IMLA

Legislative Update
3% Withholding and Muni Bond Issues

Susan Gaffney
Director, Federal Liaison Center
Government Finance Officers Assn.
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3% Withholding

- 3% Withholding and Annual Reporting Requirement on Government Payments
  - Section 511 of the *2005 Tax Increase Prevention & Reconciliation Act* – P.L. 109-222 *(TIPRA)*
  - Begins January 1, 2012
  - Applies to gvts that spend > $100m/year on goods and services
  - Governments must withhold 3% to all vendors (with some exemptions) and remit that 3% to the federal government
  - All payments to all vendors must be reported annually to the IRS
  - Unfunded Mandate!!!!!
- Legislative Efforts to Repeal S. 292 and H.R. 275

3% Withholding

- IRS Proposed Regulations
  - $10K per payment threshold
  - Government responsible for withholding on payment/credit cards
  - Exclusions
    - Interest payments
    - Emergency payments
    - Existing contracts (not renewals)
    - Needs based services/providers
  - Applies to federal grant money

3% Withholding

- IRS Proposed Regulations
  - How is the $100M threshold determined?
    - Entities
    - Dollar amount
  - Liability Concerns
    - Withholding in error
    - Not withholding
  - Payment processing to IRS
  - Resources to implement

Stimulus: Bond Market

- Bank Qualified Debt
  - Small issuer limit increased to $30m
  - Election to apply at borrower rather than issuer level
  - Banks may purchase all types of bonds up to 2% of their total assets and deduct 80% of carrying costs
  - In place 2009 and 2010

Stimulus: Tax Credit Bonds

- Tax Credit Bonds: Schools
  - QZABs - $1.8 billion allocation in 2009 and 2010
    - May be used for renovations
  - New Program – Qualified School Construction Bonds - $11 billion allocation in 2009 and 2010
    - Allowed for new construction, acquiring land
    - 40% of allocation dedicated to large cities
  - Allocations and Interim Regulations Released 2009-30/2009-35

Stimulus: Tax Credit Bonds

- Energy
  - Clean Renewable Energy Bonds
    - Total allocation = $2.4 billion
    - Issued to finance renewable energy facilities
  - Qualified Energy Conservation Bonds
    - Total allocation = $3.2 billion
    - Green community programs
  - Allocations and Interim Regulations Released 2009-29/2009-33

Stimulus: Tax Credit Bonds

- Build America Bonds
  - Taxable bonds for any govtl purpose
  - Issuer elects to give investor tax credit OR issuer receives payment from Treasury = 35% interest costs
  - Unlimited allocation
  - Direct issuer payment provision in place 2009 and 2010
  - Interim Regulations Released 2009-26
    - Seeking comments

Stimulus: Tax Credit Bonds

- Recovery Zone Bonds
  - Areas with significant unemployment, poverty and foreclosure rates
- Private Activity Bonds - $15 billion allocation
- Economic Development Tax Credit Bonds - $10 billion allocation
  - Issuer receives 45% reimbursement of interest paid
- In place until 12/31/09

Stimulus: Bond Market

- Alternative Minimum Tax
  - Eliminates application of AMT on private activity bonds issued in 2009 and 2010
- Industrial Revenue Bonds
  - Expands definition of 'manufacturing facility' to include intangible property

Electronic Municipal Market Access (EMMA)

- Disclosure Central Repository: EMMA
  - Launches July 1
  - Web-based
  - Replaces filing at NRMSIRs
  - No costs to issuers
  - All information made available to public free of charge
  - www.emma.msrb.org

Treasury/IRS

- Stimulus Bond Programs Guidance
- Post Issuance Compliance
- Accepting Comments on Arbitrage Rebate Burdens
  - 14.5 hours to complete compliance forms
  - Comments due 5/18

Possible Congressional Action: MUNIS

- Increasing Issuer Disclosure Obligations
- Regulating Advisors
- Regulating Derivatives
- Federally Backed Liquidity Facility
- Federal Guarantee of GO Debt
- Federal Re-Insurance Program
- Credit Ratings Recalibration