

LAW OFFICE OF PERRY ISRAEL



525 Morse Avenue, Suite 201
Sacramento, CA 95864
916-485-6645
perry@103law.com

April 15, 2015

Ms. Helen Hubbard
Associate Chief Counsel (Financial Institutions & Products)
Internal Revenue Service
CC:FIP, Room 3547
1111 Constitution Avenue, NW
Washington, DC 20224

**Village Center Community Development District
Request for Relief under Section 7805(b)**

Dear Ms. Hubbard:

This letter is provided as a supplement to the request for relief filed by the Village Center Community Development District (the "Center District").

On May 9, 2013, TAM-127670-12 (the "TAM") held that the Center District was not a "state or political subdivision thereof" for purposes of Section 103(c)(1). The result of the TAM would render taxable the interest on some \$426 million of bonds (the "Bonds") issued by the Center District between November 20, 1993, and June 1, 2004. On August 23, 2013, the Center District filed a request for relief from the retroactive application of the TAM pursuant to the authority granted in Section 7805(b)(8) of the Internal Revenue Code of 1986. On April 24, 2014, the TEB submitted its response to the Center District's request for relief under Section 7805(b) and the Center District submitted its reply on May 20, 2014. The resolution of the Center District's request continues to be pending.

Among the several bases for the Center District's request for relief under Section 7805(b) is that, in response to concerns raised about the TAM in the public finance community, the IRS and Treasury have announced a guidance project relating to the definition of political subdivision. Whether any such future rules implement the approach of the TAM, or conclude that the standard in the TAM is inappropriate, the existence of this project provides a clear indication that there currently are other standards that taxpayers can reasonably rely on regarding when an entity will be treated as a political division, and is grounds for granting Section 7805(b) relief to the Center District. Furthermore, if the IRS were to determine that the new guidance should be prospective only, it would be a true injustice to single out the Center District for retroactive treatment.

Helen Hubbard
April 15, 2015
Page 2

On behalf of the Center District, I am writing to call to your attention certain text of the recently released report of the Committee on Appropriations of the United States House of Representatives (H. Rept. 113-508) accompanying H.R. 5016, Financial Services and General Government Appropriations Act, 2015, enacted into law as Public Law 113-235 on December 16, 2014. (See copy of excerpt from H. Rept. 113-508 attached.) The text of this report provides as follows:

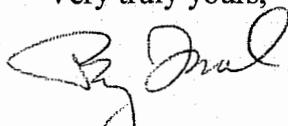
Guidance on the Definition of Political Subdivision.--The Committee is concerned that recent actions by the IRS have caused confusion concerning the definition of a political subdivision under the tax-exempt bond rules, including for entities long-recognized as political subdivisions, and have resulted in the inability to move forward with or the delay of economic development projects throughout the country. The Committee encourages the IRS to issue guidance to clarify the definition of political subdivision, to provide opportunity for public comments prior to any changes, and to make changes, if any, prospective.

This language from the House Committee report is directly germane to the subject of the TAM and the request for relief under Section 7805(b) in that it represents a recognition by the U.S. Congress that the actions by the IRS—certainly, this is a reference to the TAM—has caused confusion concerning the definition of a political subdivision under the tax-exempt bond rules, including for entities long-recognized as political subdivisions (this is clearly a reference to community development districts, such as the Center District) and that the U.S. Congress encourages the IRS to issue guidance to clarify the definition of political subdivision through a process of public commentary and, most importantly, prospective application of any rules changes.

The report of the House Committee has been acknowledged by personnel at the U.S. Treasury who are charged with the project of developing the new guidance as evidenced by the recent comments by John Cross, Associate Tax Legislative Counsel, U.S. Treasury, to the effect that Congress has recommended that any guidance on political subdivisions be prospective, as reported in the attached news article published in The Bond Buyer.

This directive by the U.S. Congress is directly relevant to the considerations that the Center District has raised in its request for relief under Section 7805(b) with respect to the TAM. We request that the relief be granted promptly. Thank you for your consideration.

Very truly yours,



Perry Israel

Helen Hubbard
April 15, 2015
Page 3

cc: Timothy Jones
Deborah Arceneaux

FINANCIAL SERVICES AND GENERAL GOVERNMENT
 APPROPRIATIONS BILL, 2015

July 2, 2014.—Committed to the Committee of the Whole House on the State of
 the Union and ordered to be printed

Mr. CRENSHAW, from the Committee on Appropriations,
 submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5016]

The Committee on Appropriations submits the following report in
 explanation of the accompanying bill making appropriations for finan-
 cial services and general government for the fiscal year ending
 September 30, 2015.

INDEX TO BILL AND REPORT

	<i>Page number</i>	
	<i>Bill</i>	<i>Report</i>
Title I—Department of the Treasury	2	7
Title II—Executive Office of the President and Funds Appropriated to the President	25	24
Title III—The Judiciary	39	34
Title IV—District of Columbia	48	40
Title V—Independent Agencies	59	45
Administrative Conference of the United States	59	45
Bureau of Consumer Financial Protection	59	46
Consumer Product Safety Commission	62	47
Election Assistance Commission	49
Federal Communications Commission	62	50
Federal Deposit Insurance Corporation	63	53
Federal Election Commission	64	53
Federal Labor Relations Authority	64	54
Federal Trade Commission	65	54
General Services Administration	66	55
Merit Systems Protection Board	78	64
National Archives and Records Administration	79	64

Healthcare.—Since 2010, the Department of Health and Human Services has transferred nearly \$500,000,000 to the IRS for implementation of Affordable Care Act provisions. The Committee prohibits further such transfers during fiscal year 2015 in section 110 of this Act.

Reporting Interest Paid to Nonresident Aliens.—On April 19, 2012, the IRS issued final regulation TD 9584 requiring all banks in the United States to report to the IRS the amount of interest paid to non-resident alien individual depositors. The Committee directs the Government Accountability Office to conduct a study of the effect of the regulation on depository financial institutions.

Guidance on the Definition of Political Subdivision.—The Committee is concerned that recent actions by the IRS have caused confusion concerning the definition of a political subdivision under the tax-exempt bond rules, including for entities long-recognized as political subdivisions, and have resulted in the inability to move forward with or the delay of economic development projects throughout the country. The Committee encourages the IRS to issue guidance to clarify the definition of political subdivision, to provide opportunity for public comments prior to any changes, and to make changes, if any, prospective.

Improper Payments.—The IRS greatly strengthened the due diligence program to verify eligibility for Earned Income Tax Credit (EITC) for tax returns filed by paid preparers three filing seasons ago. The Committee believes a similar due diligence program for tax returns filed by self-preparers may further help to discourage erroneous EITC claims, provided that such requirements are not so burdensome as to discourage participation by eligible taxpayers. Not later than 120 days after enactment of this Act, the Office of Compliance Analytics shall develop and submit proposals for such a due diligence program to the House and Senate Appropriations Committees.

OPERATIONS SUPPORT

Appropriation, fiscal year 2014	\$3,740,942,000
Budget request, fiscal year 2015	4,456,858,000
Recommended in the bill	3,620,000,000
Bill compared with:	
Appropriation, fiscal year 2014	– 120,942,000
Budget request, fiscal year 2015	– 836,858,000

The Operations Support appropriation provides for overall planning and direction of the IRS, including shared service support related to facilities services, rent payments, printing, postage, and security. Specific activities include headquarters management activities such as strategic planning, communications and liaison, finance, human resources, Equal Employment Opportunity and diversity, research, information technology, and telecommunications.

COMMITTEE RECOMMENDATION

The Committee recommends an appropriation of \$3,620,000,000 for Operations Support. None of the funds requested for implementation of the Patient Protection and Affordable Care Act are provided.

Official Time.—Labor and management have a shared responsibility to ensure that official time is authorized and used appro-