Announcing IMET's Arbitrage Rebate Calculation Services through Ice Miller

IMET is very pleased to announce that it now offers Arbitrage Rebate Calculation Services (ARCS) through an agreement with Ice Miller. The ARCS are available to all IMET participants that issue debt and may incur a liability under the Internal Revenue Code and Regulations, as amended, the "Code".

IMET participants benefit from special pool pricing to IMET for the calculation services, and under certain conditions, participants can take advantage of the ARC Services at NO charge to the participant.

In selecting Ice Miller, IMET's purpose was to provide the best available service and protection to our participants that may be subject to the rebate requirement. Toward this end, Ice Miller provides legal opinions to ensure compliance by issuers with the rebate requirements of the Code.

Ice Miller's Arbitrage Rebate Practice

Ice Miller has provided arbitrage rebate services since 1986.

Ice Miller has extensive experience in providing arbitrage rebate compliance and computation services for any type of tax-exempt bonds or tax-advantaged bonds that require arbitrage rebate calculations. Ice Miller's rebate practice spans the gamut from the most straightforward single issue construction project calculation to calculations for transactions with multiple series of parity bonds, and includes the following:

- Commingled Fund Expertise
- Transferred Proceeds Expertise
- Variable Rate Bonds
- Interest Rate Swaps and Similar Hedging Instruments

In addition, Ice Miller also provides Internal Revenue Service rebate audit services and has successfully represented governmental units that were the subject of random IRS rebate audits. Ice Miller's municipal tax attorneys have discovered rebate recovery opportunities during the past five years that generated over $8 million in IRS refunds for its rebate clients.

Arbitrage Rebate

The Internal Revenue Code of 1986, as amended, and Treasury Regulations promulgated thereunder provide that an "arbitrage bond" is not a tax-exempt bond. Governmental issuers are permitted, only in certain instances, to earn profit from the interest rate differences between the taxable and tax-exempt market. Further, in certain circumstances, an issuer must pay back (or rebate) such profits (or arbitrage) to the federal government within 60 days of the computation date. Issuers and conduit borrowers of tax-exempt bonds have flexibility in the timing of such of computations, but the rules require rebate be computed and paid to the IRS at least once every five years while the bonds are outstanding until a final calculation is completed. In order to maintain the tax exemption on the bonds, the Code requires an arbitrage calculation to be performed by the fifth anniversary of the issue date. A misstep under these rules, could lead to a tax-exempt bond becoming an “arbitrage bond” and thus losing its tax-exempt status. The two sets of rules that exist under the Code are “yield restriction” (when a profit, or arbitrage, can be earned) and “rebate” (when arbitrage must be returned to the Treasury Department). The arbitrage calculation computes what is referred to as a “rebate amount” by comparing the actual earnings on the bond proceeds during the period that the proceeds are invested to the bond yield. If the actual investment earnings exceed the bond yield, a payment may be due to the IRS.

Amy M. Corsaro is one of the lawyers who oversees Ice Miller’s Rebate Practice and will serve as IMET’s primary contact. To learn more about IMET’s ARCS, contact Sofia Anastopoulos.