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Mintz Levin Cohn Ferris Glovsky and Popeo PC

# Tax-Exempt Bond Controversy Resolution

The scrutiny of tax-exempt and municipal bond transactions is intensifying. Facing an audit or review requires the right team to deliver solid advice and quick resolution. We focus specifically on helping clients navigate the complexities of audits and reviews of tax-exempt and tax-credit bond transactions. It's our mission to face your bond controversies head on and achieve a speedy, economical resolution to investigations.

Having our team on your side greatly facilitates case resolution and settlement with all parties involved, including the Internal Revenue Service (IRS) and the Securities and Exchange Commission (SEC). What's more, our attorneys have resolved most audits through "no change" letters. In other instances, we have negotiated settlement and closing agreements without the necessity of litigation.

Our Public Finance Practice is nationally recognized for handling complex and innovative transactions and for its commitment to client service. Our Public Finance team of 19 attorneys in the firm's Boston, New York, and Washington offices represents bond issuers, borrowers, bond holders, underwriters, bond counsel, institutional investors, trustees, credit enhancers, and others connected with tax-exempt and tax-credit bonds audits and reviews. We have experience in all sectors of the municipal market, including general obligation, health care, senior housing, affordable housing, airports, land-secured financings, and derivative structures across the country.

Our clients facing controversies with the SEC and the IRS know they have excellent Public Finance attorneys and top-notch securities litigators and defense attorneys on their side.

## Quick Facts

- Public Finance team of 19 attorneys
- Full spectrum of tax controversy, public finance, litigation, and securities law capabilities to facilitate case resolution and settlement
- Senior attorneys include the following:
  - Chair of the American Bar Association's Tax-Exempt Financing Committee
  - Chair of the National Association of Bond Lawyers' IRS Enforcement Panel
  - Former chair of the Internal Revenue Service Advisory Committee on Tax-Exempt and Government Entities
  - Head of our Public Finance Practice
  - Chair of our White Collar Criminal Defense & Parallel Proceedings and Corporate Compliance & Investigations Practice
  - Co-chair of Securities Litigation Practice

## Representative Enforcement Transactions

### Advance Refunding Bonds

Represented issuers and underwriters in multiple transactions involving IRS review and challenge of pricing and yield calculation methodology of escrow funds. Transactions involved Treasuries, guaranteed investment contracts, and various derivative products. Obtained "no change" letters and negotiated closing agreements with IRS. Closing agreements permitted escrow restructurings and refundings at significant savings to issuers. Settlement agreements minimized issuer contributions and protected the parties' reputations.

### Airport Facility Bonds

Represented issuer and conduit borrower on two similar audits examining compliance with exempt facility rules, including lease characterization, accounting record documentation, and useful life limitations. Obtained "no change" letters in both matters.

### Bondholder Representation

Represented bondholder in an examination of yield burning on an advance refunding escrow. Worked successfully with the IRS, issuer, and underwriter to preserve the tax-exempt status of the bonds.

### Housing Bonds

Represented issuer in an examination of exempt facility housing bonds. The examination involved a thorough review of loans, investments, and derivative transactions. Obtained a "no change" letter for issuer.

### Pool Bonds

Represented several issuers in examinations encompassing expenditure analysis, rebate compliance, swap pricing, and yield integration. Obtained "no change" letter for issuers.

### Qualified 501(c)(3) Bonds

Represented borrower in an audit that reviewed its operations, use of bond proceeds, facility valuation, management contracts, and private use. Negotiated a closing agreement with the IRS. Settlement funded by other parties to transaction.

### Section 6700 Examination

Represented senior underwriter in audit of numerous advance refunding transactions involving investment valuation, yield computation, record keeping, and derivative pricing issues. Audit was discontinued and no action was taken against issuers or underwriter.

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## Service Offerings

- **Public Finance**
  Understanding the legal issues involved in tax-exempt finance and knowing how to advocate most effectively for the client whose position is being challenged
- **Securities Law**
  Addressing the potential disclosure issues that arise in tandem with tax challenges
- **Tax Controversy and SEC Enforcement**
  Applying our comprehensive knowledge of the enforcement process and managing the competing interests of the many parties invariably involved in these matters
- **White Collar and Securities Litigation**
  Containing and managing the potential exposures posed by enforcement actions

## Who We Serve

- Bond counsel
- Bond holders
- Bond issuers
- Borrowers
- Credit enhancers
- Institutional investors
- Trustees
- Underwriters

## Municipal Market Experience

- Affordable housing
- Airports
- Derivative structures
- General obligation
- Health care
- Land-secured financings
- Senior housing

## Isn't it time to connect?

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It's time.