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**COMMERCIAL & PUBLIC
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Additional Tax-Exempt Financing Opportunity For 501(c)(3) Organizations

Last month, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (the "Recovery Act"), which contains a provision that provides 501(c)(3) organizations with greater access to the credit market by increasing the ability of such organizations to obtain tax-exempt financing through the issuance of "bank-qualified" bonds (tax-exempt bonds that may be purchased directly by a bank and for which banks receive favorable tax treatment). This provision not only offers 501(c)(3) organizations access to an additional category of bond purchasers (banks), but it also provides them access to transactions that may have lower borrowing or transaction costs than other forms of tax-exempt financing.

The Recovery Act increases the limit on obligations issued by a governmental entity during 2009 or 2010 from \$10 million to \$30 million. Additionally, instead of treating the governmental entity issuing the bonds as the issuer, the 501(c)(3) organization for whose benefit such bonds are issued will be considered the issuer. This distinction means that governmental entities will not be limited to issuing a total of \$10 million of governmental and 501(c)(3) bonds in the 2009 and 2010 calendar years. Instead, an issuer can issue up to \$30 million of bank-qualified bonds for its governmental purposes, and it can also issue up to \$30 million of bank-qualified bonds for each of any one or more 501(c)(3) organizations in each of the 2009 and 2010 calendar years. Because of this change, a governmental issuer may be more willing to issue bank-qualified bonds for 501(c)(3) borrowers because doing so will not limit its ability to issue bank-qualified bonds for its own purposes.

These new favorable rules will only be available to 501(c)(3) organizations for bonds issued prior to December 31, 2010.

501(c)(3) organizations should consider utilizing bank-qualified bonds if the organization is financing or refinancing a project that is eligible for tax-exempt bond financing, and the tax-exempt bonds to be issued in the 2009 or 2010 calendar year will not exceed \$30 million. In the case of a refinancing, the debt to be refinanced can be either tax-exempt debt issued for the organization or taxable debt incurred by the organization.

FOR MORE INFORMATION

For more information on this topic, please contact:

Robert A. Selak	513.352.6663	Bob.Selak@ThompsonHine.com
Arik A. Sherk	937.443.6757	Arik.Sherk@ThompsonHine.com

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