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House and Senate Republicans Release Final Version of Tax Plan

House and Senate Republicans unveiled their long awaited \$1.5 trillion tax reform bill on Friday, December 15. The final bill represents a compromise between the House version of the bill, passed on November 16, and the Senate version, which passed on December 2. The bill preserves private activity bonds (PABs), which would have been terminated under the House version of the bill. Advance refundings, which were removed under both House and Senate bills, will be eliminated after December 31, 2017.

Under the final version of the tax bill, federal income tax law with respect to PABs will remain in place. Under the current tax code, interest paid on qualified PABs is exempt from taxation. These bonds provide funding for qualified 501(c)(3) nonprofit health care providers, universities, research institutions, and schools, and for multifamily housing projects, airports, sewage and solid waste facilities, and many exempt facilities, public-private partnerships, and infrastructure projects. More than \$84.6 billion in PABs were issued last year, representing almost 19 percent of the new issue municipal bond market. The House bill would have repealed the tax exemption for qualified PABs as of December 31, 2017.

While the preservation of PABs is welcome news to the municipal bond community, the bill also ends access to advance refundings. This is not a surprise, as both the House and Senate tax bills eliminated advance refundings, however it is still a major blow to governmental issuers, who used advance refunding bonds to take advantage of favorable interest rates to lower overall costs. A refunding bond is used to pay principal, interest, or redemption price on a prior bond issue. Advance refundings are refunding bonds issued more than 90 days before the redemption of the refunded bond. More than \$120 billion in advance refundings were issued last year, saving taxpayers an estimated \$3 billion. Under current law, governmental bonds and qualified 501(c)(3) bonds could have been advance refunded one time.

Also preserved in the final version of the tax bill are stadium bonds, which allows the use of tax-exempt bonds for professional sports stadiums. The House version of the bill had included a provision eliminating the tax exempt status for stadium bonds. Tax-credit bonds, which entitle taxpayers holding the bond to a tax credit, will be eliminated after December 31, 2017, as will direct-pay bonds, in which the federal government pays the issuer a percentage of the interest on the bonds. However, payments of the federal interest subsidy on outstanding direct-pay bonds (subject to any reduction caused by sequestration) will thankfully continue.

A full vote on the bill will likely take place in both the House and Senate early this week. The bill is on track to reach the president's desk before his Christmas deadline.

For more information, please contact David Rogers, [Emmett Kelly](#), [Michael Elliott](#) or any other attorney in Frost Brown Todd's [Public and Project Finance Practice Group](#).

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