

RESOLUTION

OPPOSING CIRCULAR 230 APPLICATION TO TAX-EXEMPT BONDS

Urging the United States Department of the Treasury to exempt tax-exempt bond opinions from the scope and application of the proposed Circular 230 regulations.

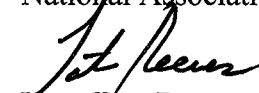
- WHEREAS,** In 1984, the United States Department of the Treasury issued rules of professional conduct governing the practice of attorneys, CPAs, actuaries and others before the Internal Revenue Service. These rules, called Treasury Circular 230, provide standards for giving "tax shelter opinions." Since its original implementation, Circular 230 specifically excluded municipal bonds from its provisions; and
- WHEREAS,** On December 30, 2003, the United States Department of the Treasury proposed amendments to Circular 230 containing a definition of "tax shelter" that would include tax-exempt municipal bonds under its requirements. The proposed Circular 230 regulations generally define a "tax shelter" as a plan or arrangement a significant purpose of which is the avoidance or evasion of any federal tax; and
- WHEREAS,** The proposed Circular 230 regulations require that any tax shelter opinion that a practitioner knows will be used in marketing the tax shelter must meet various requirements, including that the practitioner describe all relevant facts, relate the law to those facts, consider all material federal tax issues, and describe the reasons for an overall favorable conclusion; and
- WHEREAS,** Tax-exempt bonds are included as a tax shelter under the proposed changes to Circular 230. This proposed requirement would result in lengthy, more costly tax opinions to the issuer of a tax-exempt bond and a "map" to potential litigation for the Internal Revenue Service. In addition, the lengthier opinions would increase the amount of time needed for financial analysts to review an investment, as well as more costly review by an investor prior to purchasing the bond. Each of these factors could affect the price of the bonds in the marketplace; and
- WHEREAS,** Tax-exempt bonds cannot properly be defined as tax shelters. This is an inappropriate change that belies the historic and fundamental purposes of tax-exempt bonds. Tax-exempt bonds, the primary financing instrument of state and local government, have been permitted since the first Internal Revenue Code was adopted. They are issued to build schools, highways, bridges, universities, hospitals, electric systems and other critical public infrastructure. They are not aggressive financial planning tools of for-profit corporations that merit the scrutiny required by Circular 230. Mislabeling tax-exempt bonds will distort the perception

of their important functions, set a bad precedent and add burdens that will negatively affect the ability of state and local governments to finance vital public programs and infrastructure projects; and

WHEREAS, The new definition of “tax shelter opinions” and other provisions set forth in the proposed Circular 230 regulations with respect to debt issued by state and local governments is unwarranted and unnecessary, would undermine established industry practice and would prove extremely disruptive to the municipal bond market.

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Treasurers does hereby urge the United States Department of the Treasury to amend proposed Circular 230 regulations to provide that all unqualified tax-exemption opinions be exempted from the scope and application of the proposed regulations.

Approved this 15th day of September by the
National Association of State Treasurers



Hon. Tate Reeves,
NAST President and Mississippi State
Treasurer