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Muni Bonds for Private Activities May Get Some Love From Congress.

- **More expensive borrowing for airports, hospitals, housing**
- **House's Brady questions subsidies paid by 'every taxpayer'**

It now appears that the tax bill's approach to private-activity municipal bonds may be more nuanced.

I conclude this after reading Rep. Kevin Brady's remarks on Tuesday: "I think there's agreement that private activity bonds can play an important role," he said.

And then: "I think private activity bonds have drifted far afield from their original mission. There is a simple test: What are those activities that must be subsidized by every taxpayer?"

On Nov. 2, the House released its version of tax reform, and that included doing away with tax credit bonds, advance refundings, private activity bonds and tax-exempt stadium financing. The Senate's version sought to end only advance refundings.

The House and Senate are now reconciling their two versions of the future of the municipal market, and most analysts seem to be resigned to the loss of advance refundings and confident in the survival of private activity bonds.

Rep. Brady seems to be saying, "Not so fast. Maybe some private activity bonds are okay, but some are not."

As for "their original mission," what we call private activity bonds are really the modern-day expanded versions of industrial development bonds, sold for the benefit of corporations and 501c3 nonprofits.

IDBs have been driving Congress crazy for generations. In 1953, Senator John F. Kennedy, in a speech in Chattanooga, inveighed against the use of IDBs to lure New England manufacturers to Tennessee.

"Why are such securities exempted from federal income taxes when they are issued for a proprietary rather than a for a public purpose?" the future president asked. "I am hopeful that southern spokesmen and statesmen will assist me in my efforts to plug up this federal loophole."

An amendment to prohibit these kinds of bonds passed the House, but wasn't included in the final 1954 tax bill. Congress revisited IDBs in 1968 and, as Joan Pryde pointed out in her chapter on assaults on tax-exemption in the Bond Buyer centennial edition, established a private-use test, "which rendered municipal bond interest taxable if more than 25% of the proceeds of an issue were used to benefit private business." But it exempted bonds sold for stadiums, convention centers, airports, parking facilities and pollution control. Since then, Congress has made further tweaks.

Let's face it: the "origin" of IDBs was to encourage local economic development. Far more troubling

was the second part of Rep. Brady's statement: "What are those activities that must be subsidized by every taxpayer?"

Good question, and one that inspires some real soul-searching. I guess we'll see how Congress answered it very soon. There were reports last night that private activity bonds would be saved, but until I see it in a printed version of the new bill, I am skeptical.

Bloomberg clients: We'll be doing a TOPLive Q&A on Thursday, December 14 at noon ET, moderated by Taylor Riggs, in which you can ask Joe Mysak questions about the municipal supply deluge, tax reform, what next year may hold for the sector and more. You can watch it here. If you want to ask a question, please send it to TOPLive@bloomberg.net

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