

March 5, 2013

Sequestration to Cause CREB Payments to Be Reduced by 8.7%

The Office of Management and Budget has issued its Report to the Congress on the budget sequestration for federal fiscal year 2013 required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011. Interest subsidy payments for New Clean Renewable Energy Bonds (New CREBs) are among the federal programs impacted by sequestration.

As required by law, the President has cancelled \$85 billion in budgetary spending across the federal government for federal fiscal year 2013, including 5.1% cuts for non-exempt, non-defense mandatory spending programs such as direct-pay interest reimbursements on certain qualified tax credit bonds, including New CREBs. Because New CREB interest reimbursements were fully paid during the first five months of the current federal fiscal year, the cuts to the New CREB program must be spread over seven months, rather than the 12 months of the full fiscal year. As a result, New CREB interest reimbursements coming due from March 1, 2013, through September 30, 2013, will actually be reduced by 8.7%, according to guidance released late Monday by the tax-exempt bond office of the Internal Revenue Service.

According to the IRS guidance, issuers of qualified tax credit bonds should continue to request reimbursement for their interest payments on Form 8038-CP in accordance with the instructions for that form, but affected issuers of qualified tax credit bonds will be notified that a portion of their requested payment was subject to the sequester reduction.

A copy of the report can be found [here](#).

The IRS guidance is available [here](#).



If you have any questions about this Legal Alert, please feel free to contact either of the attorneys listed below or the Sutherland attorney with whom you regularly work.

Matthew W. Nichols
Darryl F. Smith

404.853.8234
404.853.8060

matt.nichols@sutherland.com
darryl.smith@sutherland.com