Tax-Exempt Financing Committee
Legislative, IRS and Treasury Update Panel
Friday May 10, 2019
2:30 p.m. to 3:45 p.m.

Panelists: John Cross III, Office of Tax Policy, Department of Treasury, Washington, DC; Johanna Som de Cerff, Acting Branch Chief, Branch 5, Financial Institutions & Products, IRS, Washington, DC; Spence Hanemann, Special Technical Reviewer, Branch 5, Financial Institutions & Products, IRS, Washington, DC; Mark O. Norell, Ballard Spahr LLP, New York, New York; Stefano Taverna, McCall, Parkhurst & Horton LLP, Dallas, Texas; Chas Cardall, Orrick Herrington & Sutcliffe LLP, San Francisco, California.

Moderator: Todd L. Cooper, Locke Lord LLP, Cincinnati, Ohio

I. PLR 201918008 – Chas Cardall. (10 min.)
   A. How to determine the economic life of port assets financed with multiple series of exempt facility bonds and leased to multiple, non-governmental entities.

II. Treasury Decision 9854 – Spence Hanemann. (3 min.)
   A. Clarifying that investment-type property excludes the financed project.

III. Revenue Procedure 2019-17 – Johanna Som de Cerff. (3 min.)
   A. Reconciles Sections 42 and 142 of the Code regarding the public use requirement for low income housing projects financed with low income housing tax credits and/or tax exempt bonds.

IV. Miscellaneous – Todd Cooper. (2 min.)
   B. PLR 201910020 granted a 45 day extension of time to elect the 20-50 test in a multifamily exempt facility bond where the bond documents and regulatory agreement were meant to use the 20-50 test but accidentally also had references to the 40-60 test.

V. A quick update on the Public Hearing and Approval Regs – Spence Hanemann, John Cross. (5 min.)
   A. Remaining confusion about amounts to be spent at each location and the carryforward of the old integration operation concept.
VI. Committee Comments Project on the Allocation and Accounting Rules and Remedial Action Rules Submitted to the Tax Section for review – Stefano Taverna, Johanna Som de Cerff. (20 min.)

A. The interaction of the measurement rule in 1.141-3(g), the allocation and accounting rules in 1.41-6, and the remedial action rule in 1.141-12(e). (1 min.)
B. General principles – horizontal equity, ratable allocations, ease of administration, etc. (2 min.)
C. History – RR 77-416, the 86 Act, RP 93-17, the 97 Regs, the 2015 amendment to the 97 Regs. (4 min.)
D. Recommendations for discussion. (13 min.)

VII. The Reissuance Regulations – Mark Norell, John Cross, Spence Hanemann. (32 min.)

A. Summary of the underlying policy – John Cross. (3 min.)
B. Summary of the Proposed Regulations – Spence Hanemann. (10 min.)
C. A subcommittee of the Tax Exempt Financing Committee has been formed to draft comments. Some preliminary thoughts and discussion. (19 Min.)