

## **Tax and Finance Provisions**

The following information was provided by the National League of Cities. Please note that many of these finance provisions may require state authorizing legislation and/or approval by the Local Government Commission in the State Treasurer's office. Please contact the LGC for further guidance <http://www.nctreasurer.com/dsthome/StateAndLocalGov>.

Below is a summary of the tax-exempt bond provisions in the American Recovery and Reinvestment Act.

### **Important Note: These Provisions Apply Only to Bonds Issued in 2009 and 2010.**

- **Increases Bank Qualified Debt Limit to \$30 Million.** The Act increases the small issuer exception to \$30 million from its current \$10 million level. This will allow smaller governments to place their debt directly with community or other banks who in turn can deduct 80% of the purchasing costs for bonds issued in 2009 and 2010
- **Provides New Incentives for Banks to Purchase all Types of Bonds.** Since 1986, banks have been able to deduct only the carrying costs of bank-qualified bonds. The Act allows banks to deduct 80 percent of the carrying costs of purchasing all types of newly issued bonds in 2009 and 2010; to the extent investment in the bonds does not exceed 2 percent of the bank's total assets.
- **Eliminates application of the AMT on private activity and governmental bonds.** The interest on private activity bonds and some governmental bonds is not deductible for individuals and corporations, who must pay the alternative minimum tax (AMT). The Act eliminates the application of the AMT on all bonds issued in 2009 and 2010, including refunding of bonds that were initially issued after 2003.
- **New Taxable Bond Option (Build America Bonds).** Under the Act issuers can elect to issue either taxable tax-credit in lieu of tax-exempt bonds for governmental purposes for bonds issued in 2009 and 2010. The taxable bond option allows issuers to receive a 35 percent reimbursement of interest paid from the federal government *or* provide a 35 percent tax credit to investors. All of the tax laws applicable to tax-exempt bonds apply to the taxable tax-credit governmental bonds.
- **New "Recovery Zone Bonds".** A new category of tax-exempt private activity bonds has been created for use in "recovery zones," which are designated areas with significant unemployment, poverty and home foreclosure rates. \$15 billion in private activity Recovery Zone Facility Bonds would be allocated based on a proportion of a jurisdiction's unemployment rate versus that of the nation's. The

bonds need to be issued by January 1, 2011. The legislation also authorizes \$10 billion in taxable bonds, Recovery Zone Economic Development Bonds, to be used to promote economic development in a Recovery Zone, and the state or local government would receive a 45 percent reimbursement of interest paid, with no option to apply the credit to investors.

- **Creates New Tax Credit Bonds: Qualified School Construction Bonds.** These tax credit bonds may be used to finance new construction, rehabilitation or repair of public school facilities. The Act authorizes \$11 billion annually for 2009 and 2010. 40 percent of the allocation is dedicated to large school districts
- **Expands Qualified Zone Academy Bond Authority.** Congress has routinely reauthorized \$400 million for this program, and the Act replaces that amount with \$1.4 billion annually in 2009 and 2010.
- **Increases New Clean Energy Bond Limits.** The Act authorizes a total of \$ 2.4 billion (an increase of \$1.6 billion) for Clean Renewable Energy Bonds used to finance renewable energy facilities. The authorization is subdivided into thirds: 1/3 for state/local/tribal governments; 1/3 for qualifying projects of public power providers; and 1/3 for qualifying projects of electric cooperatives.
- **Increases Qualified Energy Conservation Bonds Limits.** The Act provides for \$3.2 billion (an increase of \$2.4 billion) of tax credit bonds to be issued for green community programs, including allowing bonds to be issued to finance loans to individual homeowners to retrofit existing houses with energy conservation products.
- **Expands Definition of Industrial Revenue Bonds.** Expands definition of industrial revenue bonds to include facilities used for the manufacturing, creation or production of intangible property.
- **Prevailing Wage Requirements to Tax Credit Bond Programs.** The Act mandates that wage requirements under the Davis-Bacon Act apply to the Recovery Zone Economic Development Bonds, Qualified Zone Academy Bonds, Qualified School Construction Bonds, Clean Renewable Energy Bonds and the Qualified Energy Conservation Bonds.

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