
Tax-Exempt Bond Group Not Affected by TE/GE Reorganization.

The tax-exempt bond group of the IRS Tax-Exempt and Government Entities Division will be unaffected by the recently announced TE/GE reorganization, Rebecca Harrigal, director of tax-exempt bonds at TE/GE, said March 27.

Responding to an audience question at the National Association of Bond Lawyers' Tax and Securities Law Institute in Boston about whether counsel functions will be moved from the tax-exempt bond (TEB) group of TE/GE, Harrigal said there will be no change in the TEB group because TEB uses the chief counsel financial institutions and products (FIP) branch 5 and the chief counsel TE/GE as TEB Counsel.

The IRS announced March 20 that it will move some legal functions, including those responsible for issuing published guidance, from the TE/GE Division to the IRS Office of Chief Counsel.

"FIP Branch 5 will do the revenue rulings, letter rulings, and TAMs [technical advice memoranda]," Harrigal said. "They have always done that and there is no change there."

According to Harrigal, TEB uses TE/GE as their field counsel, by helping prep TAMs, among other functions. "We have within TEB some subject matter experts, and in 2009 we had a significant hiring where we brought in a lot of attorneys, but they have never supplanted what the FIP and TE/GE counsel does for us," Harrigal said. "So there will be no change in TEB's operations."

Closing Agreements

Harrigal said that under her leadership, TEB now has a closing agreement team that is designed to ensure consistency and enforceability and to be proactive in the closing agreement area. Closing agreements are how TEB resolves a vast majority of their cases, she said.According to Harrigal, the closing agreement team looks at all the nonstandard closing agreements for consistency and enforceability. "If there are terms in there that are new, we have a procedure and administration person look at it as a member of the closing agreement team. Because we have them as an ad hoc member, there isn't the lengthy coordination process we would normally face.

"We found that it is working very quickly and we are turning these closing agreements around very quickly," Harrigal said.

The group also creates standard closing agreement terms, Harrigal said, "so when a closing comes in we can pop those terms in [the agreement] so [the field agents] don't reinvent the wheel."

The closing agreement team is also trying to be proactive with the market, Harrigal said. If the team is seeing matters that will be a problem for a significant number of issuers, they will look at consistent resolutions they can put in place before the issuers start getting into problems.

The closing agreement team will consist of members of the field office, FIP branch 5, and IRS Office of Associate Chief Counsel (Procedure and Administration).

Currently, the closing agreement team will not negotiate nor sign off on closing agreements, although this could potentially change as the team develops over time, Harrigal said.

by William R. Davis

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