

Bond Programs Under the American Recovery & Reinvestment Act (ARRA) and Other Recent Legislation

	Build America Bonds (Direct Payment)	Recovery Zone Economic Development Bonds (Direct Payment)	Build America Bonds (Tax Credit)	Qualified Zone Academy Bonds (QZABs)	Qualified School Construction Bonds (QSCBs)	New Clean Renewable Energy Bonds (New CREBs)	Qualified Energy Conservation Bond (QECBs)	Recovery Zone Facility Bonds	Midwestern Disaster Area Bonds*	Traditional Tax-Exempt Bonds
Who Can Issue	State and local government issuers, including school districts	State and local governments (see Volume Cap/Allocation below)	State and local government issuers, including school districts	State or local government, including school districts within the jurisdiction of which an "academy" is located	State or local government issuers, including school districts within the jurisdiction of a public school	Governmental body; public power provider, cooperative electric company; and others	State and all political subdivisions and entities empowered to issue bonds "on behalf of" under federal tax rules (see Volume Cap/Allocation below)	State and local governments (see Volume Cap/Allocation below)	States and political subdivisions of states in which a Midwestern disaster area is located (in Wisconsin, 30 counties are located in a Midwestern disaster area)	States and all political subdivisions and entities empowered to issue bonds "on behalf of" under federal tax rules
Permitted Projects	Any governmental purpose for which tax-exempt bonds could be issued (but only capital expenditures), not including private activity bonds	Qualified economic development purposes = promoting development or other economic activity in a recovery zone, including: capital expenditures with respect to property in a zone; public infrastructure and construction of public facilities located in a zone; job training and educational programs; and capital expenditures and working capital expenditures to promote development and other economic activity in a recovery zone, not including private activity bonds	Any governmental purpose for which tax-exempt bonds could be issued (including capital expenditures and working capital), not including private activity bonds	Rehabilitating or repairing the public school facility in which the academy is established, providing equipment for use at such academy, developing course materials for education to be provided at such academy, and training teachers and other school personnel in such academy	Construction, rehabilitation, or repair of a public school facility or for the acquisition of land on which such a facility is to be constructed (including equipment related to such construction, rehabilitation or repair)	Capital expenditures for qualified renewable energy facilities that generate electricity from: wind, closed-loop biomass, open-loop biomass, geothermal or solar, small irrigation, landfill gas, trash combustion, qualified hydropower and marine and hydrokinetic renewable energy	Capital expenditures incurred for purposes of reducing energy consumption in publicly-owned buildings, implementing green community programs, rural development involving production of electricity, or a qualified facility as defined in Section 45(d) of the Code; certain research expenditures; mass commuting facilities, demonstration projects; and public education campaigns	Must be used for recovery zone property = any depreciable property in which: property was constructed, reconstructed, renovated or acquired by the taxpayer after the date the recovery zone was designated; the original use of the property commences with the taxpayer; substantially all of the use of the property is within the recovery zone; and the bond financed property is used in the active conduct of a qualified business	Qualified project costs include: 1) cost of qualified residential rental project located in Midwestern disaster area; 2) cost of acquisition, construction, reconstruction and renovation of nonresidential real property (including fixed improvements associated with such property) located in Midwestern disaster area; and 3) cost of acquisition, construction, reconstruction and renovation of public utility property located in Midwestern disaster area Cannot be used for movable fixtures and equipment Projects involving private business use must involve loss attributable to storms, flooding, etc., unless otherwise designated by Governor as person carrying on trade or business replacing trade or business that suffered such a loss See "Additional Requirements" below	Public Purposes permitted by applicable state and federal law

*The summary herein regarding Midwestern Disaster Area ("MDA") bonds focuses on MDA Bonds issued as exempt facility bonds; additional requirements not addressed herein apply to MDA Bonds issued as qualified mortgage bonds.

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Deadline to Issue	Before January 1, 2011	Before January 1, 2011	Before January 1, 2011	Allocation cannot be carried forward longer than 2 years after the end of the year allocation given**	No specific guidance on deadline to issue**	Allocation reverts back to the IRS 3 years after given	No specific guidance on deadline to issue	Before January 1, 2011	Before January 1, 2013	None
Volume Cap/ Allocation	Unlimited	Wisconsin has \$158,811,000 allocation; counties and municipalities with populations > 100,000 received allocations in proportion to their 2008 decline in employment. Allocations can be found at www.irs.gov/pub/irs-tege/rzblockreallocations.pdf	Unlimited	Department of Public Instruction had \$19,585,000 to allocate for 2010 and has \$6,102,000 to allocate for 2011 to individual issuers (some available 2009 allocation also remains); however, none of the 2011 allocation amount can be used for bonds issued with a direct payment subsidy paid to the issuer	Wisconsin Department of Public Instruction had \$100,459,000 to allocate for 2010 to individual issuers; there is no new allocation for 2011, therefore only unused 2010 allocation amounts can be used in 2011	Secretary of Treasury had \$2.4 billion to allocate; applications were due on August 4, 2009 for the first round of allocations and allocations were announced on October 27, 2009. The IRS solicited additional applications from cooperative electrical companies due on November 1, 2010 and the IRS has not yet announced these additional allocations	Wisconsin has \$58,387,000 allocation; each municipality or county with a population over 100,000 will be allocated a portion of the State's allocation in proportion to its population; municipalities or counties receiving allocations can reallocate back to the State or to other issuers; the Department of Commerce will have a portion of the State's allocation to allocate to other issuers	As of March 1, 2010, counties and municipalities waived their unused allocations. Reallocations are administered by the Department of Commerce subject to an application process. Information can be found at http://commerce.wi.gov/BD/BD-RZFB.html	Wisconsin has over \$3.8 billion allocation; application and allocation process is administered by the Wisconsin Department of Commerce; Governor must designate the bond issues designation may be made in any reasonable manner as the Governor shall determine in good faith in such Governor's discretion	Generally, unlimited (except certain private activity bonds)

**Qualified Zone Academy Bonds and Qualified School Construction Bonds can be issued in 2011 with the direct payment subsidy paid to the issuer only to the extent that there is remaining unused allocation amounts available from 2009 and 2010.

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Spending Requirements	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	Within 6 months of issuance enter a binding commitment with third party to spend at least 10% of proceeds and spend 100% of proceeds within 3 years	Within 6 months of issuance enter a binding commitment with third party to spend at least 10% of proceeds and spend 100% of proceeds within 3 years	Within 6 months of issuance enter a binding commitment with third party to spend at least 10% of proceeds and spend 100% of proceeds within 3 years	Within 6 months of issuance enter a binding commitment with third party to spend at least 10% of proceeds and spend 100% of proceeds within 3 years	Same rules as traditional tax-exempt obligations; additional requirement for substantial renovations – additions to basis during any 24 month period beginning after the date of designation of recovery zone must exceed greater of borrower's adjusted basis at beginning of the 24 month period or \$5,000	Same rules as traditional tax-exempt obligations; additional requirement if proceeds used to acquire an existing building - borrower must make rehabilitation expenditures equal to at least 50% of the cost of acquiring such building within two years after the later of the date the building is acquired or the date the bonds are issued	Within 6 months of issuance enter a binding commitment with third party to spend at least 5% of proceeds, commence project and proceed with due diligence and spend 100% of proceeds within 3 years
Limits on Issuance Costs	Yes - 2% of proceeds	Yes - 2% of proceeds	None	Yes - 2% of proceeds	Yes - 2% of proceeds	Yes - 2% of proceeds	Yes - 2% of proceeds	Yes - 2% of proceeds	Yes - 2% of proceeds	None (other than 2% limit for private activity bonds)

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Tax Credit Features	Refundable tax credit given directly to the issuer equal to 35% of interest payable on each interest payment date	Refundable tax credit given directly to the issuer equal to 45% of interest payable on each interest payment date	Bondholders receive a tax credit equal to 35% of the amount of interest payable by the issuer on each interest payment date	<p>For bonds issued prior to 3/18/10: bondholders receive annual tax credits equal to 100% of the credit rate published by the Secretary of the Treasury (available at: www.treasurydirect.gov) as of the date there is a binding, written contract for the sale of the bond multiplied by the face amount of bonds outstanding; bondholders receive 25% of annual tax credit on March 15, June 15, September 15 and December 15; For bonds issued after 3/18/10: issuers have additional option to issue QZABs where bondholders receive interest payments which are included in gross income and issuers receive refundable tax credits equal to the lesser of (1) the amount of interest payable under the bond or (2) the amount of interest payable under the bond if the interest were determined at the credit rate published as of the date there is a binding, written contract for the sale of the bond</p>	<p>For bonds issued prior to 3/18/10: bondholders receive annual tax credits equal to 100% of the credit rate published by the Secretary of the Treasury (available at www.treasurydirect.gov) as of the date there is a binding, written contract for the sale of the bond multiplied by the face amount of bonds outstanding; bondholders receive 25% of annual tax credit on March 15, June 15, September 15 and December 15; For bonds issued after 3/18/10: issuers have additional option to issue QSCBs where bondholders receive interest payments which are included in gross income and issuers receive refundable tax credits equal to the lesser of (1) the amount of interest payable under the bond or (2) the amount of interest payable under the bond if the interest were determined at the credit rate published as of the date there is a binding, written contract for the sale of the bond</p>	<p>For bonds issued prior to 3/18/10: bondholders receive annual tax credits equal to 70% of the credit rate published by the Secretary of the Treasury (available at www.treasurydirect.gov) as of the date there is a binding, written contract for the sale of the bond multiplied by the face amount of bonds outstanding; bondholders receive 25% of annual tax credit on March 15, June 15, September 15 and December 15; For bonds issued after 3/18/10: issuers have additional option to issue CREBs where bondholders receive interest payments which are included in gross income and issuers receive refundable tax credits equal to the lesser of (1) the amount of interest payable under the bond or (2) 70% of the amount of interest payable under the bond if the interest were determined at the credit rate published as of the date there is a binding written contract for the sale of the bond</p>	<p>For bonds issued prior to 3/18/10: bondholders receive annual tax credits equal to 70% of the credit rate published by the Secretary of the Treasury (available at www.treasurydirect.gov) as of the date there is a binding, written contract for the sale of the bond multiplied by the face amount of bonds outstanding; bondholders receive 25% of annual tax credit on March 15, June 15, September 15 and December 15; For bonds issued after 3/18/10: issuers have additional option to issue QECBs where bondholders receive interest payments which are included in gross income and issuers receive refundable tax credits equal to the lesser of (1) the amount of interest payable under the bond or (2) 70% of the amount of interest payable under the bond if the interest were determined at the credit rate published as of the date there is a binding written contract for the sale of the bond</p>	N/A - tax-exempt private activity bond (bondholders receive interest payments, not credits)	<p>N/A - tax-exempt private activity bond (bondholders receive interest payments, not credits)</p> <p>(A category of Midwestern tax credit bonds also exists, which must be issued by the State or an instrumentality of the State. For additional information on Midwestern tax credit bonds, please contact a member of the Quarles & Brady Public Finance team).</p>	N/A - tax-exempt bond (bondholders receive interest payments, not credits)

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Carryover of Unused Tax Credit by Taxpayer	N/A	N/A	Yes	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	N/A	N/A	N/A
Tax Credit Strippable	N/A	N/A	Yes	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	Yes, for bonds issued as tax credit bonds; N/A for bonds issued with direct payment subsidy paid to the issuer	N/A	N/A	N/A
Federal Tax Treatment of Tax Credit	Interest includible in gross income of bondholder	Interest includible in gross income of bondholder	Tax credit and any interest is treated as interest and includible in gross income of the bondholder. Special rules for S corporations, partnerships, real estate investment trusts and regulated investment companies which are entitled to tax credits.	Tax credit and interest is treated as interest and includible in gross income of the bondholder. Special rules for S corporations, partnerships, real estate investment trusts and regulated investment companies which are entitled to tax credits.	Tax credit and interest is treated as interest and includible in gross income of the bondholder. Special rules for S corporations, partnerships, real estate investment trusts and regulated investment companies which are entitled to tax credits.	Tax credit and interest is treated as interest and includible in gross income of the bondholder. Special rules for S corporations, partnerships, real estate investment trusts and regulated investment companies which are entitled to tax credits.	Tax credit and interest is treated as interest and includible in gross income of the bondholder. Special rules for S corporations, partnerships, real estate investment trusts and regulated investment companies which are entitled to tax credits.	N/A - not a tax credit bond; interest on obligations is tax-exempt and not included in gross income (so long as a "qualified bond")	N/A - not a tax credit bond; interest on obligations is tax-exempt and not included in gross income (so long as a "qualified bond")	N/A - not a tax credit bond; interest on obligations is tax-exempt and not included in gross income

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Additional Requirements	Issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments; completion of questionnaire from IRS regarding compliance procedures	Issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments; completion of questionnaire from IRS regarding compliance procedures; Issuer must designate area a "recovery zone"	None	Issuer must secure private business contribution equal to 10% of the proceeds of the bonds. Public school must be either 1) located in an empowerment zone or enterprise community or 2) reasonably expect on the date of issuance that at least 35% of the students attending said school will be eligible for free or reduced cost lunch; for bonds issued with direct payment subsidy paid to issuer, the issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments	For bonds issued with direct payment subsidy paid to issuer, the issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments	For bonds issued with direct payment subsidy paid to issuer, the issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments	No more than 30% of the overall allocation to the State and to each large local government can be used to issue private activity bonds; for bonds issued with direct payment subsidy paid to issuer, the issuer must file Form 8038-CP with IRS at least 45 days but not more than 90 days before each interest payment date (for fixed rate bonds) to request interest payments	TEFRA hearing; and other exempt facility private activity bond requirements; special rules apply for substantial renovations and sale-leaseback; restriction on acquisition of existing property and private activity volume cap does not apply; issuer must designate area a "recovery zone"	In the case of a project involving private business use, either 1) must be used by person who suffered loss in a trade or business attributable to the severe storms, tornados, or flooding giving rise to any Presidential declaration or 2) the person using the project must be designated by the Governor as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss. TEFRA hearing; no more than 25% of MDA Bond proceeds can be used to acquire land (or an interest therein); other exempt facility private activity bond requirements; private activity volume cap does not apply	None

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Refunding Rules (i.e., using the specified bond for refunding purposes)	Only temporary, short-term obligations issued after 2/17/09 may be "refunded"	Only temporary, short-term obligations issued after 2/17/09 may be "refunded"	Unlimited current refundings and advance refunding allowed so long as refunded bonds have not previously been advance refunded	Only temporary, short-term financings issued after 3/18/10 may be "refunded" and only if using the direct payment option, where direct payment subsidies are paid to the issuer	Only temporary, short-term financings issued after 3/18/10 may be "refunded" and only if using the direct payment option, where direct payment subsidies are paid to the issuer	Only temporary, short-term financings issued after 3/18/10 may be "refunded" and only if using the direct payment option, where direct payment subsidies are paid to the issuer	Only temporary, short-term financings issued after 3/18/10 may be "refunded" and only if using the direct payment option, where direct payment subsidies are paid to the issuer	Unless future regulations specify otherwise, refundings are not allowed	Unless future regulations specify otherwise, refundings are not allowed	No restrictions on using proceeds for refundings, but an issue of tax-exempt bonds itself may only be advance refunded once
Maximum Term	State law and federal limits as to useful life of projects	State law and federal limits as to useful life of projects	State law and federal limits as to useful life of projects	Published monthly effective as of the date of issuance and state law	Published monthly effective as of the date of issuance and state law	Published monthly effective as of the date of issuance and state law	Published monthly effective as of the date of issuance and state law	State law and federal limits as to useful life of projects	State law and federal limits as to useful life of projects	State law and federal limits as to useful life of projects
Bank Qualified	N/A - Taxable	N/A - Taxable	N/A - Taxable	N/A - Taxable	N/A - Taxable	N/A - Taxable	N/A - Taxable	N/A - private activity bond	N/A - private activity bond	Yes up to \$30 million with some exceptions
Private Activity Rules Apply	Yes	Yes	Yes	No (but uses are limited, see "Permitted Projects" above)	No (but uses are limited, see "Permitted Projects" above)	No (but uses are limited, see "Permitted Projects" above)	Yes - special rules apply (also see Additional Requirements)	Qualified Private Activity bond	Qualified Private Activity bond	Yes
Arbitrage Rules Apply to Proceeds	Yes, yield reduced by tax credit allowed	Yes, yield reduced by tax credit allowed	Yes, yield calculated without regard to the tax credit	Some arbitrage rules apply, yield reduced by tax credit allowed (if issued with direct payment subsidy paid to the issuer)	Some arbitrage rules apply, yield reduced by tax credit allowed (if issued with direct payment subsidy paid to the issuer)	Some arbitrage rules apply, yield reduced by tax credit allowed (if issued with direct payment subsidy paid to the issuer)	Some arbitrage rules apply, yield reduced by tax credit allowed (if issued with direct payment subsidy paid to the issuer)	Yes	Yes	Yes

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Original Issue Premium Restrictions	Yes - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes, for bonds issued with direct payment subsidy paid to the issuer - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes, for bonds issued with direct payment subsidy paid to the issuer - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes, for bonds issued with direct payment subsidy paid to the issuer - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	Yes, for bonds issued with direct payment subsidy paid to the issuer - premium limited to 0.25% of the stated redemption price at maturity multiplied by the number of complete years to maturity	No	No	No
Reserve Fund/Sinking Fund Rules	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	No proceeds can be used to fund a reserve fund	Sinking fund allowed (but not required) if such fund is not funded at a rate not more rapid than equal annual installments, the fund is not funded in an amount greater than the amount needed to repay the issue, and the yield on the fund cannot be greater than a rate determined by the Treasury on the date of issuance	Sinking fund allowed (but not required) if such fund is not funded at a rate not more rapid than equal annual installments, the fund is not funded in an amount greater than the amount needed to repay the issue, and the yield on the fund cannot be greater than a rate determined by the Treasury on the date of issuance	Sinking fund allowed (but not required) if such fund is not funded at a rate not more rapid than equal annual installments, the fund is not funded in an amount greater than the amount needed to repay the issue, and the yield on the fund cannot be greater than a rate determined by the Treasury on the date of issuance	Sinking fund allowed (but not required) if such fund is not funded at a rate not more rapid than equal annual installments, the fund is not funded in an amount greater than the amount needed to repay the issue, and the yield on the fund cannot be greater than a rate determined by the Treasury on the date of issuance	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	Proceeds can be used to fund a reasonably required reserve fund as limited in size by federal rules and regulations

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Reimbursement Rules	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations	Only for expenditures paid after the date the Secretary of the Treasury makes an allocation (for 2009 allocation 4/3/09, for 2010 allocation 2/19/2010 and for 2011 allocation 1/20/2011) and only if: a) issuer declares intent to reimburse with QZABs before expenditure is paid, b) issuer adopts an official intent to reimburse not later than 60 days after expenditure is paid and c) reimbursement made no later than 18 months after the original expenditure paid; no "preliminary expenditures" exception	Only for expenditures paid after the date the Secretary of the Treasury makes an allocation (for 2009 allocation 4/3/09 and for 2010 allocation 3/17/10) and only if: a) issuer declares intent to reimburse with QSCBs before expenditure is paid, b) issuer adopts an official intent to reimburse not later than 60 days after expenditure is paid and c) reimbursement made no later than 18 months after the original expenditure paid; no "preliminary expenditures" exception	Only for expenditures paid after the date the Secretary of the Treasury makes an allocation and only if: a) issuer declares intent to reimburse with New CREBs before expenditure is paid, b) issuer adopts an official intent to reimburse not later than 60 days after expenditure is paid and c) reimbursement made no later than 18 months after the original expenditure paid; no "preliminary expenditures" exception	Only for expenditures paid after the date the Secretary of the Treasury makes an allocation (for 2009 allocation 4/6/09) and only if: a) issuer declares intent to reimburse with QECBs before expenditure is paid, b) issuer adopts an official intent to reimburse not later than 60 days after expenditure is paid and c) reimbursement made no later than 18 months after the original expenditure paid; no "preliminary expenditures" exception	Same rules as traditional tax-exempt obligations	Same rules as traditional tax-exempt obligations; issuers are treated as having adopted an official intent to reimburse for original expenditures paid on or after the date of the occurrence of the applicable disaster and before December 31, 2009; the maximum reimbursement period is treated as ending no earlier than December 31, 2010	Generally, any expenditures paid no more than 60 days before official intent declared/ adopted or "preliminary expenditures" up to 20% of the issue price.
Davis Bacon Act Applicable (Prevailing Wage Requirements)	No	Yes	No	Yes	Yes	Yes	Yes	No	No	No
Recent IRS Guidance	IRS Notice 2009-26 IRS Notice 2010-35	IRS Notice 2009-50 IRS Notice 2009-26	IRS Notice 2009-26	IRS Notice 2009-30 IRS Notice 2010-22 IRS Notice 2010-28 IRS Notice 2010-35 Rev. Proc. 2011-19	IRS Notice 2009-35 IRS Notice 2010-17 IRS Notice 2010-28 IRS Notice 2010-35	IRS Notice 2009-33 IRS Notice 2010-28 IRS Notice 2010-35 IRS Announcement 2010-54	IRS Notice 2009-29 IRS Notice 2010-28 IRS Notice 2010-35	IRS Notice 2009-50	IRS Notice 2008-109 IRS Notice 2010-10	

For more information, contact the Public Finance Lawyers at Quarles & Brady, LLP