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RHarper Consulting Update

Bank-Qualified Tax Exempt Debt

New Stimulus Package May Help Delayed Projects



The American Recovery and Reinvestment Act of 2009 ("the Act") features numerous changes intended to provide non-profit organizations with increased financial assistance during 2009 and 2010. Among the more dramatic changes made by the Act are several tax law amendments designed to encourage investment in tax-exempt bonds.

While there are a number of changes intended to facilitate new investment, the most significant increases the annual limit for small issuers of "bank-qualified" tax-exempt obligations from \$10M to \$30M. Each non-profit borrower is treated as its own issuer for bank-qualified purposes. Because of this change, the increased capacity to issue bank-qualified bonds is available to each individual non-profit organization instead of the issuer. With this change, larger projects undertaken by a non-profit now can be financed with a bank-held, bank-qualified financing.

Bank-qualified debt provides a more efficient financing than the typical bond issue; issuance costs are greatly reduced, debt service reserves and negative arbitrage are

also eliminated. Typically, a bank-qualified financing puts 95% of debt funds into qualified project costs where a bond issue sold to an institutional investor provides only 83% of bond proceeds to project costs.

For hospitals, continuing care retirement communities, and other non-profit borrowers seeking to finance new projects, these changes make more credit available at lower interest rates. In order to take advantage of the changes, however, bonds must be issued in 2009 or 2010.

The bank-qualified financing features of the Act coupled with recent market-driven dramatic reductions in construction costs, should make those projects that have been delayed due to capital availability and capital costs ready to finance.

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