Published on *The National Law Review* https://natlawreview.com

Advance Refundings, Paygo, and BABs

Article By:

Tax Strategy & Benefits Practice Group

For those of you who were enjoying Thanksgiving last week and missed the Senate Finance Committee's release of its proposed legislative text of the Tax Cuts and Jobs Act, see below for how succinctly tax-exempt advance refunding bonds can be removed from the Code:

SEC. 13532. REPEAL OF ADVANCE REFUNDING BONDS.

(a) IN GENERAL.—Paragraph (1) of section 149(d) is amended by striking "as part of an issue described in paragraph (2), (3), or (4)." and inserting "to advance refund another bond.".

Yes, I'm cheating a little; there are a few more lines devoted to conforming amendments and effective dates. But that's it, out of 515 pages.

So let's say you read all 515 pages and were wondering, is there anything else I'm missing? The answer is yes, maybe. As we have previously covered, there is currently a 6.6% haircut on the subsidy paid by the federal government to the issuers of direct-payment credit bonds, such as Build America Bonds ("BABs"). See here and here. As has been reported in the press, the tax reform legislation might result in further sequestrations under the legislation commonly known as "Pay as You Go" or PAYGO. Bill Daly, director of governmental affairs at the National Association of Bond Lawyers, has noted in a Bond Buyer article that with PAYGO, "it looks like the BAB program could be zeroed out." Or will it? Senate Finance Committee chairman Orrin Hatch has claimed that "There hasn't been a single sequester ordered under the PAYGO statute."

Will the haircut remain at 6.6%? Will it go to 100%? Stay tuned.

National Law Review, Volume VII, Number 335