explanation for denial of taxpayer's application for eligible manufacturing personal property (EMPP) exemption in connection with personal property taxes for some of taxpayer's manufacturing equipment.

The Court of Appeals reversed and remanded. Township moved for leave to appeal to the Michigan Supreme Court, which was granted.

The Supreme Court held that:

- Taxpayer did not satisfy statutory requirements for MTT to exercise jurisdiction; overruling *Parkview Mem. Ass'n v Livonia*, 183 Mich App 116, 454 N.W.2d 169;
- Tax assessor's notice sufficiently stated reason for denial of exemption;
  Denial notice sufficiently advised taxpayer that denial was required to be appealed to Board of Review to preserve rights to appeal to MTT;
- Township's assessor provided statutorily-accurate information to taxpayer's agents to file written letter appeal; and
- Fact that taxpayer was not advised of requirement to file a combined document with appeal either in denial notice or by tax assessor did not deprive taxpayer of due process.

Township's assessor denied application for eligible manufacturing personal property (EMPP) exemption in connection with personal property taxes for some of taxpayer's manufacturing equipment before Board of Review met, and taxpayer failed to file an appeal of denial with Board, and thus taxpayer did not satisfy statutory requirements for Michigan Tax Tribunal (MTT) to exercise jurisdiction over taxpayer's claims related to denial, so that taxpayer was required to demonstrate that MTT deprived taxpayer of right to due process to invoke Supreme Court's judicial power to waive the jurisdictional requirements; MTT had no equitable power to waive or otherwise disregard a statutory requirement or filing deadline, and thus had no authority to grant taxpayer's exemption request; overruling *Parkview Mem. Ass'n v Livonia*, 183 Mich App 116, 454 N.W.2d 169. U.S. Const. Amend. 14; Mich. Const. art. 1, § 17; Mich. Comp. Laws Ann. §§ 205.735a(3), 211.9m(2)(c) (2017), 211.9m(3) (2017), 211.9n(2)(c) (2017), 211.9n(3) (2017).

Kutak Rock: Capitol Connection Preserving Tax-Exempt Bonds

It is no surprise that 2025 is a big year for tax reform. Many of the provisions in the Tax Cuts and Job Act (TCJA) are expiring, and negotiations are already under way for how to extend them. Once again, tax-exempt bonds may be in jeopardy.

With this focus on tax reform and its important implications for you, Kutak Rock is dedicated to

keeping you informed and actively engaging on this issue.

We'd like to introduce you to Capitol Connection – our platform for connecting our clients and community to the rapidly changing discussions in Washington, D.C. and, most immediately, how tax reform could impact the tax-exempt bond industry.

What You Need to Know

The Senate spent Friday evening debating its revised budget framework. As passed on Saturday, it moves the Senate away from the two-bill strategy toward a one-bill strategy–the approach preferred by the House. We anticipate considerable debate this week as the House picks up where the Senate left off. Bottom line: the timeline for tax reform appears to be accelerating.

At Kutak Rock

While specific pay-fors of tax reform have yet been identified in detail, private activity bonds could be at risk, as they were in 2017, and tax-exempt municipal bonds are not immune from threat either. We know tax-exempt bonds are vital to your business, and if they are restricted or eliminated, the impact could be monumental. That's why it's more important than ever to closely monitor what is happening and proactively advocate for the preservation of tax-exempt municipal and private activity bonds during this year's tax-reform season.

Kutak Rock Advocacy

To lead this charge, Kutak Rock has engaged an outside lobbying firm to help advocate for these financing tools and closely monitor the day-to-day tax policy discussions. The lobbying firm has a track record of success impacting legislation, advancing policy positions, building relationships with federal stakeholders, and navigating the government budget process. Often, they are in the room while decisions are being made. Through this partnership, you can expect us to communicate regularly about what's happening on Capitol Hill and provide information on tax reform negotiations as they happen.

Advocacy is the cornerstone of progress. At some point we may reach out with a call to action. By sharing your voice and lived experience, you can help policymakers understand the real-life impact of their decisions on the vital services, support and infrastructure that their constituents rely on.

We look forward to working with you in the coming months as we focus on these advocacy efforts. If you have questions or are interested in learning more about our advocacy efforts, please reach out to your Kutak Rock attorney or a member of Kutak Rock's Tax Reform Advocacy Group at taxreform@kutakrock.com. You may also visit us at www.kutakrock.com.

Publications – Client Alert | April 7, 2025

Muni Bankers Look to Woo Treasury, Trump Team to Keep Tax Break.

A group of public finance bankers, who have so far largely focused their attention on Congress, are now reaching out to the Trump administration to make their case for keeping state and local government debt tax free.

The Bond Dealers of America plans to meet next month with the Treasury Department's public

finance unit and is working to set up sessions with other Trump administration officials, according to Brett Bolton, a spokesperson for the Washington-based lobbying group representing securities dealers and banks.

Local governments, bankers and investors have been on alert since the federal tax break landed on a list of items up for the chopping block as Republicans seek ways to raise money to extend President Donald Trump's 2017 tax cuts. Congressional GOP who returned to Washington Monday will be negotiating a tax bill package this week to deliver those reductions. The muni tax exemption — seen as the underpinning of the public finance market — is among the top 30 federal tax expenditures, according to the Bipartisan Policy Center.

Continue reading.

Bloomberg Markets

By Shruti Singh

March 25, 2025

Paying for Trump's Tax Cut With Bigger Potholes.

Scrapping an exemption for municipal bonds to fund the president's agenda would amount to an effective increase in local levies for many.

Much of politics boils down to a fight over who pays for what. One live, if under the radar, debate about the looming Republican tax bill and municipal bonds certainly fits that description. But it also goes way beyond, encompassing the physical fabric of daily life and the financial fabric of local democracy.

Muni bonds, a $4.1 trillion market, are the lifeblood of state and local spending, as well as quasi-public entities such as non-profit hospitals and charter schools. Interest paid on these bonds has been tax exempt forever — as have attempts to overturn that. Now a combination of the explosion in federal debt since 2008 plus Republicans' search for offsets to extend the 2017 tax cuts present a potentially powerful catalyst.

A leaked GOP menu of potential tax-cut 'pay-fors' projected that ending the muni exemption would save $250 billion over 10 years. Stephen Moore, an economic whisperer to President Donald Trump, recently re-floated the idea of closing this "loophole." Meanwhile, Scott Greenberg, tax counsel to the House Ways and Means Committee, is a former think-tanker who happened to write a prominent anti-muni-exemption paper in 2016. "The threat is real," says Matt Fabian, partner at Municipal Market Analytics Inc., a research firm.

Continue reading.

Bloomberg Opinion

By Liam Denning

Liam Denning is a Bloomberg Opinion columnist covering energy. A former banker, he edited the Wall Street Journal's Heard on the Street column and wrote the Financial Times's Lex column.

March 28, 2025

Muni Market's Moment of Truth: Tax-Exemption in Question

The tax-exemption status of municipal bonds faces growing uncertainty as policymakers consider major tax changes. While risks loom, attractive yields offer strategic opportunities for investors.

Fixed income markets are no fan of indecision or uncertainty. And here we are, mid-March, mired in a sea of uncertainty. Specifically, in the view of municipal investors, there are more reasons for concern now than in any other major market sector. The existential threat to the future of tax-exempt finance has heightened this uncertainty, making municipal bonds a focal point for policymakers and investors alike.

The Future of the Tax-Exemption Unanswered
Municipal investors are watching closely as discussions unfold in Washington, where both the House and Senate finance committees are weighing significant changes that could reshape tax-exempt finance. Some of the key questions on the table include:

- Will the benefit of the federal exemption be capped at 28% or eliminated entirely?
- Will the potential cap apply to all outstanding bonds or only those issued after a certain date?
- Could tax exemption for municipal bonds be legislated out of existence altogether?

Continue reading.

vaneck.com

March 25, 2025

What are the Odds that FanDuelDraftKingsBet365 Can Save Tax-Exempt Bonds? - Squire Patton Boggs

A document leaked earlier this year and attributed to the House Ways and Means Committee included the repeal of tax-exempt bonds[1] as a source of revenue to help defray the cost of extending the provisions of the Tax Cuts and Jobs Act that otherwise will expire at the end of 2025. Apoplexy ensued.

This consternation is fueled by the notion that Congress has the untrammeled authority to prevent states, and the political subdivisions thereof, from issuing obligations the interest on which is excluded from gross income for federal income tax purposes. This notion appears to ignore a line of precedent that culminated in making Bet365, DraftKings, FanDuel, et al. indistinguishably omnipresent.

Curious? Read on after the break.

Continue reading.

The Public Finance Tax Blog

By Michael Cullers on March 27, 2025

Squire Patton Boggs

How Do States Tax Exempt-Interest Dividends?

Exempt-interest dividends, often paid by municipal bond funds, are generally free from federal taxes. However, they may still be taxed at the state level. How states tax exempt-interest dividends depends on factors like the investor's residency and where the bonds were issued. Some states exclude dividends from in-state municipal bonds while taxing those from out-of-state issuers. Others tax all exempt-interest dividends regardless of origin.

What Are Exempt-Interest Dividends?

Exempt-interest dividends are distributions from mutual funds that invest in municipal bonds issued by state and local governments to finance public projects. These dividends represent the tax-free interest earned by the fund on its bond holdings, which passes to investors. Unlike traditional dividends from stocks or taxable bond funds, exempt-interest dividends do not stem from corporate earnings but rather from government-issued debt instruments.

Continue reading.

SmartAsset Team

Wed, March 26, 2025

Is the Exemption for Interest on Municipal Bonds on Congress' Chopping Block?

The new administration and Congress are working towards an extension of the 2017 Tax Cuts and Jobs Act (TCJA), the bulk of which expires at the end of 2025. In late February, the House passed a spending bill (H. Con. Res. 119-4) to enable the extension, provided that Congress also identifies $2 trillion in spending reductions. Cutting that much spending will be a challenge.

Another way to offset the cost of extending the TCJA is through the closure of tax "loopholes." One such loophole under discussion is the exemption of interest on qualified state and local bonds from federal income taxation. The House Ways and Means Committee estimated that the elimination of the exemption will raise up to $250 billion in additional income tax revenue over the upcoming 10 years.

The elimination of the exemption must be carefully considered because, according to the Public Finance Network (PFN), state and local governments are responsible for 90 percent of all public infrastructure spending and over 80 percent of that spending is financed with tax-exempt bonds. Non-profit organizations and multi-family housing providers also rely on tax-exempt bond financing to finance the construction and renovation of facilities such as hospitals, schools, and affordable housing developments.

Continue reading.

by Arthur Anderson

March 26, 2025

Spilman Thomas & Battle, PLLC

APPA Updates Tax Advocacy Materials, Launches Webpage Focused on Municipal Bonds.

APPA Updates Tax Advocacy Materials, Launches Webpage Focused on Municipal Bonds

The American Public Power Association has launched a municipal bond advocacy page that includes a summary of its key messages on the issue, links to related news, and links to supporting documents.

The webpage includes:

- APPA's municipal bond issue brief;
- Analysis by the Government Finance Officers Association on the margin between taxable and tax-exempt debt; and
- A Public Finance Network primer on tax-exempt financing.

The page will soon be amended to add access to a University of Chicago report providing data on outstanding municipal bond issuances for every state and every congressional district.

The webpage can be found here.

APPA said it continues to work with stakeholders on tax-exempt financing and elective payment of energy tax credits.

It is encouraging its member utilities to proactively engage with congressional offices to advocate for the continued use of tax-exempt financing and elective payment of energy tax credits.

With respect to elective pay, APPA has begun circulating on Capitol Hill a "one-pager."

The document includes a talking point style one-pager, a graphic showing the difference for project ownership and financing of an elective pay project and a power purchase agreement; and a list of public laws and introduced legislation demonstrating the history of Republican and Democratic support for credit monetization.

American Public Power Association

by Paul Ciampoli

March 19, 2025

Trump Adviser Calls to End Muni Tax Break in Threat to Market.

Stephen Moore, an informal economic adviser to President Donald Trump, floated eliminating the federal tax subsidy for municipal bonds, a concerning sign for the market where states and cities raise debt.

Local governments, as well as bankers and investors, have been worried that the key feature of the public finance market could be at risk as Republicans search for ways to raise money to extend 2017 tax cuts. Muni bonds pay interest that's exempt from federal taxes, costing the government roughly $40 billion each year. The subsidy is one of the top federal tax expenditures, according to the Bipartisan Policy Center.

"It's in play," Moore said in an interview. "This is a big tax bill, and there need to be offsets."

He said eliminating the subsidy aligns with Republican efforts to "broaden" the tax base and is more "politically plausible" than in prior years because it would directly impact wealthy investors.

Continue reading.

Bloomberg Markets

By Zach C Cohen and Amanda Albright

March 21, 2025

TAX - ILLINOIS

Village of Arlington Heights v. City of Rolling Meadows

Supreme Court of Illinois - March 20, 2025 - N.E.3d - 2025 IL 130461 - 2025 WL 865177

Village brought action against neighboring city to recover sales tax revenues generated by business located within village that had been misallocated to city.

The Circuit Court granted city's motion to dismiss for lack of subject-matter jurisdiction.

Village appealed. The Appellate Court reversed. City filed petition for leave to appeal to Supreme Court, which was granted.

The Supreme Court held that circuit court lacked subject-matter jurisdiction over action, overruling *Village of Itasca v. Village of Lisle*, 352 Ill.App.3d 847, 288 Ill.Dec. 35, 817 N.E.2d 160.

Circuit court lacked subject-matter jurisdiction over action brought against neighboring city by village seeking to recover sales tax revenues generated by business located within village that had been misallocated to city; statutory framework provided Department of Revenue (DOR) exclusive jurisdiction to determine sales tax misallocation disputes; overruling *Village of Itasca v. Village of Lisle*, 352 Ill.App.3d 847, 288 Ill.Dec. 35, 817 N.E.2d 160. 20 Ill. Comp. Stat. Ann. 2505/2505-25; 30 Ill. Comp. Stat. Ann. 105/6z-18; 35 Ill. Comp. Stat. Ann. 120/3, 120/4, 120/8.

Barron's: Munis' Tax-Exempt Status Could Be at Risk. What It Means for Investors

Heads up, municipal bond investors: Amid all the Trump 2.0 policy proposals, there is one you should be aware of: The potential for munis to lose their tax-exempt status. "Eliminate Exclusion of Interest on State and Local Bonds" is listed on page 9 of a 50-page House Budget Committee document prepared in January that lists some 200 ways the government could raise extra funds to offset the impact of extending the 2017 Trump tax cuts.

That doesn't mean it's going to happen, or is even likely, but uncertainty around the budget process has been enough to dent the muni market and worry investors, as well as state and local government officials who rely on the bonds to fund their infrastructure projects.

"The muni market abhors uncertainty," says Dan Close, head of municipals at Nuveen. Excess supply has been an issue, but tax policy uncertainty has played a part, he says.

Muni fund managers say members of Congress understand the value of the tax exemption when it comes to funding projects in their districts, making removal of the exemption unlikely. While the House budget document estimates that eliminating the exemption would add $250 billion to federal coffers over 10 years, the Public Finance Network says it would cost cities and states $824 billion in higher borrowing costs. Those costs would be passed onto households as a $6,555 tax increase over the next decade, the network projects.

Yet sometimes bad policy moves get through Congress, says Craig Brandon, who co-heads the muni investment team at Morgan Stanley Investment Management. "Budgets happen in the middle of the night, when no one has slept and they've been drinking coffee for 24 hours," he says. "Things you normally wouldn't do can happen just because you need to get a budget deal done."

Given that, it's worth considering some scenarios for how changes to the muni exemption could impact investors.

If a change were retroactive so it applied to existing bonds—considered highly unlikely—muni yields would jump to near taxable peers, says Jason Appleson head of PGIM Fixed Income's municipal bond team. There's now about a 1.25-percentage-point spread between taxable munis and tax-free munis, which, assuming a 10-year duration, means a theoretical 12.5% decline in value for the tax-free munis, since bond prices move inversely to yields. "A full repeal would destroy a lot of household wealth," he says.

It's more likely—though still considered quite unlikely—that tax-exempt status would be grandfathered in for existing munis. In that case, scarcity value could lead to a rise in demand, but legacy tax-free muni yields wouldn't have much room to fall, says Wesly Pate, senior portfolio manager at Income Research + Management. Most yields are already at a level where only individuals in the highest tax brackets derive an after-tax return benefit.

"There's a floor on how low muni yields could go," says Pate. "Investors probably shouldn't expect a meaningful rally in the muni market if that was to occur."

There is a scenario where a limited repeal of tax exemption could lead to gains for holders of some grandfathered tax-free munis—in the hospital and higher-education sectors, for example. Those bonds have already taken a hit and could benefit from scarcity value, says Nuveen's Close. Overall, he says, the threat to the muni exemption "doesn't materially change how one ought to be investing in municipals, but everyone is taking it very seriously."

Barron's

By Amey Stone

March 21, 2025

Write to Amey Stone at amey.stone@barrons.com

The Possible Repeal of the Tax Exemption of Municipal Bond Interest.

You may have heard recently about proposals for Congress to remove the exclusion from gross income of interest on state and local bonds, usually referred to as "repealing the tax exemption on municipal bonds." This issue arose as a result of the leaking of a 51-page list of items to increase revenue or reduce expenses of the federal government being considered by the House Ways and Means Committee.

Various projections have been offered as to the effect on the federal budget and issuers of municipal bonds. The House Ways and Means Committee estimates the elimination of the tax exemption would generate $250 billion in revenue for the federal government over ten years. Some analysis has concluded that this would translate to an estimated $824 billion increase in borrowing costs for municipal bond issuers over the same period and create significant disruption in the municipal bond market. We at Bricker Graydon thought it might be helpful for us to take stock of where things stand currently.

About the only thing anyone knows for sure right now is that no legislation to repeal the tax exemption has been introduced in either the U.S. House of Representatives or the Senate. The absence of legislation does not mean that there is no threat. It just means that the nature of the threat is unknown. Many questions exist, a partial listing of which could include:

Continue reading.

by William Conard II & Price Finley

March 12, 2025

Bricker Graydon LLP

If Congress Makes Muni Bonds Taxable, What Could Happen To States And Cities?

House Budget Committee Republicans have identified eliminating the federal tax exclusion for interest earned on municipal bonds, or "Muni" bonds, as a large potential revenue raiser as Congress considers whether to extend expiring provisions of the 2017 Tax Cuts and Jobs Act (TCJA). By one estimate, this could raise $250 billion over ten years.

State and local governments rely on Muni bonds to finance long-term capital investments such as transportation infrastructure and public buildings. The municipal bond market is huge: By the end of 2024, its total valuation was estimated at $4.2 trillion, with new issuances of over $500 billion that

year.

What might be the consequences of ending tax exemption for Muni bonds for state and local governments and their residents?

How might the Muni bond market change?

Continue reading.

Tax Policy Center

by Thomas Brosy

March 13, 2025

TAX - MINNESOTA

County of Hennepin v. Hollydale Land LLC

Supreme Court of Minnesota - February 26, 2025 - N.W.3d - 2025 WL 610641

Landowner brought petition challenging county's assessment of seven years of deferred property taxes resulting from landowner's sale of golf course previously taxed under Minnesota Open Space Property Tax Law, which allowed for reduced taxes on qualifying recreational land.

The Tax Court denied county's motion to dismiss for failure to timely file tax appeal. County then petitioned for writ of certiorari.

The Supreme Court held that:

- Tax Court's interlocutory order denying county's motion to dismiss did not constitute "final order" conferring Supreme Court with jurisdiction to grant certiorari review of Tax Court's order, and
- Exercise of its discretionary authority was not warranted to review Tax Court's denial of county's motion to dismiss.

Tax Court's interlocutory order denying county's motion to dismiss, for failure to timely file tax appeal, a landowner's petition challenging county's assessment of seven years of deferred property taxes, due to landowner's sale of golf course previously taxed under Minnesota Open Space Property Tax Law, did not constitute "final order" conferring Supreme Court with jurisdiction to grant certiorari review of Tax Court's order.

Exercise of Supreme Court's discretionary authority was not warranted to review Tax Court's denial of county's motion to dismiss, for failure to timely file tax appeal, landowner's petition challenging county's assessment of seven years of deferred property taxes, due to landowner's sale of golf course previously taxed under Minnesota Open Space Property Tax Law; interests of judicial economy favored allowing the Tax Court to resolve merits of petition to avoid piecemeal litigation, and allowing Tax Court proceedings to continue would not impair any party's legal rights.

TAX - OHIO

State ex rel. New Carlisle v. Clark County Board of Elections

Supreme Court of Ohio - March 11, 2025 - N.E.3d - 2025 WL 758638 - 2025-Ohio-814

Relator, a city, filed mandamus action against county board of elections and its director, seeking an order requiring board to place city's proposed income tax levy on primary and special election ballot.

The Supreme Court held that:

- City lacked adequate remedy in ordinary course of law absent writ of mandamus ordering board to place city's proposed levy on ballot;
- Provision governing the levying of municipal income tax in excess of one percent only required municipality to timely file with board its resolution directing board to conduct election on specified date, as well as "copy of the ordinance" the city's electors would be voting on; and
- Board of elections "clearly disregarded applicable law" by improperly requiring city to pass ordinance before submitting it to voters and, thus, city was entitled to writ of mandamus ordering board to place proposed levy on ballot.

Fitch: Potential Medicaid Cuts Could Threaten Not-for-Profit Hospital Margins

Fitch Ratings-Chicago/Austin/New York-04 March 2025: Major cuts to Medicaid would negatively affect U.S. not-for-profit (NFP) hospital operating margins and revenues, Fitch Ratings says. Slower revenue growth or a revenue decline leading to sustained cash flow reduction could pressure ratings and potentially the sector outlook.

The House's recently passed budget proposal calls for $1.5 trillion-$3.0 trillion in spending cuts over the next decade. It includes a directive to the Energy and Commerce Committee to reduce spending by $880 billion over the next 10 years. The Senate will likely propose changes to the House plan, which would require another vote on a final budget resolution before work on budget details can commence.

Although the House plan does not mention specific programs, Medicaid and Medicare are the largest under the Energy and Commerce Committee's purview. Achieving the budget cuts would be difficult without changing Medicaid eligibility or Medicaid funding. It is uncertain what Medicaid changes, if any, will be in the final budget bill and how they would affect funding and enrollment. Approximately one in five Americans are covered by Medicaid.

A decrease in Medicaid reimbursement and/or an increase in uninsured care would hinder hospitals' nascent financial recovery from weak sector-wide post-pandemic performance due to higher labor costs and elevated inflation. Median operating margins, which are lower than pre-pandemic levels, are improving along with revenue growth due to increased patient volumes. However, lower revenues and higher unreimbursed expenses from more self-pay patients could reverse recent improvements. This is particularly true for hospitals with a higher share of Medicaid patients, which inherently have thinner margins.

NFP hospitals have limited ability to cut services, given operating constraints such as the obligation to serve all needing medical care. They also cannot pass through costs, as reimbursement rates are contracted with public and private insurance providers for set timeframes. Government reimbursement through Medicare and Medicaid programs are generally set annually by the Centers

for Medicare & Medicaid Services without negotiation.

Payor mix is an important component in our assessment of a hospital or healthcare system's revenue defensibility, a key driver of ratings under our Not-for-Profit Hospitals and Health Systems Ratings Criteria. Greater exposure to self-pay and Medicaid reimbursement reduces a hospital provider's capacity to recover its operating costs from other payor sources. Safety-net hospitals, with combined self-pay and Medicaid payers of more than 30% of gross revenues, have 'very weak' revenue defensibility. Providers with 25%-30% exposure have 'weak' revenue defensibility assessments.

The effects of any Medicaid cuts on NFP hospitals would depend somewhat on state Medicaid policies and other healthcare options. The Federal Medical Assistance Percentage (FMAP), the percentage of a state's Medicaid spending matched by the federal government, is generally tied to each state's wealth levels. A federal statute sets a FMAP floor of 50% for states with the highest per-capita income and a ceiling of 83%. The FMAP's significance depends on each state's total budget size and Medicaid spending, which vary based on factors like enrollee levels, composition, and reimbursement rates.

States may choose to allocate more of their own resources to Medicaid funding to mitigate the effects of federal cuts, or reduce benefits, eligibility, or provider payment rates. California, New York, Texas, Pennsylvania and Ohio, the states with the largest populations, receive the most federal Medicaid funding, according to KFF.

WSJ: The SALT Deduction Cap Is Due to Expire. How Taxpayers Can Prepare for What's Next.

Whether the deduction limit is raised, eliminated or extended, there are steps taxpayers can take to minimize their tax burden

As Congress debates tax policy this year, the state and local tax-deduction cap is in the crosshairs.

The SALT deduction cap is set to expire at year's end, along with a host of other tax-policy changes enacted as part of the Tax Cuts and Jobs Act of 2017. Currently, households that itemize may deduct up to $10,000 of property, sales or income taxes paid to state and local governments.

Before 2017, there was no limit to how much in state and local taxes taxpayers could deduct from their federally taxable income. This limit hit high-income people who live in states with high state and local tax rates, such as New York, California and Connecticut. To partially offset capping the state and local tax deduction, Congress doubled the standard deduction (currently $29,200 for married filing jointly)—causing many people who previously itemized and took the SALT deduction to use the elevated standard deduction.

President Trump on the campaign trail called for restoring the tax break. And several lawmakers on both sides of the aisle, primarily from high-tax states where residents are affected by the deduction cap, have proposed modifications, including doubling the current cap, increasing it to $20,000 for married filing jointly, or eliminating it.

It isn't clear how the SALT deduction cap will play out this year, but one of three scenarios will occur: it's modified, allowed to expire, or is made permanent. Whatever happens, here is how financial professionals say taxpayers can prepare.

1. The cap is modified

A modified cap may be the likeliest outcome, financial pros say, but how much it is adjusted matters.

For taxpayers in the highest tax bracket—currently 37%—who itemize their deductions, the SALT cap of $10,000 means a decrease of $3,700 on a tax bill. Some lawmakers suggest doubling the deduction to $20,000. That would decrease the taxpayer's bill by $7,400, says Jason Katz, wealth adviser and certified public accountant at Bartlett Wealth Management in Cincinnati.

While not insignificant, a $3,700 or $7,400 tax break may not make much of a difference for high-income earners. If the cap is lifted to $100,000 for single filers, which is one proposal, the tax cut is $37,000, or $33,300 more compared with current law, Katz says; the same proposal would increase the cap to $200,000 for married couples filing jointly, doubling the tax cut to $74,000. A higher cap could allow more people to itemize and make a bigger difference for high-income earners.

Once policy is made final, this may be the year that people who use tax preparers to file their annual taxes should schedule a fourth-quarter meeting to review how the new laws will affect them. If the policy is settled early enough, there are opportunities to maximize deductions by making moves such as postponing income or expenses for the following year, says Miklos Ringbauer, founder of MiklosCPA, in Southern California.

It's also a chance to do tax planning around major life events such as getting married, moving, or retiring now or in the next few years. Tax preparers can run scenarios that show different tax implications of these events and offer guidance to potentially reduce tax burdens.

2. The cap expires

If the SALT cap expires, state and local income taxes would be fully deductible again on Internal Revenue Service form Schedule A, where taxpayers itemize deductions.

Kat Grier, wealth adviser and CPA at Merit Financial Advisors in Atlanta, says taxpayers should watch the policy effective date, since state, local and property taxes are deducted in the year paid, which may differ from the year when they were assessed.

If policy reverts to pre-2017 levels on Jan. 1, 2026, for example, taxpayers should defer paying as much of their state income taxes as possible until January, says Bill Smith, national director of tax technical services at CBIZ's national tax office, in Washington, D.C. Taxpayers who opt for this strategy should keep in mind that there may be a penalty for underpayment of the 2025 state estimated tax payments; however, if the cap is eliminated, the penalty may be offset by a larger federal deduction in 2026.

Grier added that, if possible, people who directly pay their property taxes to their municipality instead of their mortgage company should also defer until January to capture the deduction. If the law is made to be retroactive to December, deferring payments won't matter, she adds.

Grier warns that eliminating the SALT cap won't be all good news if the income threshold for the alternative minimum tax—which was designed to reduce a taxpayer's ability to avoid taxes by using deductions or other tax benefits—reverts to previous levels. The current AMT income threshold is about $1.15 million for a married couple filing jointly, but pre-2017 the income threshold was $160,900. If the AMT income threshold reverts to previous levels, high-income taxpayers may see little benefit from SALT deductions.

3. The cap is made permanent

For formally employed, high-income people paid through a W-2 tax form who take the standard deduction, there are a few strategic ways to get over the threshold to start itemizing, Grier says. A common tactic is for taxpayers to increase their charitable deductions so that the combined deductions of mortgage interest, and state income and real-estate taxes gets them over the minimum to itemize.

A less common strategy is to look at unreimbursed medical and dental expenses to get over the threshold. If those unreimbursed costs are greater than 7.5% of a taxpayer's adjusted gross income, these can be deducted for taxpayers who itemize.

Business owners who are treated as partnerships for federal tax purposes, or are S corporations, may be able to use a pass-through entity, known as a PTET, to get a tax deduction, says Ringbauer. More than 30 states allow these tax elections, and they have state-specific rules.

Pass-through entities, which began as a workaround to the SALT cap, allow businesses the option to pay the state income tax on behalf of the business's owners and it is applied against the business's income and it becomes a business deductible expense. The taxpayer then can recognize the tax payment/credit on a state personal income tax return, which bypasses the Schedule A tax payments/SALT limitation calculation. States usually credit the owner's share of the tax paid by the business, giving the owners a way to deduct their state income taxes without the SALT cap restriction.

This deduction is only on income related to the profits from the business itself, so if a married couple has both W-2 income and flow-through business income on their state tax return, they can deduct only the business income on their state returns, Grier says. Setting up a PTET is complex, so it is best done by a tax professional.

The Wall Street Journal

By Debbie Carlson

March 4, 2025 10:00 am ET

Debbie Carlson is a writer in Chicago. She can be reached at reports@wsj.com.

AASHTO Supports Municipal Bonds, Raising PAB Cap.

The American Association of State Highway and Transportation Officials recently joined with the American Road and Transportation Builders Association in support of efforts to protect and preserve tax-exempt municipal bonds, as well as hike the volume cap on Private Activity Bonds or PABs – used by state departments of transportation to finance Public-Private Partnership or P3 projects.

AASHTO noted that PABs are a special class of tax-exempt bond that benefits private or non-governmental borrowers – bonds that can be issued by states, local governments, or housing authorities.

In a joint letter with ARTBA sent to Congressional leadership, AASHTO said the cap on PABs for qualified highway or surface freight transfer facilities should increase from the current $30 billion to $45 billion.

“PABs are a key financing tool to support private sector participation and investment in critical transportation infrastructure projects nationwide,” AASHTO and ARTBA noted in their letter. “P3s can help leverage federal and state funding by attracting private equity and debt, while encouraging efficiency and innovation in project design and delivery.”

The two organizations noted that providing private sector infrastructure developers and operators with access to tax exempt debt lowers the cost of capital for these large and expensive projects, enhancing their investment prospects.

PABs “remain a vital tool for infrastructure financing that supports every aspect of daily life and are critical in building and maintaining a strong economy for every citizen and business in the country,” AASHTO and ARTBA noted.

March 7, 2025

City Council Eyes 'Micro-TIF' Program for Individual Residential Properties.

Qualifying projects would be in areas of town under ‘blighted and substandard’ designation

After decades of approving tax-increment financing assistance for a variety of larger projects, the Hastings City Council now appears ready to extend TIF to everyday taxpayers making material improvements to their own residential properties.

Gathered Monday for their second regular February meeting at the Hastings Municipal Airport Terminal, Mayor Jay Beckby and council members directed staff members to draft a proposed resolution making “micro-TIF” financing available to qualifying property owners in redevelopment areas across the city.

According to the parameters suggested by staff, the micro-TIF assistance would be available to owners of residential property only, at least in the beginning.

Continue reading.

Andy Raun araun@hastingstribune.com

Feb 24, 2025 Updated Feb 25, 2025

Florida’s DeSantis Pushes Unusual Plan to Abolish Property Taxes.

Florida has no income tax, and now Governor Ron DeSantis is pushing a plan to eliminate the state’s property levies as well.

On Thursday, DeSantis again raised the idea of abolishing property taxes or rolling them back significantly, saying that Florida residents need relief — a message he has repeated in recent weeks.

“Property tax says that you never really own your property, because you have to pay rent to the government,” DeSantis said at a press conference, criticizing local governments for swelling their coffers with revenue from the state’s booming real estate market.

Continue reading.

Bloomberg Politics

By Anna J Kaiser

February 27, 2025

House GOP Ways and Means Member Aims to Protect Muni Tax Break.

- **Congressman Yakym supports reviving muni advance refundings**
- **But private-activity muni bonds likely to get a look, he says**

A Republican member of the House Ways and Means Committee said he's working to keep the federal tax exemption for municipal bonds intact as the chamber reconciles its budget framework with the Senate.

"We have to protect the tax exemption for our municipal bondholders full stop," Congressman Rudy Yakym, a Republican from Indiana, who also heads the House Municipal Finance Caucus, said in a telephone interview on Thursday. "The thing that we have to protect most is the municipal-bond status for cities and towns across the country."

Last month, a menu of spending cuts that circulated among House Republicans listed ending the tax-exempt status on municipal bonds as one of the options to extend certain tax cuts when they expire. That prompted municipal issuers and bankers to lobby lawmakers to keep the exemption that underpins the $500 billion-a-year debt market.

While many in the industry are worried about the pullback of the exemption, it hasn't been a discussion point on the Ways and Means Committee, which has jurisdiction over the federal tax code, Yakym said.

"It is being hotly debated but the hot debate is taking place — from my observation, my vantage point — outside the halls of Congress as opposed to inside," Yakym said. "As we look at the menu of options that are available to us, my goal in the committee is to ensure that municipal tax-bond exemption removal is not on that menu for discussion."

Yakym, who previously served on the Indiana Finance Authority, a conduit for municipal issuers to sell bonds, said he's seen firsthand the positive impact of the muni tax-exemption. It provides municipal borrowers, particularly the smallest towns, access to low-cost capital that they may not have otherwise to fix roads or sewer systems, he said.

Roughly $11 billion in municipal bonds are currently outstanding in Yakym's district, which includes South Bend. Without tax exemption, the cost of that debt could be at least $150 million higher a year, he said, based on estimates.

A niche within the broader municipal industry called "private activity bonds" may be subject to some scrutiny in terms of cost and impact, he said. Such debt can be issued by public agencies on behalf of colleges, hospitals, airports, affordable housing developers, and other entities.

Along with Representative David Kustoff, a Republican from Tennessee, Yakym is also advocating to revive a debt-refinancing tactic that allows state and local government borrowers to sell tax-exempt

muni bonds for so-called advance refundings. This provision was eliminated as part of the 2017 tax cuts.

The congressmen are now seeking co-sponsors for legislation introduced earlier this month, with the hopes of including the measure in budget reconciliation.

“We want to provide the opportunity for these municipalities to do advance refunding and to be able to refinance their debt successfully as interest rates continue to fall,” Yakym said.

Bloomberg Politics

By Shruti Singh

February 27, 2025

S&P U.S. Not-For-Profit Sector 2025 Outlook: Credit Quality Continues To Show Resiliency Despite Uncertainty

Sector View: Stable

- Credit quality for S&P Global Ratings rated U.S. not-for-profit entities remains stable owing to the continued operational recovery and growing financial resource strength across the sector.
- Consistent donor gifts and robust market returns in recent years have boosted endowments and investment pools, affording institutions greater flexibility to address current and future operating and strategic needs.
- Senior leadership teams have proven capable of effectively adapting to changing market demand for cultural and membership organizations.
- Despite cooling inflation from 12 months ago, most institutions face upward expense pressure partially due to continued labor market strength.

Continue reading.

24 Feb, 2025

Squire Patton Boggs: IRS Releases Latest Management Contract Private Letter Ruling

On February 7, 2025, the IRS released Private Letter Ruling No. 202506001 in which it concluded that a management contract providing an incentive fee equal to a percentage of gross revenues of a managed hotel and contingent on two metrics, one of which is a variant of net profits, did not constitute the sharing of net profits and so did not result in private business use.

Under the terms of the management contract at issue, the service provider receives a “base fee” and an “incentive fee” each equal to a percentage of gross revenues of the managed facility. This arrangement is not particularly notable. What is notable is that the incentive fee is triggered only if two conditions are met: (1) if revenue per room exceeds an industry average, and more interestingly, (2) if the annual excess of gross receipts over operating expenses of the hotel meets a specified

percentage. In concluding that the incentive fee does not constitute sharing of net profits under the facts and circumstances, the IRS reasoned that any increases or decreases in net profits do not result in proportional increases or decreases in the incentive fee. The incentive fee (if there is one) is fixed and predetermined. The IRS also noted that the timing of the payment of the incentive fee does not take into account net profits in that it is paid annually from a regularly funded operating account. Finally, the IRS noted that the incentive fee is "further distanced from net profits" due to the existence of the second metric which is not based on net profits.

Private Letter Ruling 202506001 is reminiscent of Private Letter Ruling 201145005 which also considered a management contract with an incentive fee contingent on a variant of net profits. The IRS determined there that that management contract was outside the safe harbor of Revenue Procedure 1997-13 but that its incentive fee did not represent a sharing of net profits.

By Robert Radigan on February 18, 2025

The Public Finance Tax Blog

Squire Patton Boggs

Posted in Management contracts/Rev. Proc. 97-13/Rev. Proc. 2016-44/Rev. Proc. 2017-13, Private Business Use

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Fitch Ratings Updates Rating Criteria for U.S. Not-For-Profit Life Plan Communities.

Fitch Ratings-New York-21 February 2025: Fitch Ratings has updated its rating criteria for U.S. not-for-profit life plan communities (LPCs), replacing the previous version of criteria from Aug.19, 2024.

The most notable changes include a clarification that Fitch comments on asymmetric risk factors only when they are present and a more precise explanation of the use of peer comparison as a tool to determine notch-specific rating outcome, which is a concept that was adopted from the recently revised U.S. Public Sector, Revenue-Supported Entities Rating Criteria (Revenue Master, pub. Jan. 10, 2025).

These revisions do not materially alter Fitch's approach to rating LPCs from the previous version. As such, Fitch expects no impact to existing LPC ratings.

Ending Muni Tax Break 'Would Be a Killer,' NYC MTA Official Says.

- **NYC's transit system relies on tax-exempt debt for upgrades**
- **MTA would need to cut borrowing by $3 billion absent exemption**

One of the biggest issuers in the municipal-bond market is warning it may need to scale back its borrowing plans if federal lawmakers eliminate the tax-exemption on municipal debt.

The Metropolitan Transportation Authority, which runs New York City's transit system, anticipates selling $13 billion of debt to help support its 2025—2029 capital plan. But the MTA would need to lower that amount to about $10 billion if the agency were forced to sell taxable bonds rather than

tax-exempt, according to Kevin Willens, the agency's chief financial officer.

"There's been discussion of eliminating tax exemption for public sector infrastructure projects, which would be a killer to our ability to raise capital," Willens said Monday during the MTA's finance committee meeting.

The MTA had $47.3 billion of outstanding debt as of Feb. 12, according to agency data. Its system of subway, bus and commuter rail lines relies on the municipal-bond market to keep its infrastructure in a state of good repair and to also rehabilitate a more than 100-year-old system that gets pummeled by extreme weather events.

"Unless we got additional revenue, we'd have to borrow less because debt service cost for every dollar borrowed would be higher," Willens said in an interview after Monday's committee meeting.

Tax-exempt debt helps finance public works projects throughout the US. Federal lawmakers are working on potential tax reform legislation that may limit the use of such borrowings or even eliminate it completely. Ending the tax benefit on municipal debt would cost states and local governments about $824 billion over a decade, according to a report by Public Finance Network, a collection of industry groups.

Bloomberg Markets

By Michelle Kaske

February 24, 2025

US Lawmakers Seek to Revive Early Refinancing for State, Local Governments.

- **Advanced refunding was cut as part of GOP's 2017 tax overhaul**
- **Bill comes as tax-exempt status of munis comes under threat**

A group of House lawmakers is seeking to revive a debt refinancing tactic for US state and local governments.

Legislation that would restore borrowers' ability to sell tax-exempt muni bonds for so-called advance refundings were introduced Wednesday by a bipartisan group including Representative David Kustoff, a Republican from Tennessee, according to a press release from his office. The federal subsidy offered on the refinancing tool, which allowed governments to refinance debt that can't yet be called back from investors, was eliminated as part of the GOP's 2017 tax overhaul.

"This bill will give state and local governments a critical financing tool to stimulate economic development, create jobs, and save taxpayer dollars," Kustoff said in a statement.

The four lawmakers who introduced the bill are members of the House Ways & Means Committee, which writes tax policy.

The move comes as the public finance market braces for potential further changes to the tax-exempt status on municipal bonds as part of Republicans' effort to extend tax cuts when they expire this year. Past efforts to bring back the federal subsidy for advance-refunding bonds haven't gone very

far.

“We are viewing introduction of this legislation at such a critical time as a big win for protection of the tax-exemption as it highlights the importance to committee leadership and will show the depth of support for munis on the Republican side of the aisle in Ways and Means,” said Brett Bolton, vice president of federal legislative and regulatory policy for the Bond Dealers of America, a Washington-based lobbying group representing securities dealers and banks.

Municipalities can still sell taxable bonds to refinance tax-exempt bonds, but that’s unfavorable to borrowers.

“Right now, states and local governments are facing higher borrowing costs because they can’t advance refund bonds to take advantage of lower interest rates,” said Representative Jimmy Panetta, a Democrat from California who co-sponsors the proposed legislation, in a statement.

Bloomberg Markets

By Amanda Albright and Shruti Singh

February 13, 2025

APPA Applauds Introduction of Bipartisan Legislation to Reinstate Tax-Exempt Advance Refunding Bonds.

The American Public Power Association on Feb. 13 said it applauds the bipartisan introduction of H.R. 1255, the Investing Our Communities Act of 2025, legislation to reinstate the ability to issue tax-exempt advance refunding bonds.

“This legislation will reduce costs and increase flexibility in financing the investments that keep the lights on in our communities,” said APPA President & CEO Scott Corwin. “This is an important improvement to an already potent tool: the tax-exempt municipal bond. Bonds finance more than three-quarters of the nation’s core infrastructure. They reduce costs for borrowers and are an incredibly valuable investment for millions of Americans, many of whom are fixed-income seniors.”

The bill is cosponsored by Rep. David Kustoff (R-TN), Rudy Yakym (R-IN), Gwen Moore (D-MI), and Jimmy Panetta (D-CA), all members of the House Committee on Ways & Means.

APPA is encouraging its members to contact their congressional offices in support of H.R. 1255 – to support the bill, but also to make the underlying case in support of tax-exempt financing.

American Public Power Association

by Paul Ciampoli

February 13, 2025

Summary of Tax Proposals in Leaked Document Detailing Policy Proposals:

Proskauer Rose

I. Introduction

On January 17, 2025, news sources reported that Republican members of Congress circulated a detailed list of legislative policy options, including tax proposals. This blog post summarizes some of the tax proposals and corresponding revenue estimates mentioned in the list.

II. Individuals

(a) SALT Reform Options

The $10,000 cap on the deductibility of state and local tax ("SALT") from federal taxable income for most non-corporate taxpayers is set to expire at the end of the year. The list includes several alternative proposals for SALT deductibility going forward.

- Repeal SALT Deduction: The SALT deduction would be repealed for individual and business tax filers. This would raise $1 trillion over ten years, as compared to extending the current TCJA deduction cap.
- Make $10,000 SALT Cap Permanent but Double for Married Couples: The current TCJA deduction cap for individual and business tax filers would remain, but the cap would be raised for married couples to $20,000 at an estimated cost of $100-200 billion over 10 years, as compared to extending the current TCJA deduction cap.
- $15,000/$30,000 SALT Cap: The current SALT deduction cap would be increased to $15,000 for individual taxpayers and $30,000 for married couples, with an estimated cost of $500 billion over 10 years, as compared to extending the current TCJA deduction cap.
- Eliminate Income/Sales Tax Deduction Portion of SALT: Only property taxes would be eligible for the SALT deduction, and the deduction would not be capped. This proposal would cost $300 billion over 10 years, as compared to extending the current TCJA deduction cap.
- Eliminate Business SALT Deduction: This policy option would eliminate the SALT deduction for business filers only, while maintaining the TCJA deduction cap for individuals. It would raise $310 billion over 10 years.

Continue reading.

Proskauer Rose – Robert A. Friedman, Rita N. Halabi, Martin T Hamilton, Christine Harlow, Malcolm Hochenberg, Mary McNicholas, David S. Miller and Amanda H Nussbaum

February 12 2025

Bankers Flood DC to Protect Tax-Free Debt for States and Cities.

- **Proposal to end tax break is unnerving public finance market**
- **Some are concerned the lobbying efforts will fall short**

Public finance bankers are descending on Capitol Hill Thursday to defend an existential part of the municipal bond market — keeping state and local debt tax free.

A group of underwriters are warning of the real-world consequences if the federal subsidy underpinning the $500 billion-a-year-debt market is eliminated. Last month, a lengthy menu of

spending cuts circulated among House Republicans listed ending munis' tax-exempt status as a way to help pay for extending President Donald Trump's 2017 tax cuts.

It's hard to ascertain just how likely this is to get through Congress — all the chatter in Washington right now is about Elon Musk's rapid push to gut government spending — but even a remote possibility is enough to cause alarm among muni bankers and borrowers. Without the exemption, which allows wealthy investors to collect tax-free interest income on muni bonds, the market would almost certainly shrink. Investors would demand higher interest rates to offset the new taxes, forcing some of the riskier borrowers out of the market in the process.

Continue reading.

Bloomberg Markets

By Amanda Albright and Shruti Singh

February 6, 2025

TAX - MICHIGAN

Heos v. City of East Lansing

Supreme Court of Michigan - February 3, 2025 - N.W.3d - 2025 WL 377503

Electricity consumer filed class action complaint against city alleging, among other things, that new 5% "franchise fee" charged to in-city consumers by utility provider and remitted to city was unlawful tax that violated Headlee Amendment of state constitution, which required voter approval for new taxes.

The Circuit Court granted summary disposition for consumer on Headlee Amendment claim. The Court of Appeals reversed and remanded. Consumer applied for leave to appeal in Supreme Court.

The Supreme Court held that:

- Franchise fee was "tax" requiring voter approval pursuant to Headlee Amendment, and
- Consumer was "taxpayer," rather than simply member of public.

New franchise fee charged to in-city electric consumers by utility provider and remitted to city was used for general revenue-raising purpose, as factor weighing in favor of determination that franchise fee was "tax" requiring voter approval pursuant to Headlee Amendment of state constitution; revenue from franchise fee did not correspond with consumer-specific benefits that city provided relating to provider's supply of electrical services, city provided no benefit specific to consumers in exchange for payment of franchise fee, and revenue collected from franchise fee was placed into city's general fund and could be used for any purpose that city deemed appropriate.

New franchise fee charged to in-city electric consumers by utility provider and remitted to city was not proportional to costs city incurred for granting provider right to provide electrical services, as factor weighing in favor of determination that franchise fee was "tax" requiring voter approval pursuant to Headlee Amendment of state constitution; franchise fee did not fund and was not collected for purpose of providing electrical services, but revenues from franchise fee were instead put into city's general fund and spent for variety of purposes unrelated to provision of any benefit specific to consumers.

New franchise fee charged to in-city electric consumers by utility provider and remitted to city was not voluntary, as factor weighing in favor of determination that franchise fee was "tax" requiring voter approval pursuant to Headlee Amendment of state constitution; consumers' electricity could be shut off for failure to pay franchise fee, and provider was only provider that covered portions of city so consumers did not have alternative option.

Electricity consumer was "taxpayer," rather than simply member of public, and thus Headlee Amendment claim accrued, and one-year limitations period began to run, when franchise fee was due, rather than when franchise fee was enacted, with respect to consumer's claim that new franchise fee charged to in-city electric consumers by utility provider and remitted to city was unlawful tax that violated Headlee Amendment of state constitution; consumers bore legal incidence and obligation to pay franchise fee because their electricity could be shut off for failure to pay and they had no alternative providers, and city required provider's consumers to pay franchise fee to provider, which was required by contract to collect and remit such taxes to city.

TAX - CALIFORNIA

Howard Jarvis Taxpayers Association v. Coachella Valley Water District

Court of Appeal, Fourth District, Division 2, California - January 31, 2025 - Cal.Rptr.3d - 2025 WL 353700

Taxpayer association filed second amended petition and putative class action complaint against water district, alleging charge that district assessed for non-agricultural water violated state and federal Constitutions, and seeking declaratory judgment, writ directing district to stop enforcement of charge structure and refund of all amounts collected.

The Superior Court issued first order finding charge violated provision of state Constitution limiting types of local property taxes that were allowed. Thereafter, the Superior Court issued second order awarding damages of approximately $17.5 million per parties' agreement, and issued third order dismissing putative class without prejudice. District appealed.

The Court of Appeal held that:

- Customers sustained economic injury, as required for standing of association as customers' representative;
- District failed to demonstrate that charge did not exceed proportional cost of providing non-agricultural customers water, thus, constitutional provision excluding proportional fees from definition of tax did not apply;
- Constitutional provision excluding from definition of tax charges imposed for government service provided directly to payor that did not exceed costs did not apply to charge;
- Water charge was not excluded from definition of tax on basis charge was used to pay some expense of providing water;
- Provision of the Health and Safety Code permitting actions against city or county did not apply, thus, association's claims were governed by the Government Claims Act;
- Customers were entitled to refund of payments made pursuant to charge; and
- Injunction requiring district to comply with state Constitution's provision defining types of property taxes allowed and excluded was overbroad.

TAX - CALIFORNIA

Alameda County Taxpayers' Association v. County of Alameda

Court of Appeal, First District, Division 5, California - January 31, 2025 - Cal.Rptr.3d - 2025 WL 354424

County taxpayers' association and individual and retail taxpayers brought action against county, raising challenges to validity of sales tax adopted by county voters pursuant to ballot measure.

The Superior Court sustained demurrers without leave to amend as to all challenges to tax and issued judgment. Taxpayers' association and taxpayers appealed.

The Court of Appeal held that:

- Court would grant request for judicial notice as to reporter's transcript of hearing and deny it as to video recording and transcript of meeting;
- Measure was not special tax;
- Association and taxpayers failed to demonstrate trial court abused discretion in denying them leave to amend complaint;
- Association and taxpayers failed to demonstrate ballot materials profoundly misled electorate;
- Measure did not raise aggregate sales tax above statutory limit, even if exemption did not apply to measure; and
- Bills that enacted sales tax cap exemptions were not unconstitutional special legislation.

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