

Client Alert

Public Finance Practice Group

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Effect of Sequestration on Direct-Pay Bonds

The American Recovery and Reinvestment Act of 2009 allowed, for a limited period of time, the issuance of taxable state or local bonds for which the U.S. Treasury Department pays the issuer a specified percentage of interest on the bonds, with the percentage depending on the applicable type of direct-pay bonds.

On Friday, March 1, 2013, the President signed an executive order reducing budgetary authority to accounts subject to sequester, including payments to issuers of direct-pay bonds. As of March 1, 2013, amounts claimed by an issuer on Form 8038-CP filed with the Internal Revenue Service are subject to a reduction of 8.7% of the amount budgeted for such payments.

These reductions apply to the following types of direct-pay bonds:

Build America Bonds	Qualified School Construction Bonds
Qualified Zone Academy Bonds	New Clean Renewable Energy Bonds
Qualified Energy Conservation Bonds	

The IRS has issued guidance, instructing issuers of direct-pay bonds to continue to file Form 8038-CP for the full amounts of their subsidy payments, in the manner provided in the instructions published by the IRS. The IRS will notify affected issuers that a portion of their requested payment is subject to the sequester reduction described above. For the next four to six weeks, the IRS will be processing claims manually so as to ensure that there is no delay in payments. Beginning in mid-April, it is anticipated that the IRS will return to automatic processing of the Form 8038-CP.

For further information regarding the effect of sequestration on your direct-pay bonds, please contact one of the names listed to the left.

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This alert provides a general summary of recent legal developments. It is not intended to be and should not be relied upon as legal advice.

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