

This is in response to your request under Section 54A(d)(2)(B)(iii) of the Internal Revenue Code for an extension of the expenditure period for the available project proceeds of qualified tax credit bonds.

Facts and Representations

You make the following factual representations. Authority is a public body corporate and an agency and instrumentality of State. Authority was created to facilitate and lessen the cost of financing the construction of public schools. To accomplish this purpose Authority is empowered, among other things, to purchase bonds issued in State to finance public school related capital projects (the "Local School Bonds") and to pledge the Local School Bonds so purchased to secure the payment of the principal of or interest on any bonds (the "Pooled Bonds") issued by Authority.

On Date 1, Authority issued the Bonds, and designated the Bonds as qualified school construction bonds within the meaning of § 54F(a)(3). The Bonds are Pooled Bonds and Authority applied the proceeds thereof to purchase Local School Bonds issued by seven different localities within State.

The original three-year expenditure period for the Bonds under § 54A(d)(2)(B)(i) will expire on Date 2 (the "Original Expenditure Period"). The purchase price of each Local School Bond was segregated into a local account to facilitate the monitoring of the expenditure of the available project proceeds of the Bonds. As Date 2, six of the seven localities will have spent all of the available project proceeds allocable to their Local School Bonds. The total amount of available project proceeds spent on qualified purposes within the meaning of § 54A(d)(2)(C) by Date 2, represents over % of the available project proceeds of the Bonds.

One of the participating localities, City, will not have spent by Date 2 approximately \$a of its allocable available project proceeds of \$b. City issued its Local School Bond to finance additions to two schools ("School A" and "School B," respectively, and together, the "Projects").

City had determined prior to the issue date of the Bonds that \$b was not enough funding for both Projects as designed and that the School A addition had the higher priority and would be funded and completed before any available project proceeds would be expended on School B. A redesign of the School A addition and favorable construction bids resulted in the completion of the School A addition with \$a in available project proceeds remaining. City plans to proceed with a scaled-down addition to School B. Completion of this addition will require at least 6 months. This unexpected series of events has resulted in an unforeseen delay in the spend-down of the available project proceeds. City has received an acceptable bid for the School B addition and is prepared to issue the notice to proceed to the winning bidder and to diligently allocate the remaining bond proceeds to qualified purposes.

Authority submitted this request for a ruling prior to Date 2.

Law and Analysis

Section 54A(d)(1) provides that a qualified school construction bond is treated as a qualified tax credit bond for purposes of Section 54A.

Section 54A(d)(2)(B)(i) provides in part that to the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period.

Section 54A(d)(2)(B)(ii) provides that for purposes of this subpart, the term “expenditure period” means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

Section 54A(d)(2)(B)(iii) provides that upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

Section 54A(d)(2)(C)(v) provides that for purposes of this paragraph, in the case of a qualified school construction bond, a “qualified purpose” means a purpose specified in § 54F(a)(1).

Section 54A(e)(4) of the Code defines “available project proceeds” to mean (A) the excess of (i) the proceeds from the sale of an issue, over (ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and (B) the proceeds from any investment of the excess described in subparagraph (A).

The Projects were identified prior to the issuance of the Bonds and City reasonably expected to spend all of its allocable available project proceeds within the 3-year period. After redesigning and then completing the redesigned School A addition, City has \$a in available project proceeds remaining. Although City had intended prior to the Bonds being issued that project proceeds would be spent on School B as available, this unexpected turn of events has resulted in unforeseen delays and City being unable to spend all of its available project proceeds within the original 3-year expenditure period. However, City expects to complete the scaled-down School B addition, and spend the remaining \$a in proceeds, with due diligence.

Conclusion

Under the facts and circumstances of this case, we conclude pursuant to

§ 54A(d)(2)(B)(iii) that City's failure to expend its allocable portion of the available project proceeds of the Bonds was due to reasonable cause and that City's expenditures of the proceeds for qualified purposes will proceed with due diligence.

Therefore, Authority is granted an extension of the expenditure period with respect to the Bonds for an additional year from Date 2, or until Date 3.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with a Power of Attorney on file with this office, a copy of this letter is being sent to Authority's authorized representatives.

The ruling contained in this letter is based upon information and representations submitted by Authority and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the materials submitted in support of the request for a ruling, it is subject to verification upon examination.

Sincerely,

Associate Chief Counsel
(Financial Institutions & Products)

/S/

By: _____
Timothy L. Jones
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