



TEFRA Hearings and Ability to Purchase Own Tax-Exempt Bonds During Pandemic

TEFRA Hearings under the Tax Equity and Fiscal Responsibility Act of 1982

The IRS announced in Revenue Procedure 2020-21 that, in light of the COVID-19 pandemic, TEFRA hearings for private activity bonds may be accessed by telephonic means instead of in-person hearings required under Section 147(f) of the Internal Revenue Code of 1986, as amended (the “Code”) and Treasury Regulation Section 1.147(f)-1. Revenue Procedure 2020-21 offers the following requirements and guidance to utilize this temporary allowance:

- The hearing is conducted between May 4, 2020 through December 31, 2020
- Issuers may apply Revenue Procedure 2020-21 retroactively to hearings held telephonically prior to May 4, 2020 if it was in response to the COVID-19 pandemic
- Access to the hearing is by a toll-free number
- In addition to the toll-free number, the issuer may offer access to the hearing by other telephone numbers or internet-based meeting technology
- Issuers may provide a supplemental notice (to a TEFRA notice that was issued on or before May 11, 2020) in order to provide the toll-free number to access the hearing by posting, at least 48 hours prior to the hearing, on its website in compliance with Treasury Regulation 1.147(f)-1(d)(4)(iii)

Issuers may want to take advantage of holding a telephonic TEFRA hearing in order to not delay in issuing tax-exempt private activity bonds while taking precautions to keep the community safe during the pandemic.

Purchasing Your Own Tax-Exempt Bonds

The IRS issued Notice 2020-25 to temporarily expand the circumstances and time periods in which a tax-exempt bond that is purchased by its governmental issuer is treated as continuing in effect without resulting in a reissuance or retirement of the purchased tax-exempt bond. Notice 2020-25 offers the following requirements and guidance to utilize this temporary allowance:

- The permitted holding period is January 1, 2020 through December 31, 2020
- The purchase of the tax-exempt qualified tender bond must occur during the holding period and be held no later than the end of the permitted holding period
- During the holding period, the 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 bondholder, or otherwise resell the purchased bond
- The 90-day holding period is extended to 180 days with respect to any purchase by a governmental issuer pursuant to a qualified tender right, so long as the purchase occurs during the permitted holding period
- A qualified hedge with respect to the bonds is not deemed terminated under the arbitrage rules, Section 1.148-4(h) as a result of the governmental issuer's holding of the hedged bonds during the permitted holding period

Issuers experiencing high interest rate resets and the possibility of remarketing failures may consider purchasing their own bonds to wait out the market disruption and put the bonds back into the market once the market has settled.

If you have any questions or need assistance with your tax-exempt bond issues, please contact Jennifer M. Egan at (860) 548-2628 or jegan@uks.com or Michael P. Botelho at (860) 548-2637 or mbotelho@uks.com.

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