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IRS Revises Rate for “Taxpayer Exposure” Penalty Calculations.

When you enter into a closing agreement with the IRS to fix a problem with a tax-exempt bond issue, the IRS will often require a penalty payment in an amount relating to the “taxpayer exposure” on some or all of the bond issue. Taxpayer exposure “represents the estimated amount of tax liability the United States would collect from the bondholders if the bondholders were taxed on the interest they realized from the bonds during the calendar year(s) covered under the closing agreement,” as section 4.81.6.5.3.1.1 of the Internal Revenue Manual says. To make this estimate of the tax that the IRS would’ve collected on the bonds, one must choose an appropriate hypothetical tax rate. In the past, the IRS has typically used 29% as tax rate, representing the IRS’s approximation of the average investor’s highest tax bracket.

On July 16, the IRS modified this hypothetical tax rate for interest on tax-exempt bonds accruing in tax years after 2017, in a memorandum from Christie Jacobs, the Director of the Indian Tribal Governments and Tax-Exempt Bonds section of the IRS.

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The Public Finance Tax Blog

By Johnny Hutchinson on July 17, 2018

Squire Patton Boggs