

Ruling 200-93-2

Issued: August 9, 1993

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Revised: December 12, 2008, correction and citation updated, as indicated by brackets

A ruling has been requested concerning the applicability of certain provisions of the Income Tax Act and the Corporate Income and Franchise Tax Act to the following facts:

X is a housing development corporation created under the Municipal Housing Act (Sections 3-45-1 to 3-45-25 NMSA 1978) by the housing authority of a New Mexico municipality. X under the authority of the municipality has issued bonds for the purpose of financing development and construction of housing.

Under Internal Revenue Code Section 103 (Interest on Certain Governmental Obligations), Federal Tax Regulations 1.103-1 and 1.103-8 and the analysis provided in Revenue Ruling 63-20, municipal housing authority bonds are obligations of states or political subdivisions of states and income from investment in such bands [bonds] is not includible in federal taxable income.

X asks if the interest earned and paid to the holders of the bonds is subject to taxation under either the Income Tax Act or the Corporate Income and Franchise Tax Act.

Section 7-2-2 NMSA states in part:

7-2-2(V). DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise: ...

V. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;....

Section 7-2A-2 NMSA 1978 states in part:

7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise: ...

O. [N] "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;....

The bonds issued by X are obligations of a corporation authorized to be created by a municipality of this state under the Municipal Housing Law. That Law since 1989 has authorized

the municipalities to delegate their authority to issue bonds for purposes of the Municipal Housing Law. Therefore, the bonds issued by X for the purposes of state income taxation are obligations of political subdivisions of this state. Income earned from such bonds is exempt from taxation under both the Income Tax Act and the Corporate Income and Franchise Tax Act.