

# **Bond Case Briefs**

*Municipal Finance Law Since 1971*

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## **GFOA Publishes Best Practices on Issuing Taxable Debt: Arent Fox**

**The Government Finance Officers Association's (GFOA) Executive Board approved several best practices and advisories this month, including GFOA's Best Practice on Issuing Taxable Debt.**

A link to the best practices is [here](#).

The GFOA Taxable Debt Best Practice cites the globalization of the capital markets, the elimination of tax-exempt advance refunding in the Tax Cuts and Jobs Act of 2017, and tax-exempt financing tax rules, including restrictions on private business use of bond-financed facilities as having led to increased taxable municipal debt issuances.

The Best Practices contains good, common-sense advice, including:

- Evaluate applicable federal, state, and local debt issuance legal requirements, particularly, if applicable, "lending of credit" restrictions if private entities are expected to use the bond-financed facility;
- Know the market for taxable debt, including types of investors, structural features, and size requirements needed to attract investor interest;
- Consider structural features that may provide long-term benefits, such as hyper-amortization and early call provisions;
- And, if refunding an outstanding bond issuance, weigh the advantages and potential costs of a taxable advance refunding if in a low-interest-rate environment versus waiting to currently refund the issue on a tax-exempt basis, including the uncertainty of the future interest rate environment.

The GFOA Taxable Debt Best Practice is a quick read and a good basic framework for issuers to start from when considering issuing taxable debt. It bears noting that many municipal bond professionals are cautiously optimistic that a Federal infrastructure bill will include various bond-friendly provisions, including reinstating tax-exempt advance refundings. If such a provision were enacted, issuers would not only be able to advance refund bonds in a low interest rate environment, but depending on the facts, might once again be able to do so on a tax-exempt basis.

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