

New IRS Revenue Procedure Provides Some Relief From AHYDO Rules Where AHYDO Status Would Otherwise Result From Adverse Market Conditions

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On August 8, 2008, the Internal Revenue Service ("IRS") released Revenue Procedure 2008-51, which provides some relief from the applicable high yield discount obligation ("AHYDO") rules where AHYDO status would otherwise result from certain adverse market conditions. The Revenue Procedure addresses one tax-related impediment to achieving a later syndication/resale of debt instruments that could not be successfully syndicated at the time of funding, but does not address another significant tax issue that often arises in this context - the possible recognition by the issuer of cancellation of indebtedness income ("COD Income").

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