

Summary of Bond Guidance under American Recovery and Reinvestment Act of 2009

Build America Bonds—Direct Payment Subsidy Procedures: The Treasury Department and IRS issued Notice 2009-26 on April 3, 2009 (2009-16 I.R.B., dated April 20, 2009), on the direct payment subsidy procedures for the new Build America Bond program created under new Code § 54AA added by the American Recovery and Reinvestment Tax Act of 2009. These bonds are tax credit bonds that provide a refundable credit or direct payment subsidy to State and local governments for 35 percent of their interest costs on taxable governmental bonds issued in 2009 and 2010 to finance capital expenditures. This Notice provides guidance on initial direct payment subsidy procedures, required elections, and information reporting. This Notice is intended to facilitate prompt implementation of this broad new program to enable state and local governments to begin issuing these bonds to promote economic recovery and job creation.

Qualified School Construction Bonds—Volume Cap Allocations: The Treasury Department and IRS issued Notice 2009-35 on April 3, 2009 (2009-17 I.R.B., dated April 27, 2009), regarding allocation of the national bond volume cap of \$11 billion for 2009 for Qualified School Construction Bonds among the states and 100 largest educational agencies based on school funding data. These bonds are authorized under a new tax credit bond program created under new Code §§ 54F added by the American Recovery and Reinvestment Tax Act of 2009. Qualified School Construction Bonds are tax credit bonds that provide a federal subsidy for school construction financings through a federal tax credit to investors designed to cover 100 percent of the interest on the bonds.

Qualified Zone Academy Bonds—Volume Cap Allocations: The Treasury Department and IRS issued Notice 2009-30 on April 3, 2009 (2009-16, dated April 20, 2009), regarding allocation of the national bond volume cap of \$1.4 billion for 2009 for Qualified Zone Academy Bonds (“QZABs”) among the states based on poverty data. These bonds are authorized under an expanded tax credit bond program under Code §§ 54E as modified by the American Recovery and Reinvestment Tax Act of 2009. QZABs are tax credit bonds that provide a federal subsidy for repair and rehabilitation of public schools and related authorized purposes through a federal tax credit to investors designed to cover 100 percent of the interest on the bonds.

New Clean Renewable Energy Bonds—Project Solicitations for Volume Cap Allocations: The Treasury Department and IRS issued Notice 2009-29 on April 6, 2009 (2009-17 I.R.B., dated April 27, 2009), regarding a solicitation of project applications for allocation of the national bond volume cap of \$2.4 billion for New Clean Renewable Energy Bonds (“New CREBs”) among eligible projects. These bonds are authorized under an expanded tax credit bond program under Code § 54C as modified by the American Recovery and Reinvestment Tax Act of 2009. These bonds are tax credit bonds that provide a federal subsidy to public power providers, state and local governmental entities, and cooperative electric companies for clean renewable energy projects through a federal tax credit to investors intended to cover 70 percent of the interest on the bonds.

Qualified Energy Conservation Bonds—Volume Cap Allocations: The Treasury Department and IRS issued Notice 2009-29 on April 6, 2009 (2009-17 I.R.B., dated April 27, 2009), regarding allocation of the national bond volume cap of \$3.2 billion for Qualified Energy Conservation Bonds among the states and large local governments based on population data. These bonds are authorized under an expanded tax credit bond program under Code § 54D as modified by the American Recovery and Reinvestment Tax Act of 2009. These bonds are tax credit bonds that provide a federal subsidy for repair and rehabilitation of public schools and related authorized purposes through a federal tax credit to investors intended to cover 70 percent of the interest on the bonds.

Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds—Volume Cap Allocations: The Treasury Department and IRS issued Notice 2009-50 on June 14, 2009 (2009-26 I.R.B., dated June 29, 2009) regarding allocation of the national bond volume caps of \$10 billion and \$15 billion, respectively, for these two types of bonds, among the states, over 3,000 counties in the United States, and over 250 large municipalities based on individual employment declines in 2008. These bonds may be issued in 2009 and 2010. These bonds are new tax-preferred bond programs created under new Code §§ 1400U-1 and 1400U-2 added by the American Recovery and Reinvestment Tax Act of 2009. Recovery Zone Economic Development Bonds are a modified type of Build America Bond that provide a deeper federal direct payment subsidy of 45 percent of state and local governmental borrowing costs for eligible governmental projects. Recovery Zone Facility Bonds are a form of tax-exempt qualified private activity bonds for eligible projects which may be used by private businesses.

Indian Tribal Economic Development Bonds—Project Solicitations for Volume Cap Allocations: The Treasury Department and IRS, in consultation with the Department of the Interior, issued Notice 2009-51 (2009-28 I.R.B. July 13, 2009) regarding a solicitation of project applications for allocation of the national bond volume cap of \$2 billion for Indian Tribal Economic Development Bonds among eligible projects. These bonds are authorized under a new tax-exempt bond program for Indian tribal governments under new Code § 7871(f) added by the American Recovery and Reinvestment Tax Act of 2009. These bonds are tax-exempt bonds similar to those issued by state and local governments the interest on which is excludable from gross income under Code § 103.