[Bond Case Briefs]

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[IRS Gives Authority More Time to Spend QZAB Proceeds.]

WASHINGTON - An authority can have additional time to spend proceeds of its qualified zone academy bonds after there were “unforeseen circumstances” such as contractor disputes, permitting delays and development plan changes, the Internal Revenue Service has ruled.

The IRS reached its conclusion in a private letter ruling that was dated Dec. 18 but not released until Friday. The PLR did not identify the issuer or other parties and did not give specific dates. It was signed by James Polfer, chief of the tax exempt bond branch of the IRS chief counsel’s office.

QZABs are tax credit bonds whose proceeds can be used to finance renovations, equipment, course materials and teacher training at public schools or academic programs in them that meet certain requirements. The IRS chief counsel’s office has granted a number of extensions to spend the proceeds of QZABs and other tax credit bonds, which are supposed to be spent within three years of issuance.

The issuer in the ruling is an authority that is an instrumentality of a state. The authority designs and constructs facilities for lease to the state and its agencies and municipalities.

The authority issued QZABs whose proceeds were to be spent on rehabilitating and repairing public schools in the state. The authority initially expected to spend all available project proceeds within three years.

However, the authority now doesn’t expect to complete the rehabilitation efforts within three years because of “unforeseen circumstances” at some of the public schools. The unexpected events included major contract disputes with contractors, delays in the permitting process, the state’s re-designating some schools as historic buildings, and altered development plans due to significant and unexpected population migration, according to the ruling.

The authority expects to spend all of the bond proceeds by about 10 months after the original expenditure period expires. It requested an extension before the three-year period ends.

Under federal tax law, 100% of available project proceeds for QZABs, qualified school construction bonds and other taxcredit bonds must be spent within three years of issuance and any proceeds unspent in that time period must be used to redeem the bonds.

Before the original expenditure period expires, issuers can request additional time to spend the proceeds. An extension can be granted if the issuer establishes that there’s a reasonable explanation for why the proceeds won’t be spent within the original time period and that “the expenditures for qualified purposes will continue to proceed with due diligence.”

The IRS chief counsel’s office concluded in the ruling that the district met the criteria for an extension, and it granted the district an approximate 10-month extension.

The Bond Buyer

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