DID THE IRS PROPOSE POLITICAL SUBDIVISION RULES THAT AFFECT YOU?

On June 6, 2016 the Internal Revenue Service (the "IRS") held a public hearing seeking comments on their proposed rule change to what types of political subdivisions may issue tax-exempt municipal securities in the future. Many large industry leaders spoke at this hearing, including GFOA's President Elect, Patrick McCoy, Director of Finance for the New York City Metropolitan Finance Authority. The IRS heard overwhelming disapproval and was urged by many to withdraw the proposal, re-evaluate and re-submit a proposal of change.

The proposed new rule requires a three prong test in determining whether a political subdivision is eligible to issue tax exempt municipal securities. The prior rule used only a two prong test, so an additional determining factor was added in this proposal. Under the proposal a political subdivision must meet these three factors in order to issue tax-exempt securities: 1) it must exercise sovereign powers, 2) serve a governmental purpose and 3) (newly added) be governmentally controlled.

Many opponents to the proposal believe that there are many types of political subdivisions across the country that provide vital services. Those same opponents don't necessarily agree with the concept that new rules may curb abuse of the use of tax-exempt securities being issue in some cases. But the argument heard from those opponents is for the IRS to let individual states decide on their own laws about what constitutes a political subdivision, as they have done in the past.

Not much has been said from the IRS following their June 6, 2016 public hearing on these proposed rule changes. If this could affect you, please continue to follow the IRS on future decisions related to this proposal.

BOND INSURANCE PAST AND PRESENT

The municipal Bond insurance industry has changed significantly the Great Recession. Four bond insurance companies have dropped out of the industry due to significant rating downgrades or withdrawals. There have also been mergers and new participants. None of the remaining municipal insurance providers are currently rated AAA. The two active insurance companies are Assured Guaranty and Build America Mutual Assurance Company (BAM). Both are rated in the AA category by S & P Global Ratings. National Public Finance Guarantee Corp., an affiliate company of MBIA (NPFG), has had its S & P rating raised to the low AA category and has begun to write new policies.

Although use of insurance is currently increasing, it is only approximately 5% of the new issue market, down from 57% of the new issue market in 2005.

Recently BAM has been requiring that the issuers provide all notices and other information they are obligated to provide under their Continuing Disclosure Agreements to the insurance company, so please review your insurance commitments and keep this requirement in mind when preparing your annual disclosure documents.