



Need Funding? Still Time to Consider Build America Bonds

Bond Counsel Corner

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Build America Bonds (BABs) are taxable municipal bonds, authorized under the American Recovery and Reinvestment Act (ARRA) on February 17, 2009. ARRA provides two ways for BABs issuers to lower their net interest costs: Direct Payment BABs and Tax Credit BABs.

A municipal issuer of Direct Payment BABs receives a subsidy from the federal government equal to 35% of the interest paid to bondholders. This permits an issuer to issue municipal bonds that pay interest rates competitive with rates paid by corporations, but at a lower effective interest cost. Direct Payment BABs may finance capital projects, such as public buildings, roads, transportation infrastructure, and water and sewer projects. Direct Payment BABs may not be used for refundings, working capital or private activities.

Tax Credit BABs, used far less to date than the Direct Payment BABs, give the bond investor a federal tax credit equal to 35% of the interest paid to the bondholder each year. Tax Credit BABs can be used for capital projects, refundings, and working capital.

Currently, BABs cannot be issued after a December 31, 2010 sunset date. It is not predictable whether the BABs sunset will be extended or, if so, how they will be structured. President Obama's fiscal 2011 budget proposed permanently extending the BABs program at a reduced subsidy of 28% and expanding the uses of Direct Payment BABs to include refundings and working capital. The Small Business and Infrastructure Jobs Act of 2010 (H.R. 4849), passed by the House of Representatives on March 24, 2010, would (if passed by the Senate and enacted into law) extend the BABs program until April 1, 2013, but would reduce the subsidy to 33% in 2011, 31% in 2012 and 30% in the first three months of 2013.

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