

HAWKINS ADVISORY

TAX-EXEMPT BOND PROVISIONS IN THE CONFERENCE COMMITTEE VERSION OF H.R. 1

On Friday, December 15, 2017, a conference committee appointed to resolve differences between the versions of H.R. 1, the Tax Cuts and Jobs Act, passed by the United States House of Representatives and the United States Senate, respectively, issued its version of H.R. 1 (the "Conference Bill"). The version of H.R.1 approved by the House of Representatives on November 16, 2017 would have eliminated the ability of state and local governments to issue (A)(i) tax-exempt private activity bonds, (ii) certain tax credit bonds, and (iii) tax-exempt advance refunding bonds after December 31, 2017 and (B) tax-exempt bonds the proceeds of which finance or refinance professional sports facilities after November 2, 2017. On December 2, 2017, the United States Senate approved its version of H.R. 1 (the "Senate Bill"), which did not eliminate the ability to issue tax-exempt private activity bonds, tax credit bonds nor tax-exempt bonds issued to finance professional sports facilities; however, it would have eliminated issuances of tax-exempt advance refunding bonds after December 31, 2017.

The provisions in the Conference Bill affecting tax-advantaged bonds generally follow the Senate Bill, and retain the ability to issue tax-exempt private activity bonds to finance certain types of infrastructure and facilities used by non-governmental persons, such as airports, docks and wharves, facilities owned by 501(c)(3) entities (including hospitals, nursing homes, colleges, universities and cultural facilities), certain types of manufacturing facilities and multifamily residential rental housing projects, together with loans used to fund home mortgages, veterans' mortgages and student loans. The Conference Bill also preserves the ability of state and local governments to issue tax-exempt bonds to finance and refinance professional sports facilities.

The Conference Bill, however, eliminates the ability to issue tax credit bonds and tax-exempt advance refunding bonds after December 31, 2017. No transitional rule is included with respect to either of these types of bonds.

Also of note, the Conference Bill eliminates the alternative minimum tax (the "AMT") imposed on corporations for taxable years beginning after December 31, 2017. The AMT imposed on individuals, however, is retained, with increased thresholds at which the tax would apply for taxable years beginning after December 31, 2017; such thresholds will revert to current levels for taxable years beginning on or after January 1, 2026.

The Conference Bill is expected to be submitted for approval by the House and the Senate during the next few days and is not subject to change.

Any questions regarding the foregoing may be addressed to a member of the Hawkins Delafield & Wood LLP Tax Department.

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