

Bond Case Briefs

Municipal Finance Law Since 1971

UBS's Botched Muni Statements Cost Clients Millions, Suit Says.

- **Bank error allegedly inflated muni investors' taxable income**
- **Suit says UBS won't issue corrected statements to all clients**

UBS Financial Services cost clients "at least tens of millions of dollars" by incorrectly reporting tax information to holders of taxable municipal bonds, a lawsuit alleges.

The bank, which oversees more than \$90 billion of municipal bonds, didn't report amortizable bond premium on forms clients use to prepare tax returns, resulting in "substantial" overstatement of taxable income and overpayment of taxes, according to a proposed class action suit filed on Tuesday in New Jersey federal court.

U.S. Treasury rules allow investors who buy a taxable bond for more than its face value to amortize the premium over the remaining life of the bond to reduce taxable income. But UBS reported only the gross amount of interest on clients' federal 1099 forms, the suit alleges.

UBS spokeswoman Alison Keunen said the bank disputes the allegations in the suit and intends to vigorously defend itself. The Swiss bank has more than 1 million clients.

Richard M. Goodman brought the suit on behalf of customers who bought taxable municipal bonds in accounts maintained by UBS on or after January 1, 2014. Goodman said in the suit that his own UBS financial adviser, Brian Edgar, notified the bank's municipal bond and tax departments in 2016 that it was incorrectly reporting the amortizable bond premium.

Over-Reported Income

Edgar was able to get UBS to issue amended 1099 forms to his clients. Goodman said he received corrected tax documents, showing the bank overstated his taxable income from 2015 through 2018 by more than \$100,000. Other clients of Edgar's had their taxable income over-reported by tens or hundreds of thousands of dollars, the suit claims.

According to Goodman, UBS declined to address this issue for all of its clients. He said he was told UBS would issue corrected statements if a client or their financial adviser raised the issue.

"Defendant purposely continued its incorrect and harmful practices, and failed to promptly and fully correct its prior erroneous tax information reporting upon learning of the error," Goodman said.

In addition to federal income tax overpayments, hundreds of UBS clients nationwide were harmed because they received smaller tax refunds than they were entitled to and incurred unnecessary expenses for tax preparers and advice, the complaint said. The lawsuit alleges negligence and breach of contract, among other claims.

'Firm-Wide Deficiencies'

UBS has previously drawn regulatory action for inaccurately reporting the tax status of municipal bond interest payments. It was fined \$750,000 in 2015 and \$2 million in 2019 by the Financial Industry Regulatory Authority for misstating that interest paid to thousands of customers on their municipal bond holdings was tax-exempt. UBS was required to pay restitution to customers for any increased tax liabilities.

Interest payments from bonds issued by state, city and local governments are generally free from federal income taxes and income taxes in the state where the bonds were issued, with some exceptions. However, municipalities have issued taxable bonds for purposes like financing sports facilities, funding industrial development, improving public pension funding levels or refunding previously refinanced municipal bonds. Universities issue taxable munis for projects or purposes that don't qualify for tax-exempt financing.

More than \$620 billion of taxable muni bonds without corporate security identifiers are outstanding, accounting for 16% of the \$4 trillion market, according to data compiled by Bloomberg.

The case is *Richard Goodman, Individually And As Trustee of the Richard M. Goodman Revocable Living Trust, And on Behalf Of All Others Similarly Situated vs. UBS Financial Services Inc.*, 21-cv-18123, U.S. District Court, District of New Jersey

Bloomberg Markets

By Martin Z Braun

October 7, 2021, 7:35 AM PDT

— *With assistance by Natalia Lenkiewicz*