Bond Case Briefs

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Keep Your Paws Off My Positive Arbitrage – "With the Same Power Comes More Responsibility" - Squire Patton Boggs

The time has come, friends. The Rebate Series ends with this post. At least for a little while. So far we've covered the basics of arbitrage and rebate and two key timing-based spending exceptions: the 6-Month Exception and the 18-Month Exception. This party bus now comes to a halt with the Two-Year Spending Exception, the last and longest of the timing-based exceptions to the rebate requirement. If you've made it this far, thank you. If this is your first rebate-related post, please read the previous posts setting the stage.

Episode 3: Rebate & Arbitrage 101 – Two-Year Spending Exception

Like its name suggests, the Two-Year Spending Exception provides an exception to the rebate requirement for certain *non-refunding* issues when net proceeds of such bonds are spent within two years of the issue date of the bonds. This exception is *only* available for: (1) governmental bonds, (2) qualified 501(c)(3) bonds, and (3) private activity bonds that finance property owned by a governmental unit or a 501(c)(3) organization.

Additionally, and unlike the 6- and 18-Month Exceptions, to qualify for the Two-Year Exception, an issuer must reasonably expect at least 75% of the "Available Construction Proceeds" of the issue will be used for construction expenditures. Construction expenditures are those capital expenditures allocable to the cost of real property or constructed personal property, which may include rehabilitation costs. Available Construction Proceeds are defined as…

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By Natalie Vicchio on July 3, 2023

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