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Will It Soon Be Game over for Tax-Exempt Financing of Professional Sports Stadiums?

Public financing, including tax-exempt bond financing, of facilities used by professional sport teams has long been a controversial topic, with advocates and opponents disagreeing over whether the public benefits sufficiently to justify public subsidies. Since 2000, over $3.2 billion of tax exempt bonds have been issued to finance the construction and renovation of 36 sports stadiums.

A bill has been introduced that would eliminate the availability of federally tax-exempt bonds for stadium financings. Under existing tax law, use of a stadium by the applicable professional sports team constitutes "private use," but taxable "private activity bond" status, which is triggered by "private use" of the financed facility combined with the presence of "private security or payment" for the applicable bonds, can be avoided by structuring the bonds to be payable from tax or other revenues unrelated to the financed stadium.

The bill would amend the Internal Revenue Code to treat bonds used to finance a "professional sports stadium" as automatically meeting the "private security or payment" test, thus rendering any such bonds taxable irrespective of the source of payment.

This bill is identical to a version introduced in the House of Representatives in February and a slight departure from prior versions in the House that extended the exclusion from tax-exempt financing to a broader category of "entertainment" facilities.

What's new this time? There are versions of legislation intended to terminate tax-exempt financing of professional sports stadiums in both the House and Senate, arguably evidencing an increased likelihood of advancement.

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