

Private Activity Bonds May Face More Scrutiny After Tax Reform

POSTED ON DEC. 20, 2017

By

 DYLAN F. MOROSES
Contact Author

Even though private activity bonds escaped the GOP's [final compromise tax package](#) unscathed, Republicans could try imposing limits on those bonds as a means of financing the administration's infrastructure plans.

House Ways and Means Health Subcommittee Chair Patrick J. Tiberi, R-Ohio, told Tax Analysts December 19 that he expects Ways and Means Committee Chair Kevin Brady, R-Texas, to pursue legislation that could limit the use of private activity bonds once the Tax Cuts and Jobs Act is signed into law.

Tiberi also noted that despite not being on the conference committee that produced the final tax bill, he was told that GOP conferees could not agree on a set of limitations for private activity bonds, using the rejected proposal to exclude bonds for professional sports stadium financing as an example of issues that could not be reconciled.

The Ways and Means Committee talked a little about private activity bonds, "but we heard a lot about it," committee member Jackie Walorski, R-Ind., said. "That was an area that a lot of folks around the country — even in Indiana where I'm from — really made a compelling case on the need for those."

Walorski said that while bonds are sometimes used to finance projects outside their intended scope, it is important to keep them available in case the administration wants to tap them for an infrastructure project. And although the tax bill leaves them unchanged, Brady plans to look at ways to put in some parameters "and kind of rein them in," she said.

President Trump [has long advocated](#) an infrastructure plan that would rely heavily on public-private partnerships, seemingly using private activity bonds or tax credits as a financing tool, and Republicans initially considered changing the treatment of the bonds in their tax bill before dropping the idea.

Senate Finance Committee member John Thune, R-S.D., told reporters that private activity bonds "are a tool that can be used by private entities. And there are state and local governments that use those tools effectively as well, so I suspect that they will be a part of financing some of the projects that [Trump] wants to do."

Other Senate Republicans cautioned that private activity bonds may not be the key piece that finances the expected Trump infrastructure plan. James M. Inhofe of Oklahoma told Tax Analysts that "I've been meeting

with his transportation people, and they're divided on that, so I'm not sure" whether the administration would use private activity bonds or find another means of funding.

Another Senate GOP taxwriter, Patrick J. Toomey of Pennsylvania, suggested that he may support legislation that would ensure the bonds are used for infrastructure projects. "I think sometimes they can be used too broadly. I would support scaling them back. Obviously, there was considerable [Senate] support for leaving them as they're currently used . . . and that's why they survived the conference," Toomey told Tax Analysts.

No legislation fitting Toomey's specifications has surfaced.

Ways and Means Committee member Mike Kelly, R-Pa., said he thinks that coming legislation would likely restore the use of private activity bonds to their original intention. Kelly also said he plans to meet with Trump assistant Reed S. Cordish to discuss the role of tax-exempt financing in the president's infrastructure plans.

Meanwhile in the Senate, Republicans are signaling that infrastructure could be next on the agenda. Inhofe said he expects Brady to pursue infrastructure ideas after the tax bill is passed.

Brady [has said](#) that a small percentage of private activity bonds are used for their intended purpose of financing infrastructure projects, but he was [sharply criticized](#) by several industry groups for proposing to eliminate the bonds in the tax bill.

Democrats included increased infrastructure spending in their [tax reform principles](#) released in October, which suggested using repatriated foreign earnings to finance those projects.

Follow Dylan F. Moroses (@DMoroses3244) on Twitter for real-time updates.

DOCUMENT ATTRIBUTES

JURISDICTIONS	UNITED STATES	
SUBJECT AREAS	LEGISLATION AND LAWMAKING	TAX-EXEMPT BONDS
	TAX REFORM	
AUTHORS	DYLAN F. MOROSES	
INSTITUTIONAL AUTHORS	TAX ANALYSTS	
TAX ANALYSTS DOCUMENT NUMBER	DOC 2017-101162	
TAX ANALYSTS ELECTRONIC CITATION	2017 TNT 243-4	