The American Recovery and Reinvestment Act of 2009

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What it Means to You and Your Financing Options

Topics To Be Covered

1. Build America Bonds (BABs)
2. Recovery Zone Economic Development Bonds
3. Recovery Zone Facility Bonds
4. Tax Credit Bonds - Various
5. Tribal Bonds
6. Changes Made to Improve the Market for State and Local Obligations
7. Changes to Small Issuer IDB Rules

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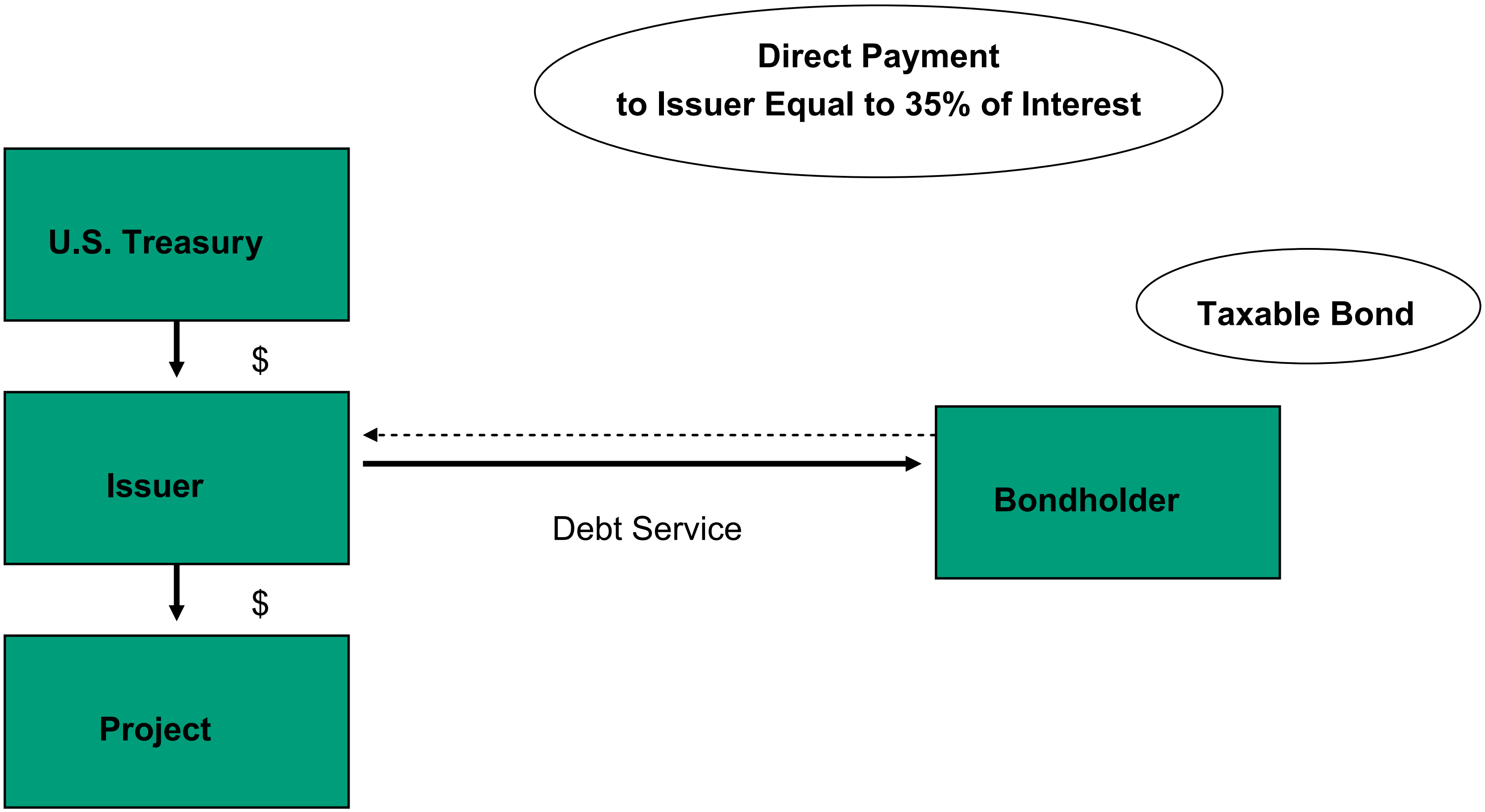
Direct Subsidy – Build America Bonds



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What are BABS and How Do Direct Subsidy BABs Work?

- All State and local government issuers may issue BABs
- The interest on BABs is "taxable"
- The bonds must be a "governmental bond" (*i.e.*, private use is limited)
- Direct Subsidy BABs may be issued for new money capital expenditures only
- A Federal subsidy equal to 35% of the interest will be paid to the issuer

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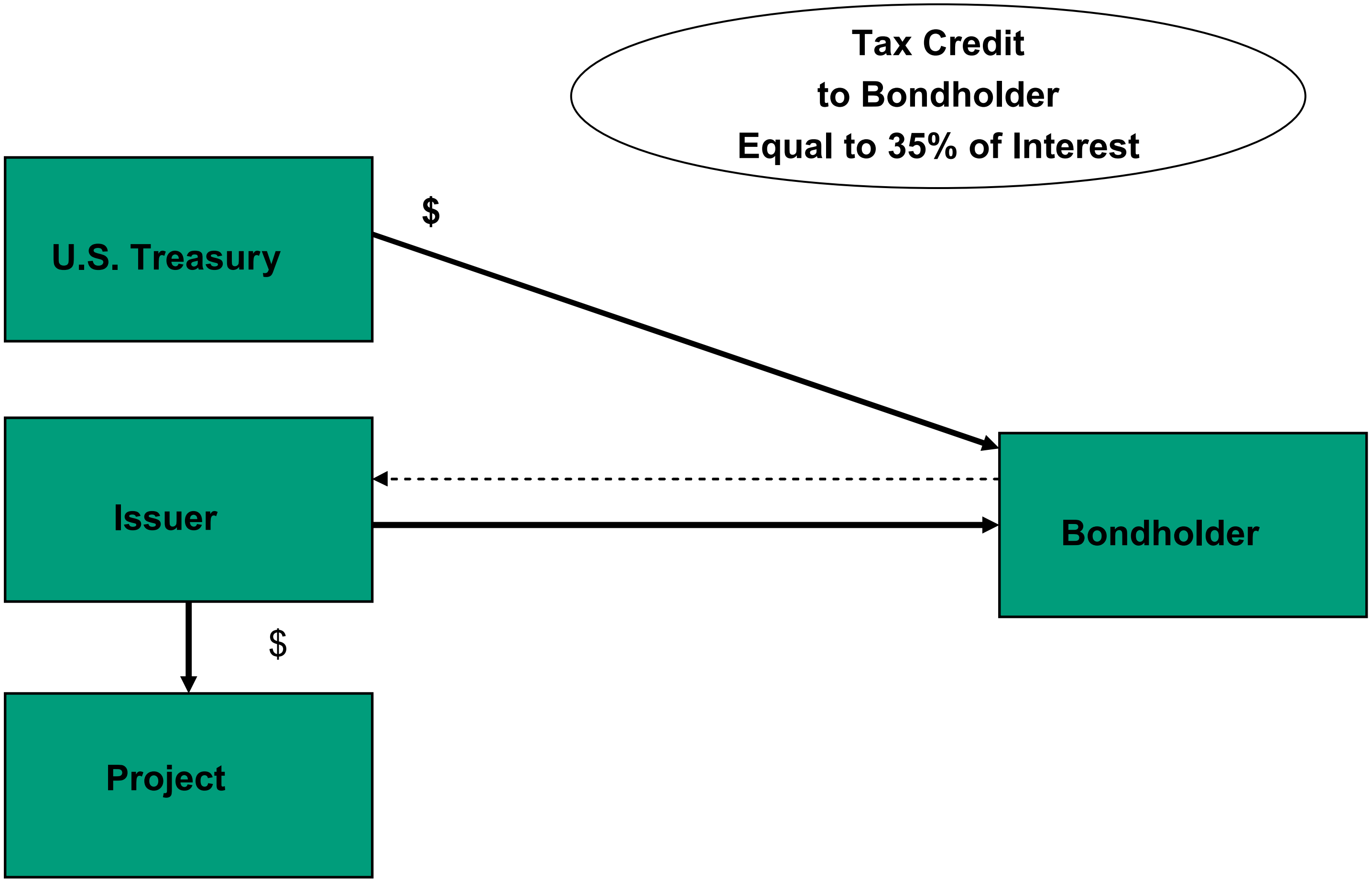
What are BABS and How Do Direct Subsidy BABs Work?

- BABs may be issued in 2009 and 2010
- Tax-exempt bond rules apply to BABs (e.g., arbitrage rebate, too much private use will jeopardize the subsidy)
- Waiting for guidance from IRS re: implementation of Direct Subsidy program:
  - Register bonds with IRS?
  - How do you supply information re: interest amounts and payment dates?

Tax Credit – Build America Bonds



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How Do Credit BABs Work?

- Unlike Direct Subsidy BABs, Credit BABs may be issued for both refunding purposes and working capital purposes
- In lieu of cash subsidy paid to the issuer, a tax credit equal to 35% of the interest is provided to the bondholder
- If credits cannot be used in a tax year, they may be carried forward
- The tax credits may be stripped by the issuer from the bond and separately sold

Recovery Zone Economic Development Bonds

- Permitted Issuers: Municipalities with a population in excess of 100,000 and Counties
- The bonds must be a "governmental bond" (*i.e.*, private use is limited)
- Eligible expenditures:
  - New money capital expenditures for property in a recovery zone
  - Public infrastructure (wherever located) that promote economic activity in a recovery zone
  - Expenditures for job training and educational programs

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Recovery Zone Economic Development Bonds

- Recovery Zone Bonds are a “taxable” bond
- Similar to BABs, the issuer sets a direct Federal subsidy of 45% of the interest or bondholders get a tax credit equal to 45% of the interest
- Can be issued in 2009 and 2010

Recovery Zone Economic Development Bonds

What is a Recovery Zone?

- Any area designated by an issuer as having significant poverty, unemployment, rate of home foreclosures, general economic distress.

Volume Cap - $10 billion

Recovery Zone Economic Development Bonds

Volume Cap Allocation Process

- The authority will be allocated to States in proportion to relative declines in employment during 2008.

Prevailing Wage Laws Apply

- Federal Davis-Bacon prevailing wage rules apply to projects financed with recovery zone economic development bonds.

Recovery Zone Facility Bonds

- Permitted Issuers: Municipalities with a population in excess of 100,000 and Counties
- Eligible Expenditures:
  - Depreciable property located in a Recovery Zone (e.g., buildings and equipment)
  - The property may be privately owned and operated (100% Private Use)
  - The property must be constructed, reconstructed, renovated or acquired <u>after</u> the area is designated a Recovery Zone

Recovery Zone Facility Bonds

- Recovery Zone facility bonds are tax-exempt bonds
- Recovery Zone – same definition as Recovery Zone Economic Development Bonds
- Allocation process – same allocation as Recovery Zone Economic Development Bonds
- Volume Cap – $15 billion
- Can be issued in 2009 and 2010

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Tax Credit Bonds

A. School Credit Bonds

B. New Clean Renewable Energy Bonds

C. Qualified Energy Conservation Bonds

D. Qualified Zone Academy Bonds

How Do Tax Credit Bonds Work?

- Tax Credits to bondholders in lieu of issuer interest
- New money only
- Proceeds in project fund not subject to arbitrage rebate provided 100% spent within 3 years
- Funds can be set aside annually by the issuer to repay the bonds and investment earnings may be retained up to stated limits (i.e., possible to earn “arbitrage” in a sinking fund)
- Bullet maturity (14 – 15 years)
- Credits may be stripped

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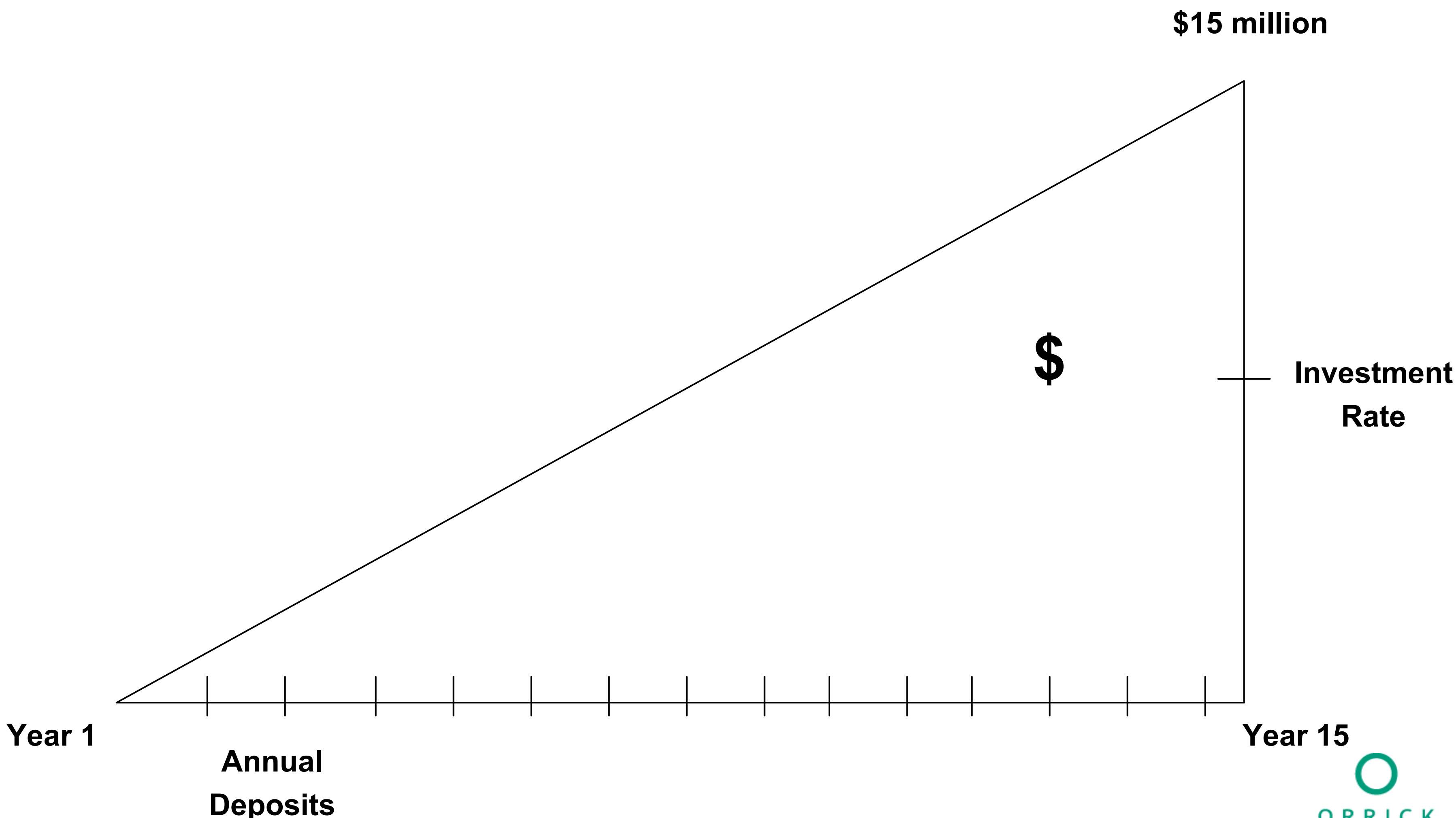
Investment of Sinking Fund



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School Tax Credit Bonds

• Permitted Issuers:	States and certain school districts
• Eligible Projects:	Construction, rehabilitating or repairing public school facilities and acquiring land for public school facilities
• Tax Credit Bonds:	Bondholders are provided a tax credit in lieu of interest by the issuer Policy is to provide issuers with a 0% cost of funds

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School Tax Credit Bonds

• Volume Cap:	$11 billion – 2009 $11 billion – 2010
• Allocation Process:	60% to States in proportion to the respective amounts of government funds each State is eligible to receive under the Federal Elementary and Secondary Education Act of 1965 40% to 100 largest school districts and 25 school districts chosen by Secretary of Education
• Prevailing Wages:	Federal Davis-Bacon prevailing wage rules apply to projects financed with proceeds of School Tax Credit Bonds

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New Clean Renewable Energy Bonds

• Permitted Issuers:	All types of local government issuers, municipal utilities, electric cooperatives and certain cooperative lenders
• Eligible Projects:	A broad range of renewable generation facilities
• Project Ownership:	The project must be <u>owned</u> by a municipal utility, a state or local government, or a cooperative electric company, <u>but</u> may be leased to or operated by or its output sold to a private company

New Clean Renewable Energy Bonds

- Level of Tax Credit: A “tax-credit bond” designed to provide the issuer with a 70% interest subsidy
- Prevailing Wages: Federal Davis-Bacon prevailing wage rules apply to projects financed with proceeds of New CREBs
- Volume Cap: $2.4 billion
- Allocation Process: Applications to be filed by issuers with IRS when “CREB window” is open

New Clean Renewable Energy Bonds

The types of projects that can be financed with New CREBs include:

- Wind energy facilities
- Closed-loop biomass facilities
- Open-loop biomass facilities
- Geothermal energy facilities
- Solar energy facilities

New Clean Renewable Energy Bonds

- Solar energy facilities
- Small irrigation power facilities
- Landfill gas facilities
- Trash combustion facilities
- Marine and hydrokinetic energy facilities
- Qualified hydropower facilities

Qualified Energy Conservation Bonds

• Permitted Issuers:	All types of State and local government issuers
• Allocation Process:	Based on State population
• Governmental Bonds	At least 70% of each state's volume and cap allocation must be used for Bonds: governmental purpose bonds
Private Activity	Up to 30% of each state's volume cap allocation may be used for private activity bonds, meaning proceeds may be loaned to private companies and/or for privately owned or operated projects

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Qualified Energy Conservation Bonds

• Tax Credit:	A “tax-credit bond” designed to provide the issuer with a 70% interest subsidy.
• Prevailing Wages:	Federal Davis-Bacon prevailing wage rules apply to projects financed with proceeds of New QCEBs
• Volume Cap:	$3.2 billion

Qualified Energy Conservation Bonds

Projects that may be financed with QECBs include the following categories:

Type I – Capital expenditures incurred for purposes of —

- Reducing energy consumption in publicly owned buildings by at least 20%,
- Implementing green community programs,
- Rural development involving the production of electricity from renewable energy resources, or
- Any facility eligible for the production tax credit under Section 45 of the Internal Revenue Code (*i.e.*, New CREBs projects).

Qualified Energy Conservation Bonds

Type II – Expenditures with respect to research facilities and research grants to support research in —

- Development of cellulosic ethanol or non-fossil fuels,
- Technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,
- Increasing the efficiency of existing technologies for producing non-fossil fuels,
- Automotive battery technologies and other technologies to reduce fossil fuel, consumption in transportation, or
- Technologies to reduce energy use in buildings.

Qualified Energy Conservation Bonds

Type III – Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

Qualified Energy Conservation Bonds

Type IV – Demonstration projects designed to promote commercialization of —

- Green building technology,
- Conversion of agricultural waste for use in the production of fuel or otherwise,
- Advanced battery manufacturing technologies,
- Technologies to reduce peak use of electricity, or
- Technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

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Qualified Energy Conservation Bonds

Type V – Public education campaigns to promote energy efficiency (other than movies, concerts and other events held primarily for entertainment purposes).

Qualified Zone Academy Bonds

• Permitted Issuers:	School districts
• Eligible Projects:	Renovation, equipping or training teachers and personnel at qualified schools
• Tax Credits:	A “tax-credit bond” that provides bondholders with a federal tax credit against income and seeks to provide issuers with a 0% cost of funds
• Prevailing Wages:	Federal Davis-Bacon prevailing wage rules apply to projects financed with proceeds of such bonds
• Volume Cap:	$1.4 billion for 2009 and 2010
• Allocation Process:	Among States on the basis of population below poverty line

Tribal Bond Provisions

• Key Elements:	Creates a new type of bond (tribal economic development bond or “TED”) that allows tribes to finance any project a state could finance with governmental or private activity bonds, provided that it does not finance gaming and finances only facilities located in Indian Country Allows tribes to issue Subsidy BABs, Credit BABs, and School Tax Credit Bonds
• Volume Cap:	For TED Bonds, \$2 billion (no time limit). For Qualified School Bonds, \$200 million in 2009 and \$200 million in 2010
• Allocation	Pending

Temporary Suspension of AMT as Applied to Tax-Exempt Bonds

- Types of Bond Issues Impacted: Principal impact on airport-qualified private activity bonds, student loan bonds, dock and wharf facility bonds, solid waste disposal facility bonds, affordable housing bonds, and other types of qualified private activity bonds

Temporary Suspension of AMT as Applied to Tax-Exempt Bonds

• New Money:	Applies to new money bonds issued in 2009 and 2010
• Refunding:	Outstanding AMT bonds issued between 2004 and 2008 may be refinanced in 2009 or 2010 on a non-AMT basis

Expansion “Bank Qualified Bond” Category

- Issuers Impacted by Change:
  - State and local government issuers that issue no more than $30 million of debt annually
  - Conduit issuers that issue bonds for Section 501(c)(3) organizations that borrow less than $30 million annually.
  - Issuers of pool bonds for Section 501(c)(3) organizations and governmental units pursuant to which each conduit borrower borrows less than $30 million annually

Expansion "Bank Qualified Bond" Category

- Benefits of the Change: Banks can deduct up to 80% of the interest expense that is allocable to a "bank qualified bond."

  As a result of this permitted bank arbitrage, qualified bonds placed with a bank will generally be sold at a lower bond coupon when compared to non-qualified bonds

Expansion of the IRS 2% *De Minimis* Rule to Banks

- Impact: Permits banks to avoid limits on interest expense deductions for new money, non-bank qualified bonds issued in 2009 and 2010 provided such bonds do not exceed 2%of its total assets

Changes to Small Issuer IDB Rules

2009 and 2010 changes:	Eligible projects include facilities to create or produce intangible property, such as software production, research labs, recording and film studios
	25% ancillary facility limitation replaced by rule that permits financing of on-site functionally related and subordinate assets without percentage limitation
Permanent change:	Special restrictions on financing of office space are eliminated.

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Contact Information

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