

**American Recovery and Reinvestment  
Act of 2009 (“ARRA”)  
Recovery Zone Bonds**

OFM

October 20, 2009

# Build America Bond Summary

## Build America Bonds (Tax Credit)

- Provides Quarterly Federal Tax Credit of 35% of coupon interest paid by issuer directly to the investor
- May be used to finance any governmental purpose for which tax-exempt bonds would normally be used (excluding private activity uses)
- Must comply with all requirements applicable to tax-exempt bond financings

## Build America Bonds (Direct Pay)

- Provides Quarterly Federal Tax Credit of 35% of coupon interest paid by issuer directly to the governmental issuer
- May be used to finance capital expenditures, certain issuance costs, and reasonably required reserve funds
- Must comply with all requirements applicable to tax-exempt bond financings

## Recovery Zone Economic Development Bonds

- Provides Quarterly Federal Tax Credit of 45% of coupon interest paid by issuer directly to the governmental issuer
- May be used for:
  1. Capital expenditures paid or incurred with respect to property located in the recovery zone
  2. Expenditures for public infrastructure or public facilities
  3. Expenditures for job training and educational programs

## Recovery Zone Facility bonds

- Interest on the bonds are excludable from gross income and are not an item of preference under AMT
- 95% or more of the net bond proceeds must be used for recovery zone property
- Recovery zone property designation includes/requires:
  1. Property constructed, reconstructed, renovated, or acquired by taxpayer after the date which the recovery zone designation took effect
  2. Original property use originates with the taxpayer
  3. Substantially all the use is in the recovery zone for a qualified business purpose

### General Provisions:

- 2009 American Recovery and Reinvestment Act provides for \$10 billion of national RZEDB authority of which Kentucky receives \$97,120,000
- 2009 American Recovery and Reinvestment Act provides for \$15 billion of national RZFB authorization of which Kentucky receives \$145,681,000
- Bonds Must be issued by December 31, 2010
- Allocations of both RZEDB and RZFB authorization have been made to local counties and municipalities by the federal government
- Issuer election for all types of Build America Bonds require federal tax form 8038 be filed

# Recovery Zone Economic Development Bonds

- Kentucky has been allocated \$97,120,000 in RZEDBs
  - Bonds may be used for:
    - Capital expenditures paid or incurred for purposes of promoting development or other economic activity with respect to property located in a “recovery zone” to include:
      - Public infrastructure or construction of public facilities
      - Job training and educational programs
  - Additional Features:
    - Provides a 45% interest subsidy from the federal government to the governmental issuer of said bonds
    - Allows for return of cap to the state by option of waiving allocated cap
    - Allows for transfer of allocation to municipalities located within the county

# Recovery Zone Facility Bonds

- Kentucky has been allocated \$145,681,000 in RZFBs
  - Bonds may be used for “qualified recovery zone property” defined as:
    - Property constructed, reconstructed, renovated, or acquired by purchase of the taxpayer after the date the designation of the recovery zone took place
    - Original use within the recovery zone commences with the taxpayer
    - Substantially all the use is within the recovery zone and is in the active conduct of a qualified business by the taxpayer
      - Qualified business is defined as any trade or business except that if the property is rented to others it may NOT:
        - Include residential rental property
        - Include any business related to golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, gambling facilities, or any stores for which the principle business is the sale of alcoholic beverages for consumption off site

# Recovery Zone Bond Reallocation Features

- Counties have received direct federal cap allocations
- Counties can waive allocated cap back to the state
- A county may transfer its allocation to a political subdivision in its jurisdiction (Recovery Zone declaration must be made by the county for designated area)
- Cap waived to the state can be reallocated to any county in its jurisdiction (Recovery Zone declaration must be made by the state for designated area)
- Implications for Reallocation:
  - Only cap allocations waived back to the state are eligible for reallocation to counties originally receiving no direct allocation
  - Counties cannot transfer allocations amongst themselves therefore without first waiving cap back to the state, there is no opportunity for pooled county issuances
  - The Kentucky Private Activity Bond Allocation Committee has adopted policy supporting the transfer of allocations among counties through the waiver process.  
(see <http://www.lrc.ky.gov/kar/200/015/010reg.htm>)
  - There is no effective method to pool allocations with neighboring counties in adjacent states

# Recovery Zone Declaration

- A resolution by the County declaring the area a Recovery Zone must take place prior to the issuance of either RZFBs or RZEDBs
- Section 1400U-1 of the Internal Revenue code of 1986, as amended, defines the term “Recovery Zone” as:
  - Any area designated by the County as having significant poverty, unemployment, rate of home foreclosures or general distress
  - Any area designated by the County as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990
  - Any area for which a designation as a empowerment zone or a renewal community is in effect