

Tax and Revenue Anticipation Notes (“TRANs”) for the 2020-21 Borrowing Season

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Practice Area: Government Finance & School Law

The COVID-19 pandemic in Wisconsin and the nation is not only creating havoc for educational start-up plans, but also potentially for school district financial plans. Given the uncertainty of state and local revenue collections, school district revenues may drop significantly, or otherwise be delayed, this fall. School district cash flow requirements depend on sum certain funds from property tax collections, state aid, and other sources of local revenues. The possibility of delay or reductions in these revenues may create unexpected cash deficits in the first three to six months of the fiscal year.

Accordingly, many districts are likely already planning their short-term Tax and Revenue Anticipation Notes (“TRANs”), or “cash flow,” borrowing for this year, while others may not have started the process, and still others may not even be actively thinking about this possibility. We recommend that all school districts take a hard look at the various “what ifs,” with an eye toward preparing for the worst, but hoping for the best.

We are encouraging our clients to start the conversation now with their financial advisers or accountants to evaluate the possibility of a TRANs borrowing this year. It is important that school districts assemble the right team to make sure all documentation is prepared correctly, as well as ensuring the delivery of a bond opinion for districts that wish to borrow on a tax-exempt basis. In order to make the process as smooth as possible for our clients, we have developed a “user-friendly” set of TRANs documents consisting of a fill-in form School District TRANs Information Certificate, which is the only document the district will be required to fill out ... we do the rest. The district does not have to complete numerous forms with complicated instructions – the Information Certificate covers it all, essentially serving as the equivalent of an Official Statement that provides the bidders purchasing the notes with the information they need to submit their bids.

Districts may find these few reminders helpful:

- Districts may borrow through the end of this month (August), but only to cover projected cash shortages through the end of October 2020; once the district's annual budget has been adopted and the property tax levy determined, a district may borrow to cover cash flow shortages through the end of the school year (June 30, 2021).
- Under Wisconsin law, TRANs borrowings must mature no later than November 1 of the following school year (November 1, 2021 for TRANs issued between now and next June); a tax-exempt TRANs may only be outstanding for a maximum of 13 months which, in some cases, is shorter than what is allowed under Wisconsin law.
- Under Wisconsin law, a district may borrow an amount up to one-half of its estimated receipts for the operation and maintenance of the district for the current school year; to make the TRANs tax-exempt, the borrowing may not exceed the district's maximum anticipated cash flow deficit during the period, plus a small "cushion" (generally 5% of prior year's operating expenses).
- Finally, a bank line-of-credit ("LOC") to cover cash flow shortages can be an attractive alternative for some districts but is subject to the same Wisconsin law requirements as a traditional TRANs issue. However, the federal tax and arbitrage rules when applied to bank LOCs create a level of complexity that is typically avoided by issuing them on a taxable basis.

We urge all districts to start by "running the numbers" based on reasonable expectations as to expenditures and receipts between now and next June 30, recognizing that your expectations may change – hopefully for the better – between now and when you actually borrow.

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