



## Public Finance Bulletin

### HIRE ACT EXPANDS QUALIFIED SCHOOL CONSTRUCTION BOND PROGRAM

Qualified School Construction Bonds were authorized by the American Recovery and Reinvestment Tax Act of 2009, which was enacted on February 17, 2009 (the Recovery Act). H.R. 2847 - the Hiring Incentives to Restore Employment Act (the HIRE Act), which President Obama signed into law on March 18, 2010, expanded Qualified School Construction Bonds, which may now be issued as tax-credit bonds or taxable direct-payment subsidy bonds.

#### **What changes did the HIRE Act make to Qualified School Construction Bonds?**

- The HIRE Act permits school districts to issue Qualified School Construction Bonds as either (a) tax-credit bonds or (b) taxable bonds with direct-payment subsidies from the federal government. Such direct-payment subsidies are similar to the direct-payment subsidies received by political subdivisions issuing Build America Bonds.

#### **What are Qualified School Construction Bonds?**

- Qualified School Construction Bonds may be issued as tax-credit bonds or taxable direct payment bonds, similar to Build America Bonds.

#### **What are the requirements to issue Qualified School Construction Bonds?**

- Qualified School Construction Bonds must be issued by the school district within which the public school facility financed is located and designated as Qualified School Construction Bonds.
- 100 percent of the “available project proceeds” of the bond issue must be used for construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed with part of the proceeds of such issue.
- Proceeds of Qualified School Construction Bonds may be used for costs of acquisition of equipment to be used in the portion of the school facility that is being constructed, rehabilitated, or repaired.

#### **How do the direct payment subsidies work?**

- The school district issuing taxable Qualified School Construction Bonds receive direct payments equal to the lesser of (a) the actual interest rate of the bonds or (b) the tax-credit rate for municipal tax-credit bonds that the school district would have received if it issued the bonds as tax-credit bonds. The subsidy is intended to fully or nearly fully reimburse the school district issuer for its interest costs.

#### **How do the tax credits work?**

- The holders of Qualified School Construction Bonds are entitled to claim federal income tax credits at a rate set by the U.S. Treasury (<https://www.treasurydirect.gov/GA-SL/SLGS/selectQTCDDate.htm>) on the sale date of the issue. This rate is intended to enable the Qualified School Construction Bonds to be sold at zero or very low interest rates.

#### **What is the maximum maturity of Qualified School Construction Bonds?**

- The maximum maturity of Qualified School Construction Bonds is determined by the maximum maturity set by the U.S. Treasury (<https://www.treasurydirect.gov/GA-SL/SLGS/selectQTCDDate.htm>) on the sale date of the issue.

## What was the allocation of Qualified School Construction Bonds for 2010 for Ohio school districts?

- On March 17, 2010, the Internal Revenue Service issued Notice 2010-17 (<http://www.nabl.org/uploads/cms/documents/Notice201017.pdf>), which provided Qualified School Construction Bonds allocations for 2010. The State of Ohio received an allocation of \$293,763,000 that the State may allocate to Ohio school districts.
- In Ohio, the Cincinnati City School District, Cleveland Municipal School District, Columbus School District and Toledo City School District are school districts that qualify as “large educational agencies” and, as such, each received the following allocations in 2010:
  - Cincinnati City School District - \$25,922,000
  - Cleveland Municipal School District - \$51,058,000
  - Columbus City School District - \$39,266,000
  - Toledo City School District - \$20,962,000

## How will the State of Ohio distribute its allocation of \$293,763,000?

- Ohio school districts interested in receiving an allocation to issue Qualified School Construction Bonds should apply through the Ohio Department of Education and may find out more information on the Department’s website (<http://osfc.ohio.gov/Programs/QualifiedSchoolConstructionBondsQSCB/tabid/156/Default.aspx>.)

### Additional Information

The Benesch Public Finance group has discussed the provisions of the Recovery Act with dozens of state and local government officials and has assisted with Qualified School Construction Bond issues. If you are interested in learning more about Qualified School Construction Bonds or the Benesch Public Finance group can be of any further service, please contact any of the following:

**Catherine Swartz** at [cswartz@beneschlaw.com](mailto:cswartz@beneschlaw.com) or 216.363.4546

**Stephen Grassbaugh** at [sgrassbaugh@beneschlaw.com](mailto:sgrassbaugh@beneschlaw.com) or 614.223.9327

**Andrew Kleiman** at [akleiman@beneschlaw.com](mailto:akleiman@beneschlaw.com) or 317.685.6139

**Jason George** at [jgeorge@beneschlaw.com](mailto:jgeorge@beneschlaw.com) or 614.223.9311

**Michael Melliere** at [mmelliere@beneschlaw.com](mailto:mmelliere@beneschlaw.com) or 614.223.9336

**Susan Price** at [sprice@beneschlaw.com](mailto:sprice@beneschlaw.com) or 614.223.9377 or

**Allison Binkley** at [abinkley@beneschlaw.com](mailto:abinkley@beneschlaw.com) or 614.223.9376

### Related Files

- Build America Bonds – New Guidance from the IRS
- Proposed Direct Subsidy Payments for QSCB and QZAB Programs

[www.beneschlaw.com](http://www.beneschlaw.com)

*As a reminder, this Advisory is being sent to draw your attention to issues and is not to replace legal counseling.*

UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 DISCLOSURE: TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, WE INFORM YOU THAT, UNLESS EXPRESSLY STATED OTHERWISE, ANY U.S. FEDERAL TAX ADVICE CONTAINED IN THIS COMMUNICATION (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, FOR THE PURPOSE OF (i) AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE, OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY TRANSACTION OR MATTER ADDRESSED HEREIN.