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[Why Is an Indianapolis Authority Settling a Rebate Dispute with the IRS?]

WASHINGTON – The Indianapolis Airport Authority said this week that it has agreed to settle a dispute with the Internal Revenue Service over rebate liability in connection with $347 million of tax-exempt bonds, even though it disagrees with the IRS' position on the bonds.

"Although the authority disagrees with and has opposed the field office's position, the authority and the Internal Revenue Service have agreed to a settlement of the dispute that will close the examination with no change to the tax exempt status of the bonds," authority officials wrote in an event notice posted on the Municipal Securities Rulemaking Board's EMMA website on May 6. The authority said in the notice that the settlement agreement is to be executed on May 20.

Robert Thomson, the senior finance director for Indianapolis Airport Authority, declined to comment on the details of the proposed settlement, saying it hasn't been reviewed yet by the authority's board.

But Thomson said the disagreement centered on the interpretation of the federal tax law related to "replacement proceeds." When certain material terms of bonds are changed, the bonds can be considered to be newly issued to replace the earlier bonds so that they become subject to the latest tax laws.

Thomson added that the IRS examination was a "normal review" rather than an audit. Thomson said the IRS opened its examination of the bonds in 2013.

In the event notice, the airport authority officials stressed that neither it nor the bond bank had received a Notice of Proposed Issue from the IRS as of May 6.

"There was a difference in interpretation of the law," Thomson said. "We've ultimately been working on this for three years. It's been a while — lots of meetings and lots of data, so we said, 'Let's come to a settlement. Let's not continue this investment of services and time.'" The IRS requires issuers to pay a rebate at least every five years and after the final maturity of the bonds. Failure to comply with federal rebate requirements can lead to the loss of tax-exempt status of the bonds.

The $347 million of tax-exempt Series 2006F were issued by the bond bank, which loaned the proceeds to the airport authority. The proceeds were to be used to purchase airport revenue bonds issued by the authority, pay for the cost of issuance of both the 2006F bonds and series 2006A Authority bonds, and pay for certain program expenses of the bond bank, according to the official statement for the bonds. The authority issued $42.8 million in Series 2006G taxable bonds at the same time.

The proceeds of the Series 2006A authority bonds were used to fund the airport authority's 2001-2010 capital improvement program for the airport system, including the development of a 1.2 million-square-foot midfield passenger terminal.

The Series 2006F and G bonds were underwritten by a syndicate led by City Securities, Inc. Ice Miller LLP and Coleman Graham & Stevenson, LLC served as co-bond counsel and First Albany Capital Inc. was financial advisor for the issue.

The bond bank is independent of the city of Indianapolis and the airport authority, according to the official statement for the 2006 bonds. Its purpose is to "buy and sell securities of 'qualified entities'" and is governed by a board of five directors appointed by the mayor of Indianapolis. The bond bank routinely serves as the conduit issuer for the airport's bond deals.

The airport authority, the owner and operator of Indianapolis International Airport, in March cancelled a proposed $500 million medical center and sports complex that would have been developed on the site of the airport's former terminal. The proposal, which was seen as too ambitious by the board, included several medical office buildings and a 20,000-seat sports stadium.

Indianapolis International Airport served nearly 8,000,000 passengers in 2015, according to the Federal Aviation Administration. It also serves as a hub for FedEx Express.

The Bond Buyer

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