Edwards Angell Palmer & Dodge

eapdlaw.com

Client Advisory | *February 2009*

Tax Provisions in the American Recovery and Reinvestment Act of 2009

This Advisory is to alert you to certain tax provisions in the American Recovery and Reinvestment Act of 2009 ("ARRA") signed into law by President Obama on February 17, 2009. These provisions may be of particular benefit to small and mid-sized 501(c)(3) borrowers that are considering financing or refinancing capital costs on a tax-exempt basis. These changes should increase the appetite of banks to buy tax-exempt bonds directly and result in lower interest costs to the borrower.

In essence, the new law provides that for bonds issued in 2009 and 2010, banks can deduct 80% of the interest on debt allocable to their purchase of tax-exempt bonds from qualified small issuers whose annual bond issuance is less than $30 million if the bonds are designated by the borrower as "bank qualified." The law also makes clear that for conduit issues, the $30 million limit would apply to the individual borrower, not to the issuer. On pooled bond issues, again each borrower is treated individually, although all of the borrowers would have to qualify for the issue to be designated as bank qualified. Separately, the new law allows banks to deduct 80% of their "cost of carry" for their purchase of bonds, regardless of whether the bonds are designated as "bank qualified," up to an amount of bonds not exceeding 2% of the bank's assets.

As a consequence, banks should be more interested in directly purchasing 501(c)(3) bonds, particularly for borrowers that expect to borrow less than $30 million in a calendar year, and at a lower interest rate reflecting their ability to deduct 80% of their "cost of carry." These rules would also apply to the refunding of existing tax-exempt bonds.

If you would like any further information on these changes, please feel free to contact any of the people listed below.

Boston ma | Ft. Lauderdale fl | Hartford ct | Madison nj | New York ny | Providence ri | Stamford ct
Washington dc | West Palm Beach fl | Wilmington de | London uk | Hong Kong (associated office)

This advisory is for guidance only and is not intended to be a substitute for specific legal advice. If you would like any further information please contact:

Thomas W. Merrill, Partner	617.239.0398	tmerrill@eapdlaw.com
Kris A. Moussette, Partner	617.239.0506	kmoussette@eapdlaw.com
Stephanie H. Massey, Partner	617.239.0558	smassey@eapdlaw.com
Mark-David Adams, Partner	561.820.0281	madams@eapdlaw.com
Antonio D. Martini, Partner	617.239.0571	amartini@eapdlaw.com
James R. McGuirk, Partner	401.276.6550	jmcguirk@eapdlaw.com
John M. Thomas, Partner	617.239.0280	jthomas@eapdlaw.com
Joe E. Forrester, Counsel	212.912.2883	jforrester@eapdlaw.com
Christie Lombard Martin, Associate	617.239.0380	cmartin@eapdlaw.com

Edwards Angell Palmer & Dodge

111 Huntington Avenue
Boston, MA 02199
Tel 617.239.0100
Fax 617.227.4420
eapdlaw.com