

MUNICIPAL REGULATORY REFORM:

*Will it Help or Hinder Local Government
Investment Strategies?*

April 21, 2011

Fiscal Reform – Regulatory Structures

*Ramifications of Expiring ARRA
Federal Tax Provisions*

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BANK ENTICEMENTS



Section 265 – Bank Qualified Exception

- A. ARRA special rule for obligations issued in 2009/2010
- B. Aggregate limit increased from \$10 to \$30 million
- C. Special Rule for 501(c)(3) conduit issues
- D. Back to a lower limit and test at state and local level

BANK ENTICEMENTS



2% de minimis rule

- A. Added by ARRA for bonds issued during 2009/2010.
- B. Refunding are grandfathered (refunding bonds treated as issued on date of issue of refunding bond).

AMT RELIEF



Items of Tax Preference (Section 57)

A. Exempted private activity bonds issued in 2009/2010.

B. Tricky for refundings

- i. If refunding a 2009/2010 new money bond, grandfathered status is maintained.
- ii. If refunding a 2009/2010 refunding bond with benefits of ARRA, not grandfathered.



Adjusted Current Earnings (Section 56)

A. Same rules as above.

Tax Credit Bonds

(Reduced Borrowing Cost by Reason of Federal Direct Pay Subsidy)



Build America Bonds

A. 54AA BAB programs gone (had to be issued before 2011).

B. Can not refund outstanding BABs with BABs; defeasance triggers a reissuance.

Tax Credit Bonds (Continued)



(Reduced Borrowing Cost by Reason of Federal Direct Pay Subsidy)








Other tax credit bond programs

- A. QSCB – no new allocation, but carryover can be used, including as direct pay.
- B. QZAB – new allocation for 2011; carryover only for two years, and direct pay not for 2011 allocation.
- C. QECB – national allocation; can still be issued as direct pay.
- D. CREB – national allocation; can still be issued as direct pay.

Small Issue Bonds (Section 144)

-  ARRA expanded what could be financed.
-  2009/2010 issues– manufacturing facilities included intangibles. Ancillary restrictions were removed.

Ramifications

-  Limited direct pay bonds remaining.
-  Tax-exempt financing returns to be normal financing vehicle; subsidy may not be as great as with BABs.
-  Market narrows back as we lose taxable bond purchasers in the market.
-  Loss of tax enticements for banks further narrows market.
-  Cost impacts due to loss of AMT exceptions.