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The Constitution Prevails as the Political Subdivision Regulatory Project Gets Trumped.

July 7, 2017 witnessed a once-in-a-career moment for any tax practitioner. On that date, the Treasury Department released Notice 2017-38, which acknowledged that eight regulatory projects are unduly burdensome and should be reconsidered for modification or repeal – a rare display of administrative modesty. Included in the list of burdensome regulations are the proposed regulations that would re-define the term "political subdivision" for purposes of which entities can issue tax-exempt bonds under Section 103 of the Internal Revenue Code (the "Political Subdivision Proposed Regulations," which we have previously analyzed here, here, here, here, here, and here).

The Political Subdivision Proposed Regulations are indeed unduly burdensome and therefore merited inclusion in Notice 2017-38. As discussed below, the Political Subdivision Proposed Regulations are also of dubious constitutionality.

Continue reading.

The Public Finance Tax Blog

by Michael Cullers

July 12 2017

Squire Patton Boggs

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