

Lee County Board Of County Commissioners
Agenda Item Summary

Blue Sheet No. 2002 0891

1. REQUESTED MOTION:

ACTION REQUESTED: Board approval and Chairman's signature on Form 8038-T for payment of arbitrage liability, as required by the 1993 Regulations, to the U.S. Treasury for a total of \$4,840.79.

WHY ACTION IS NECESSARY: To comply with 1993 Regulations as set forth by the Internal Revenue Service (IRS).

WHAT ACTION ACCOMPLISHES: Remits arbitrage for Lee County, Florida Capital Refunding Revenue Bonds, Series 1997A and Capital Revenue Bonds, Series 1997B.

2. DEPARTMENTAL CATEGORY:

C15D

3. MEETING DATE:

08-13-2002

4. AGENDA:

- CONSENT ADMINISTRATIVE APPEALS
- PUBLIC WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER
Federal Internal Revenue Service Regulations 1.148

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
- B. DEPARTMENT Clerk of Circuit Court
- C. DIVISION Finance/Records Dept.

BY: Donna G. Harn dgh

7. BACKGROUND:

Federal arbitrage rules dictate that a bond issuer remit to the federal government any interest earned on bond proceeds that exceed the bond yield (positive arbitrage). IRS rules require that this calculation be performed every five years from date of issue of the bonds. The issuer is required to pay 90% of the arbitrage liability, which is \$5,378.66, within 60 days of the determination date. The five-year calculation on the Lee County Capital Revenue Refunding Bonds, Series 1997A and Capital Revenue Bonds, Series 1997B has been prepared by the Arbitrage Rebate Company and the payment of \$4,840.79 is due to the U.S. Treasury by August 16, 2002.

The funding source is listed below:

Capital Revenue Refunding Bond, Series 1997A GB5199023665.504983 \$4,840.79

After approval by the Board and Chairman's signature, please return the original Form 8038-T to Finance for submission to the U.S. Treasury by August 16, 2002.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<u>dgh</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>[Signature]</u> <u>7/31/02</u>	<u>OA</u> <u>[Signature]</u> <u>8/1/02</u>	<u>QM</u> <u>[Signature]</u> <u>8/1/02</u>	<u>Risk</u> <u>[Signature]</u> <u>8/1/02</u>	<u>GC</u> <u>[Signature]</u> <u>8/1/02</u>	<u>[Signature]</u> <u>8-1-02</u>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
 Date: 7/31/02
 Time: 4:00pm
 Forwarded To:
Budget
8/1/02 8:33AM

IN. TO
8-1-02
8:35
 COUNTY ADMIN.
 FORWARDED TO: [Signature]
8/1 30

Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate

Under Sections 143(g)(3) and 148(f)
and Sections 103(c)(6)(D) and 103A(i)(4) of the Internal Revenue Code of 1954

Original

Part I Reporting Authority

Check by

1 Issuer's name Lee County, Florida	2 Issuer's emp 59-6000
3 Number and street (or P.O. box no. if mail is not delivered to street address) 2115 Second Street	Room/suite
4 Report number 7	
5 City, town, or post office, state, and ZIP code Fort Myers, Florida 33901	6 Date of issue 6/17/97
7 Name of issue \$18,950,000 Lee County, Florida Capital Refunding Revenue Bonds, Series 1997 A and \$1,030,000 Lee County, Florida Capital Revenue Bonds, Series 1997B	8 CUSIP number
9 Name and title of officer or legal representative whom the IRS may call for more information	10 Telephone number of officer or legal representative

11 Type of issue Other Refunding outstanding obligations Issue price ▶	11 \$ 20,356,668.95
12 Amount of arbitrage rebate previously paid for this issue	12 \$ 0.00
13 If Form 8038, Form 8038-G, or Form 8038-GC was not filed, check here ▶ <input type="checkbox"/>	
14 Date of most recently filed Form 8038-T for this issue (MMDDYYYY)	
15 Is this the final Form 8038-T for this issue? ▶ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Part II Yield Reduction, Arbitrage Rebate, and Penalty in Lieu of Arbitrage Rebate

Yield Reduction

16 Amount of yield reduction payment (see instructions)	16 \$
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Arbitrage Rebate

17 Amount of rebate paid for the period (MMDDYYYY) from ▶ 06/17/1997 to ▶ 06/17/2002	17 \$ 4,840.79
18 Penalty for failure to pay arbitrage rebate on time (attach statement)	18 \$ 0.00
19 Interest on underpayment of arbitrage rebate (see instructions)	19 \$ 0.00

Penalty in Lieu of Arbitrage Rebate

20 Number of months since date of issue, check the box: <input type="checkbox"/> 6 mos <input type="checkbox"/> 12 mos <input type="checkbox"/> 18 mos <input type="checkbox"/> 24 mos <input type="checkbox"/> Other. No. of mos ▶	
21 Available construction proceeds ▶ \$ Unspent ▶ \$	
22 If you elected to terminate the election to pay the penalty in lieu of arbitrage rebate, check one of the following (see instructions): <input type="checkbox"/> A <input type="checkbox"/> B Date of termination (MMDDYYYY)	
23 Penalty in lieu of rebate	23 \$
24 Penalty upon termination	24 \$
25 Penalty for failure to pay on time (attach statement)	25 \$
26 Interest on underpayment of penalty in lieu of rebate or upon termination (see instructions)	26 \$
27 Total payment. Add lines 16, 17, 18, 19, 23, 24, 25, and 26. Enter total here ▶	27 \$

Part III Elections by the Issuer Check "Yes" or "No" for each question (see instructions)

	Yes	No
A. Elections made under the 1992 regulations. Did you elect to:		
28 Apply the rules under section 148 to determine if the bond complies with section 103(c)(6)(D) of the 1954 Code?		✓
29 Treat the last day of the bond year on a variable yield issue as the computation date?		✓
30 Treat a transitioned variable yield issue as a fixed yield issue?		✓
31 Treat a variable yield bond that is not a tender bond as a fixed yield bond after it converted to a fixed rate?		✓
32 Continue treating an issue as a variable yield issue after all the bonds in the issue converted to a fixed rate?		✓
33 Recompute the yield on a transitioned fixed yield issue?		✓
B. Elections made under the 1993 regulations. Did you elect to:		
34 Identify a hedge?		✓
35 Use an actual facts analysis?		✓
36 Exclude earnings on a reasonably required reserve or replacement fund from available construction proceeds?		✓
37 Treat the different purposes of a multipurpose issue as separate issues for purposes of the 2-year exception?		✓
38 Treat each loan of a pooled financing issue as a separate issue for purposes of applying the spending exception?		✓
39 Apply certain provisions of section 1.148-11(b) before the effective date?		✓
40 Apply certain provisions of section 1.148-11A(l) before the effective date?		✓

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of officer	Date	Type or print name and title
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SUMMARY OF REBATE DETERMINATION

Name of Issue: \$18,950,000 Lee County, Florida Capital Refunding Revenue Bonds, Series 1997A and \$1,030,000 Lee County, Florida Capital Revenue Bonds, Series 1997B (the "Bonds")
-- Determination of Arbitrage Rebate Liability for Year 5

Date as of which information was supplied ("Determination Date"): June 17, 2002

A. Table 1

Table 1 sets forth the yield on the Bonds calculated in accordance with the provisions of Treas. Reg. § 1.148-4. In general, the bond yield is the discount rate that when used in determining the present worth of all payments of principal and interest and any "qualified guarantee" fees to be paid on the Bonds produces an amount equal to the issue price. The issue price of the Bonds is the price paid by the first buyer of the Bonds (other than bondhouses, brokers, and other intermediaries).

Table 1.1 shows the debt service on the Bonds.

B. Table 2

Table 2 sets forth the yield, during the period between the issue date and the Determination Date, on the nonpurpose investments that are allocable to gross proceeds of the Bonds and that are subject to rebate. The yield on the nonpurpose investments is determined as of the issue date. The "payment amounts" represent the "nonpurpose receipts" and the "nonpurpose payments", and include the values of nonpurpose investments held on the Determination Date. The nonpurpose investments that are held on the Determination Date are valued at their present values or fair market values (as shown in Table 3).

Tables 2.2 – 2.6 show the cashflow on the Issuance Expense Fund.

On June 17, 1997, the proceeds of the Series 1997B Bonds were used to prepay certain loan obligations evidenced by \$1,811,800 aggregate principal amount of the County's outstanding Revenue Notes, Draw Nos. A-3-4 and A-4-6. On June 17, 1997, an escrow (the "1997 Escrow") was created to defease a portion of a 1989 issue of obligations (the "1989 Bonds"). Table 2.1 shows the cashflow on the proceeds of the Bonds in the 1997 Escrow. A small portion (of approximately 0.49%) of the October 1, 1999 principal payment on the 1989 Bonds was paid with proceeds of the 1989 Bonds (as opposed to proceeds of the 1997 Bonds). Although 0.49% of the 1989 Bond proceeds in the Reserve Fund became allocable to equity (rather than transferred proceeds of the 1997 Bonds) on October 1, 1999, the attached rebate determination adopts a conservative position by treating this portion as being subject to the rebate requirement imposed on the 1997 Bonds. Tables 2.5 – 2.7 show the cashflow on the portion of the Reserve Fund allocable to the 1997 Bonds.

On January 19, 2000, the moneys in the Reserve Fund, together with other reserve funds, were used to pay premiums certain reserve fund surety bonds. The balance of the moneys were transferred to Reserve Construction Fund #31405. Table 2.8 shows the earnings rates and

the earnings rates and expenditures on the Bond proceeds held in Reserve Construction Fund #31405. Table 2.9 shows the cashflow on those proceeds. Table 2.10 shows the yield on Reserve Construction Fund #31405. Table 2.11 shows the portion of the cashflow on Reserve Construction Fund #31405 that is allocable to the Bonds.

C. Table 3

Table 3 sets forth the fair market values of the nonpurpose investments held on the Determination Date.

D. Table 4

Table 4 sets forth the present value (determined as of the Determination Date) of the nonpurpose receipts and nonpurpose payments. The discount rate is the bond yield set forth in Table 1.

Items 105-109 of Table 4 reflect “computation credits” (within the meaning of Treas. Reg. § 1.148-3(d)(1)(iv)) for the Bonds.

The “rebate amount” as of the Determination Date is the amount of the present value of the nonpurpose receipts and nonpurpose investments as of the Determination Date (if this present value amount is positive) and is \$0.00 (if this present value amount is \$0.00 or negative).

Conclusions

The “rebate amount” as of the Determination Date is \$5,378.66. The future value, as of the Determination Date, of prior rebate payments is \$0.00.

This document has been prepared by Arbitrage Rebate Company based solely on information supplied to it by the person requesting this service.

NOTE: Records of this determination should be retained by the issuer of the Bonds (or a person acting on its behalf) until six years after the retirement of the last Bond.