

## Tax 103

Our tax lawyers bring decades of experience advising nonprofits, school districts, and healthcare institutions on all aspects of tax-exempt financings and regulations.

Each lawyer in our Tax 103 team devotes their practice to public finance work and brings more than 25 years of experience in all aspects of a 103 practice. We handle complex advance refundings involving transferred proceeds, interest rate swaps, including termination of swaps, use of proceeds limits for tax-exempt and Build America Bond issues, and private activity limits. We have extensive experience covering governmental bonds, hospital financings, higher education financings, cultural, and other 501(c) financings. Our team also handles exempt facility financings, such as solid waste, airport and port financings, single family and multifamily housing, small issue manufacturing bonds, and state revolving fund financings for sewer and water facilities.

In addition to supporting our bond counsel lawyers by undertaking due diligence and preparing tax documentation for the financings, we focus on ongoing post-issuance tax compliance. We have assisted clients in developing internal policies and procedures for post-issuance compliance and in completing IRS filings, such as Form 990, Schedule K for 501(c)(3) organizations. We have advised on IRS audits of bond transactions and have helped clients obtain private letter rulings and VCAP settlements from the IRS. Our tax lawyers also play an instrumental role in the workout of troubled bond issues.

We have served as special tax counsel for complex bond issues and provide tax counsel services to bond counsel firms that do not have their own 103 tax counsel. In that capacity, we prepare or review tax due diligence material and tax documents for the financing transactions and participate in the transactions to the extent needed by the particular bond counsel firm. We are also active in the legislative and regulatory process through work with the National Association of Bond Lawyers and the American Bar Association.

We are well versed in the following key areas:

- Determining and monitoring compliance with rebate obligations
- Structuring the investment of reserve funds to comply with arbitrage limitations
- Structuring management contracts with private service providers for bond-financed facilities
- Determining whether interest based in part on the cash flow of a project constitutes true interest
- Analyzing arbitrage and other tax considerations in connection with swaps and other derivative instruments
- Applying the mixed escrow rules to an advance refunding utilizing bond proceeds and other moneys
- Analyzing restrictions on unspent construction fund moneys when the initial temporary period has expired
- Post-issuance compliance matters, including negotiating closing agreements with the IRS
- Applying the multipurpose allocation rules to advance refunding issues
- Structuring variable interest rate refunding issues
- Rolling over an existing derivative instrument to refunding bonds
- Using forward purchased treasuries in a refunding escrow
- Using different versions of Section 103 applicable to refunded bonds issued over a long period

- Resolving issues regarding unspent bond proceeds
- Preparing a complex defeasance opinion for a rating agency
- Structuring tax-exempt/taxable structures consistent with IRS anti-abuse rules