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IRS Offers Tax-Exempt Bond Issuers More Flexibility.

The IRS is offering expanded periods in which state and local governments may purchase and hold their own exempt qualified tender bonds and tax-exempt commercial paper.

In [Notice 2020-25](#), 2020-22 IRB 1, the IRS said May 4 that it is providing the added flexibility to help government bond issuers adapt to changing financing needs during the coronavirus pandemic.

The change applies for purposes of [sections 103](#) and [141](#) through [150](#), and the notice says an exempt qualified tender bond or exempt commercial paper purchased by its governmental issuer on a temporary basis will be treated as continuing in effect without resulting in a reissuance or retirement of the bond if the issuer buys it during the permitted holding period and holds the bond no later than the end of the holding period.

“The governmental issuer may refund the purchased bond with a refunding bond, tender the purchased bond for purchase in a qualified tender right in its capacity as a bondholder, or otherwise resell the purchased bond” during the permitted holding period, the IRS said.

Regarding the purchase of a particular obligation of exempt commercial paper, including a purchase at maturity, “a refinancing of that purchased tax-exempt commercial paper with tax-exempt commercial paper during the permitted holding period will be treated as part of the same issue as the issue of which the purchased tax-exempt commercial paper was a part,” the IRS said.

The notice is effective May 4, 2020, and issuers may apply it retroactively to purchases on or after January 1, 2020.

Emily Swenson Brock of the Government Finance Officers Association said the group’s members are glad to see the IRS relief.

“States and local governments across the country have had to rethink public processes as a result of this pandemic, and we are happy that the IRS/Treasury is thinking outside the box as well,” Brock said. “Additionally, relief as it pertains to a potentially costly and burdensome reissuance process due to self-liquidity is a meaningful acknowledgement by the IRS.”

Phone It In

The IRS also announced May 4 that it is temporarily allowing public approval hearings on qualified private activity bonds to take place by telephone.

Between now and December 31, 2020, a public hearing on qualified private activity bonds held via teleconference (toll free) will satisfy the requirement that the conference be convenient for residents of the approving governmental unit, the IRS said in Rev. [Proc. 2020-21](#), 2020-22 IRB 1.

The IRS added that governmental units may also offer greater access to hearings by providing other telephone numbers or through internet-based meeting technology.

The guidance received high marks from the National Association of Bond Lawyers (NABL) and other public finance organizations.

“NABL applauds the IRS responding to the COVID-19 crisis by providing clarity regarding the ability to hold telephone public hearings and providing relief regarding issuers’ ability to provide self-liquidity,” NABL President Richard J. Moore said in a statement to Tax Notes.

Moore, a partner at Orrick Herrington & Sutcliffe LLP, also praised “the retroactive nature of this guidance, given that some issuers have been adapting to the COVID-19 crisis for almost two months now.”

NABL is studying the guidance and may have further suggestions, Moore said, adding that if conditions warrant, it may request extensions of the relief periods.

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