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Taxation

Dozens of Groups Send Muni Recommendations to Tax Reform Panels

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WASHINGTON - Dozens of municipal market groups made the case for preserving tax-exempt bond financing and/or easing certain bond restrictions in documents submitted to the Senate Finance Committee's tax-reform working groups.

The letters and statements from the stakeholders were posted on the committee's website on Wednesday.

The working group on community development and infrastructure received over 200 submissions, a number of which mentioned munis. The working groups have been tasked with making legislative recommendations on tax reform by the end of May.

Some of the muni market groups, like Bond Dealers of America, submitted recommendations on munis to several of the working groups, not just the one on community development and infrastructure.

A number of the groups generally discussed the need to preserve the tax exemption for municipal bonds.

"We are certain that as you look at comprehensive tax reform, you will find that maintaining the tax exemption for municipal bonds is an essential tool to maintaining and replacing aging critical infrastructure that will be essential for our future economic vitality," wrote the National Association of State Auditors, Comptrollers and Treasurers.

"In this time of declining Highway Trust Fund (HTF) revenues, the tax exemption on interest from municipal bonds is an important form of federal support for state and local infrastructure investment that is not dependent upon the HTF," the American Public Transportation Association told the lawmakers.

The Investment Company Institute warned, "Proposals to cap or eliminate the tax benefit for municipal bonds - such as the president's proposal to cap the value of the exemption for municipal bonds at 28 percent - would impose an onerous and retroactive tax on existing bond investments."

"We believe that tax-exempt municipal bonds are the only proven way for states and municipalities to build and maintain our highways, bridges, schools, hospitals, and other important infrastructure in our communities across the country," wrote National Association of State Treasurers' president David Lillard and senior vice president James McIntire.

"In New York City alone, the tax exemption on municipal bonds has contributed to the advancement and completion of many thousands of infrastructure projects that have cost billions of dollars," said the city's comptroller, Scott Stringer.

A number of the groups focused on specific types of bonds.

Assured Guaranty wrote that if taxable, direct-pay bond programs are created or revived, municipal bond insurance premiums should be explicitly be allowed to be included as interest expenses when calculating the yield on the bonds. Under federal tax law, the yield on the investment of bond proceeds can't exceed the yield to bondholders on the bonds. For tax-exempt bonds, issuers are explicitly allowed include the cost of bond insurance in calculating the bond yield as long as the insurance reduces the issuers' overall borrowing costs.

Nuveen Asset Management and Franklin Templeton Investments warned against Congress replacing tax-exempt bonds with tax-credit bonds, arguing that "tax credit bonds are far more inefficient than tax-exempt bonds, and simply cannot be sold in the amounts necessary to finance a meaningful municipal bond program to advance American infrastructure."

Several groups -- including the National Association of Local Housing Finance Agencies, the National Association of State and Local Equity Funds and the National Council of State Housing Agencies -- wrote in support of tax-exempt private-activity bonds for affordable housing.

"It is essential for local governments to maintain their ability to expand affordable housing, which is made possible by tax-exempt bonds," NALHFA told the lawmakers. "As you develop a large-scale and comprehensive tax reform proposal we urge you to maintain the existing tax exemption for housing bonds, which has proven successful in developing and sustaining productive affordable housing development across the nation."

NCSHA wrote that the housing bond program is "highly successful" and could be made even more effective. The group suggested that Congress increase the maximum size of loans that can be financed with mortgage revenue bonds and also exempt the interest on refunding housing bonds from the alternative minimum tax.

Some groups urged Congress to exempt PABs for water projects from state volume caps.

"Doing so will increase private investment in water infrastructure, create jobs, and address years of underfunding in one of our nation's greatest resources—clean water," Associated Equipment Distributors said in a letter. The National Association of Water Companies wrote that excluding water PABs from the volume caps would "provide greater access to PABs."

Several groups mentioned bonds for energy projects.

The Business Council for Sustainable Energy urged Congress to "provide adequate funding" for the clean renewable energy bond tax-credit bond program or establish a tool similar to the production tax credit that works for public power. The National Rural Electric Cooperative Association asked Congress to create tax-exempt financing for electric co-ops.

The National Association of College and University Business Officers said Congress should allow tax-exempt revenue bonds to be used to prepay power purchase agreements. United South and Eastern Tribes, Inc. proposed federal lawmakers explore extending expired provisions for CREBs and creating an Indian tribal government set-aside for those bonds.

USET and the National Congress of American Indians each urged Senators to make the rules for tribal government bonds more like the rules for state and local governments' bonds. USET recommended that Congress to do away with the requirement that tax-exempt bonds issued by tribes only finance facilities that serve an "essential governmental function." It also suggested that Congress repeal the general prohibition on tribal governments issuing PABs.

NCAI criticized the "essential governmental function" test and the general prohibition on issuing PABs. Tribal Economic Development bonds, which allow tribal governments to have more flexibility to use tax-exempt financing, "present an enormous opportunity for tribal governments to engage in revenue-generating development at a size that makes these projects economically viable," the group said. However, most tribes are still unable to take advantage of TED bonds because of "unworkable restrictions," it added.

Airports Council International - North America urged the Senate Finance Committee to eliminate the alternative minimum tax on PABs. These types of bonds were exempt from the AMT in 2009 and 2010, and "in order to ensure that airports have continued access to the bond market, which allows communities to maintain this vital economic asset, Congress must make the AMT exemption on PABs permanent," the group told the committee.

The Education Finance Council and the National Council of Higher Education Resources urged Congress to exempt tax-exempt student loan bonds, which are PABs, , from the AMT. The two groups also asked that Congress clarify that student-loan bonds can be used to make private student loans to parents and to refinance education loans. Additionally, they want qualified scholarship funding corporations to have access to tax-exempt financing for private student loans.

The Performance Based Building Coalition called for Congress to create a category of tax-exempt PABs for public buildings, such as schools and courthouses, in order to incentivize the use of public-private partnerships to finance these types of projects.

Save the Children Action Network recommended the community development and infrastructure working group expand the rules for bank-qualified bonds and 501(c)(3) nonprofit bonds to incentivize private investment in early childhood education centers.
