

To keep you informed about developments in public finance tax, our Public Finance Tax Practice publishes the [Public Finance Tax blog](#). After 2017 closed with a bang, when Congress passed the Tax Cuts and Jobs Act (TCJA), which eliminated tax credit bonds and the tax-exempt advance refunding of tax-advantaged bonds, we spent 2018 muddling through the aftermath. Then, the final weeks of 2018 closed with a bang, too, when Treasury, notwithstanding the government shutdown, released final private activity bond public approval requirements and proposed regulations, which we had awaited for over 30 years, regarding when tax-exempt bonds are reissued. On the blog, we followed these changes, explored some fundamental questions about the TCJA and reviewed the year-end regulatory flurry. Below, we have described more highlights from 2018, and have attached links to the posts on the blog. To make sure you get up-to-the-minute alerts and information, we encourage you to subscribe to the blog, by [clicking here](#).

As we know, the TCJA eliminated the ability to issue tax-exempt advance refunding bonds after 2017. Though that sounds simple enough, you know better by now – questions lingered. In particular, in the first few months of 2018, the tax-exempt bond community wondered whether tax-exempt bonds could still be issued to advance refund taxable bonds. The IRS ultimately made it clear, after NABL wrote a letter drafted in part by our Tax partner, Johnny Hutchinson (the current chairman of the NABL Tax Law Committee), requesting clarifying guidance, that you can still issue tax-exempt bonds to advance refund taxable bonds. Thus, the repeal prevents the issuance of tax-exempt bonds to advance refund only (1) other tax-exempt bonds and (2) a very limited subset of taxable bonds that enjoy the benefit of a tax credit or a direct payment.

To turn the familiar Biblical phrase (not to mention English grammar itself) on its head, the TCJA “tooketh away,” but it also “gaveth.” The TCJA quietly created a new economic development program, called the Opportunity Zone program. We closely followed this new program, which enables economic development in low-income communities. The program allows individuals to defer (and potentially avoid) gain on the sale of stock or other property if the gain is reinvested in a low-income community through an Opportunity Fund. Our Tax partner, Steve Mount, continues to lead the charge in explaining this program and guiding our clients on how to avail themselves of it.

The US Supreme Court paid a visit to our corner of the world, rendering its opinion in *South Dakota v. Wayfair*. We tracked this case, which overturned two previous decisions and held that a vendor need not have a physical presence in a state to have a “substantial nexus” with the state under the Commerce Clause. Thus, an online vendor need not have a physical presence in a state to be obligated to collect sales/use taxes on sales made to residents of that state and to remit those taxes to that state.

We continue to be on pins and needles with the possibility of Congress repealing tax-exempt private activity bonds. For now, we are spared from encountering that scenario.

To sum up 2018, we have listed below a few of our more notable blog posts from the past year, which provide more information on the topics discussed here, as well as other topics. In addition, please feel free to comment or [email](#) if there are topics you would like to see covered or resources you would like us to provide.

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## Some 2018 Highlights

[Why did the House want to repeal tax-exempt private activity bonds?](#)

By [Johnny Hutchinson](#) on January 11, 2018

[South Dakota Might Convince the Supreme Court to Dispense with the Quill Pen and Join the 21st Century](#)

By [Michael Cullers](#) on January 24, 2018

[Further Fallout from the 2017 Tax Legislation – Beware of Reissuance of Bank-Held Tax-Exempt Obligations](#)

By [Bob Eidnier](#) on February 13, 2018

[Tax Reform Creates “Opportunity Zones” – A New Tool for Economic Development, but States must Act Quickly](#)

By [Johnny Hutchinson](#) on February 21, 2018

[Tax-Exempt Advance Refunding of Taxable Bonds \(Including BABs\)? A Report from the Tax and Securities Law Institute](#)

By [Bob Eidnier](#) on February 28, 2018

[Oyez! The Supreme Court Hears Oral Arguments in Wayfair, and Now We Play the Waiting Game](#)

By [Michael Cullers](#) on April 26, 2018

[Reflections on US Tax Reform from Our Tax and Public Policy Colleagues](#)

By [Johnny Hutchinson](#) on May 10, 2018

[A Richer Understanding of What’s Already Understood – Treasury Issues Proposed Regulations to Clarify the Meaning of “Investment-Type Property” in an Already Obvious Way](#)

By [Michael Cullers](#) on June 12, 2018

[It's Unanimous – All Nine US Supreme Court Justices Agree that Quill Corp. v. North Dakota was Wrongly Decided, and Five Vote to Overrule It in South Dakota v. Wayfair, Inc.](#)

By [Michael Cullers](#) on June 28, 2018

[The "Opportunity Zone" Program – Moving Forward](#)

By [Johnny Hutchinson](#) on July 3, 2018

[IRS: You Can Still Issue Tax-Exempt Bonds to Advance Refund Most Taxable Bonds, Including BABs](#)

By [Johnny Hutchinson](#) on October 28, 2018

[IRS Releases New Guidance to Facilitate Opportunity Zone Program](#)

By [Cynthia Mog](#) on November 6, 2018

[Nuggets of Midterm Gold from our Public Policy Practice](#)

By [Johnny Hutchinson](#) on November 12, 2018

[The Shutdown Can't Stop the Release of the Final TEFRA Regulations](#)

By [Michael Cullers](#) on December 30, 2018

[The Proposed Reissuance Regulations: The Thirty Years' War Continues](#)

By [Michael Cullers](#) on December 31, 2018

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We have one of the largest, most diverse and highly regarded public finance practices in the US. We have been a nationally recognized bond counsel firm for more than 115 years and have been listed in *The Bond Buyer's* Red Book since its inception in the 1940s. In 2017, we served as counsel on more than 600 transactions, totaling over US\$41.7 billion. In the last five years, we served as counsel on over 3,000 transactions, totaling more than US\$174.6 billion.

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