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IRS Releases Guidance on Refinancing Projects Financed with Go Zone Bonds

The IRS has released Notice 2012-3, [\[1\]](#) which provides that projects originally financed with tax-exempt Gulf Opportunity Zone Bonds ("GO Zone Bonds") may be refinanced on a tax-exempt basis after December 31, 2011, the date on which authority to issue GO Zone Bonds expires.

While tax-exempt private activity bonds generally may be refinanced on a tax-exempt basis, the Gulf Opportunity Zone Act is silent as to the permissibility of current refundings of GO Zone Bonds. Notice 2012-3 clarifies that GO Zone Bonds may be currently refunded on a tax-exempt basis (directly or indirectly in a series of current refundings) so long as the following requirements are met:

1. The original GO Zone Bonds were issued before the deadline for the issuance of GO Zone Bonds (i.e., December

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31, 2011);

2. The issue price of the current refunding issue is not greater than the outstanding stated principal amount of the refunded bonds; and
3. The current refunding issue otherwise meets all applicable requirements for the issuance of GO Zone Bonds, including the requirement that the average maturity of the issue is not longer than 120% of the remaining economic life of the facilities refinanced with the proceeds of such issue.

It should also be noted that in such a current refunding issue, no additional GO Zone allocation is required (i.e. the original allocation is sufficient).

[1] Notice 2012-3 will appear in the Internal Revenue Bulletin at 2012-3 IRB, dated January 17, 2012.

Butler Snow will continue to keep you informed of any new developments. In the meantime, if you have any questions concerning the contents of this e-newsletter, please contact the [Butler Snow Public Finance and Incentives Group](#) attorney with whom you usually work, or you may contact the editors of this e-Alert, [Michael J. Bradshaw, Jr.](#), [John F. England](#) and [W. Michael Russ](#).

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Butler, Snow, O'Mara, Stevens and Cannada, PLLC
1020 Highland Colony Pkwy
Suite 1400
Ridgeland, MS 39157

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