

## **Part III – Administrative, Procedural, and Miscellaneous**

### **Recovery Zone Bond Volume Cap Allocations**

#### **Notice 2009-50**

##### **SECTION 1. PURPOSE**

This notice provides guidance regarding the maximum face amount of recovery zone economic development bonds (“Recovery Zone Economic Development Bonds”) and recovery zone facility bonds (“Recovery Zone Facility Bonds”) (together, “Recovery Zone Bonds”), that may be issued by each State and counties and large municipalities within each State before January 1, 2011 under §§ 1400U-2 and 1400U-3, respectively, of the Internal Revenue Code (“Code”), as provided in § 1400U-1 of the Code. As applicable to §§ 1400U-1 through 1400U-3, § 103(c)(2) provides that the term “State” includes the District of Columbia and any possession of the United States. This notice also provides certain interim guidance for Recovery Zone Bonds. In general, Recovery Zone Bonds provide tax incentives for State and local governmental borrowing at lower borrowing costs to promote job creation and economic recovery that is targeted to areas particularly affected by employment declines.

##### **SECTION 2. BACKGROUND**

###### **.01 INTRODUCTION**

Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“ARRA”), added §§ 1400U-1

through 1400U-3 to the Code authorizing State and local governments to issue Recovery Zone Bonds. Section 1400U-1 imposes a national bond volume limitation (“volume cap”) of \$10 billion for Recovery Zone Economic Development Bonds and \$15 billion for Recovery Zone Facility Bonds. The volume cap for Recovery Zone Bonds is allocated among the States and counties and large municipalities within the States based on relative declines in employment in 2008.

In general, Recovery Zone Economic Development Bonds may be used to finance certain “qualified economic development purposes” and Recovery Zone Facility Bonds may be used to finance certain “recovery zone property,” both as described further herein, generally for use within designated “recovery zones,” as described below. Section 1400U-1(b) provides that, for purposes of §§ 1400U-1 through 1400U-3, the term “recovery zone” means: (1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in effect as of the effective date of ARRA, which effective date is February 17, 2009.

## .02 BACKGROUND ON BUILD AMERICA BONDS

Section 1531 of ARRA added § 54AA to the Code, authorizing State and local governments, at their option, to issue two general types of Build America Bonds (“Build America Bonds”) as taxable governmental bonds with Federal subsidies for a portion of their borrowing costs. Section 54AA(d) of the Code defines the term “Build America

Bond” generally to mean any taxable State or local governmental bond (excluding a private activity bond under § 141) that meets the following requirements: (1) the interest on such bond would (but for § 54AA) be excludable from gross income under § 103; (2) the bond is issued before January 1, 2011; and (3) the issuer makes an irrevocable election to have § 54AA apply. The Federal subsidies for a portion of the borrowing costs on Build America Bonds take the form of either tax credits provided to holders of the bonds or refundable tax credits paid to State and local governmental issuers of the bonds. Build America Bonds have different levels of Federal subsidies and different program requirements with respect to uses of proceeds depending on the particular type of Build America Bond.

The first type of Build America Bond provides a Federal subsidy through Federal tax credits to investors in the bonds in an amount equal to 35 percent of the total coupon interest payable by the issuer on taxable governmental bonds (net of the tax credit), which represents a Federal subsidy to the State or local governmental issuer equal to approximately 25 percent of the total return to the investor (including the coupon interest paid by the issuer and the tax credit). This type of Build America Bond will be referred to in this Notice as “Build America Bonds (Tax Credit).” This type of Build America Bond generally may be used to finance any governmental purpose for which tax-exempt governmental bonds (excluding private activity bonds under § 141) could be issued under § 103 (“tax-exempt governmental bonds”) and must comply with all requirements applicable to the issuance of tax-exempt governmental bonds.

The second type of Build America Bond provides a Federal subsidy through a refundable tax credit paid to State or local governmental issuers by the Treasury

Department and the Internal Revenue Service (“IRS”) in an amount equal to 35 percent of the total coupon interest payable to investors in these taxable bonds. This type of Build America Bond will be referred to in this Notice as “Build America Bonds (Direct Payment).” This type of Build America Bond generally may be used to finance only capital expenditures and certain issuance costs and reasonably required reserve funds.

Recovery Zone Economic Development Bonds under § 1400U-2 represent a third type of Build America Bond. Recovery Zone Economic Development Bonds are comparable to Build America Bonds (Direct Payment), except that they provide for a deeper Federal subsidy through a refundable tax credit paid to State or local governmental issuers in an amount equal to 45 percent (rather than 35 percent) of the total coupon interest payable to investors in these taxable bonds and they have different program requirements regarding eligible uses of proceeds for qualified economic development purposes within recovery zones, as described further herein.

For additional information regarding Build America Bonds generally, see § 54AA and the initial implementation guidance on Build America Bonds set forth in Notice 2009-26, 2009-16 I.R.B 833 (April 20, 2009).

### **SECTION 3. RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS**

#### **.01 RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS TREATED AS QUALIFIED BONDS UNDER § 6431**

Section 1400U-2(a) provides that a Recovery Zone Economic Development Bond shall be treated as a “qualified bond” for purposes of § 6431 (relating to the refundable credit for qualified bonds allowed and payable to the issuer in the case of Build America Bonds (Direct Payment)). Section 1400U-2(a) further provides that, for

purposes of § 6431(b) (relating to the amount of the refundable credit allowed and payable to the issuer of qualified bonds), the amount of the refundable credit shall be 45 percent of the coupon interest payable on the bonds rather than 35 percent of such interest as is the case with Build America Bonds (Direct Payment). In determining the amount of coupon interest payable on the bonds for purposes of calculating the refundable credit, original issue discount is not treated as a payment of interest. See H.R. Conf. Rep. 111-16, 111<sup>th</sup> Cong., 1<sup>st</sup> Sess. (February 12, 2009).

#### .02 DEFINITION OF RECOVERY ZONE ECONOMIC DEVELOPMENT BOND

Section 1400U-2(b)(1) defines the term “Recovery Zone Economic Development Bond” to mean any bond that is issued as part of an issue that meets the following requirements: (1) the bond is a Build America Bond (as defined in § 54AA(d)); (2) the bond is issued before January 1, 2011; (3) 100 percent of the excess of (i) the available project proceeds (as defined in § 54A to mean sale proceeds of such issue less not more than 2 percent of such proceeds used to pay issuance costs, plus investment proceeds thereon), over (ii) the amounts in a reasonably required reserve (within the meaning of § 150(a)(3)) with respect to such issue, are to be used for one or more qualified economic development purposes, and (4) the issuer designates such bond for purposes of § 1400U-2.

#### .03 DEFINITION OF QUALIFIED ECONOMIC DEVELOPMENT PURPOSE

Section 1400U-2(c) defines the term “qualified economic development purpose” for purposes of § 1400U-2 to mean any expenditures for purposes of promoting development or other economic activity in a recovery zone, including (1) capital expenditures paid or incurred with respect to property located in the recovery zone, (2)

expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs. This broad definition of qualified economic development purpose includes capital expenditures (as defined in § 1.150-1(b) of the Income Tax Regulations) and working capital expenditures to promote development or other economic activity in a recovery zone. For this purpose, an eligible financing of qualified expenditures includes a reimbursement of those expenditures under the reimbursement rules contained in § 1.150-2. By contrast, Recovery Zone Economic Development Bonds generally may not be issued to refinance expenditures in “refunding issues” (as defined in § 1.150-1). Further, for this purpose, Recovery Zone Economic Development Bonds may be used to reimburse otherwise eligible expenditures under § 1.150-2 that were paid or incurred after the effective date of ARRA and that were financed originally with temporary short-term financing issued after the effective date of ARRA, and such reimbursement will not be treated as a refunding issue under §§ 1.150-1(d) or 1.150-2(g).

#### .04 CERTAIN OTHER APPLICABLE RULES

Section 6431(c) provides that for purposes of applying the arbitrage investment restrictions under § 148, the yield on a qualified bond (including, for this purpose, a Recovery Zone Economic Development Bond), shall be reduced by the refundable credit allowed under § 6431. Section 6431(d) provides that, for purposes of § 6431, “interest payment date” means each date on which interest is payable by the issuer under the terms of the bond. Section 54AA(d)(2)(A) provides that, for purposes of the restrictions against Federal guarantees of tax-exempt bonds under § 149(b), a Build America Bond (including, for this purpose, a Recovery Zone Economic Development

Bond) shall not be treated as federally guaranteed by reason of the refundable credit allowed under § 6431. Section 54AA(d)(2)(C) provides that a bond (including, for this purpose, a Recovery Zone Economic Development Bond) shall not be treated as a Build America Bond under § 54AA(d)(1) if the issue price has more than a *de minimis* amount (determined under rules similar to the rules of § 1273(a)(3)) of premium over the stated principal amount of the bond.

#### **SECTION 4. RECOVERY ZONE FACILITY BONDS**

##### **.01 RECOVERY ZONE FACILITY BONDS TREATED AS EXEMPT FACILITY BONDS**

Section 103(a) provides that, except as otherwise provided in § 103(b), interest on State or local bonds is excludable from gross income for Federal income tax purposes. Under § 103(b), interest on a State and local bond that is a “private activity bond” under § 141(a) generally is not excludable from gross income unless the bond meets the requirements for a qualified private activity bond under § 141(e). Section 141(e) provides that an “exempt facility bond” under § 142 is one type of qualified private activity bond that may be issued with interest thereon excludable from gross income under § 103(a). Section 1400U-3(a) provides that, for purposes of §§ 141 through 150, the term “exempt facility bond” includes any Recovery Zone Facility Bond. Section 1400U-3(b) defines the term “Recovery Zone Facility Bond” to mean any bond issued as part of an issue if: (A) 95 percent or more of the net proceeds (as defined in § 150(a)(3)) of such issue are to be used for recovery zone property; (B) such bond is issued before January 1, 2011; and (C) the issuer designates such bond for purposes of § 1400U-3.

## .02 RECOVERY ZONE PROPERTY

Section 1400U-3(c)(1) defines the term “recovery zone property” to mean any property to which § 168 (relating to the accelerated cost recovery system) applies (or would apply but for § 179 (relating to electing to expense certain depreciable business assets)) if: (A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in § 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect; (B) the original use of which in the recovery zone commences with the taxpayer; and (C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business (as defined in § 1400U-3(c)(2)) by the taxpayer in the recovery zone. For purposes of § 1400U-3(c)(1), which provides that the term “recovery zone property” means, in part, any property to which § 168 applies (or would apply but for § 179), any property of a character generally subject to the allowance for depreciation under § 168 (or that would be generally subject to such allowance but for § 179) will be treated as “recovery zone property,” without regard to whether the particular property is owned by any State or local governmental entity that is not subject to Federal income taxation, provided that such property otherwise meets the requirements under § 1400U-3(c)(1).

## .03 USE OF RECOVERY ZONE PROPERTY IN QUALIFIED BUSINESSES

Section 1400U-3(c)(1)(C) requires that substantially all of the use of recovery zone property involve the active conduct of a qualified business (as defined in § 1400U-3(c)(2)) by the taxpayer in the recovery zone. Section 1400U-3(c)(2) defines the term “qualified business” to mean any trade or business except that (A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if

the property is not residential rental property (as defined in § 168(e)(2)), and (B) such term shall not include any trade or business consisting of the operation of any facility described in § 144(c)(6)(B) (relating to the prohibition on the use of proceeds of a qualified redevelopment bond for any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises).

#### .04 OTHER APPLICABLE RULES

Section 1400U-3(c)(3) provides that rules similar to rules of § 1397D(a)(2) and (b) (relating to substantial renovations and sale-leasebacks) shall apply for purposes of § 1400U-3(c). Section 1400U-3(d) provides that § 146 (relating to the private activity bond volume cap) and § 147(d) (relating to limitations on acquisition of existing property) shall not apply to any Recovery Zone Facility Bond. Except as otherwise provided in this Notice or in future administrative or regulatory guidance, rules applicable to exempt facility bonds under § 142 apply to Recovery Zone Facility Bonds.

### **SECTION 5. INTERIM GUIDANCE AND RELIANCE**

#### 01. IN GENERAL

Pending the promulgation and effective date of future administrative or regulatory guidance, taxpayers may rely on the interim guidance provided in this Notice.

#### 02. REASONABLY REQUIRED RESERVE OR REPLACEMENT FUND

Section 1400U-2(b)(1)(A) requires that 100 percent of the excess of (i) the available project proceeds (as defined in § 54A to mean sale proceeds of such issue less not more than 2 percent of such proceeds used to pay issuance costs, plus investment

proceeds thereon), over (ii) the amounts in a reasonable required reserve (within the meaning of § 150(a)(3)) for an issue of Recovery Zone Economic Development Bonds be used for qualified economic development purposes. Section 1400U-3(b)(1)(a) requires that 95 percent or more of the “net proceeds” (as defined in § 150(a)(3)) of an issue of Recovery Zone Facility Bonds be used for recovery zone property. Section 150(a)(3) defines the term “net proceeds” to mean, with respect to any issue, the proceeds of such issue reduced by amounts in a “reasonably required reserve or replacement fund.” For these purposes, § 148(d) provides rules for a reasonably required reserve or replacement fund. Section 148(d)(1) generally provides that a bond shall not be treated as arbitrage bond solely by reason of the fact that an amount of the proceeds of the issue of which such bond is a part may be invested in higher yielding investments which are part of a reasonably required reserve or replacement fund. The amount of such proceeds shall not exceed 10 percent of the proceeds of such issue unless the issuer establishes to the satisfaction of the Secretary that a higher amount is necessary.

Section 148(d)(2) provides that a bond issued as part of an issue shall be treated as an arbitrage bond if the amount of the proceeds from the sale of such issue which is part of any reserve or replacement fund exceeds 10 percent of the proceeds of the issue (or such higher amount which the issuer establishes is necessary to the satisfaction of the Secretary). Section 1.148-2(f) of the Income Tax Regulations provides additional rules regarding reasonably required reserve or replacement funds.

### .03 INFORMATION REPORTING FOR RECOVERY ZONE BONDS

(i) Recovery Zone Economic Development Bonds. For information relating to information reporting and direct payments of refundable credits to issuers of Recovery Zone Economic Development Bonds, rules similar to those applicable for information reporting and payment of credit to issuers of qualified bonds under § 6431 shall apply. See Notice 2009-26, 2009-16 I.R.B. 833 (April 20, 2009). (ii) Recovery Zone Facility Bonds. The information reporting requirement for tax-exempt bonds under § 149(e) applies to Recovery Zone Facility Bonds under § 1400U-3(a). Information reporting returns for Recovery Zone Facility Bonds are required to be submitted at the same time and in the same manner as those required under § 149(e) for exempt facility bonds on such forms as shall be prescribed by the IRS for such purpose. Pending further guidance from the IRS regarding the applicable forms to be used for such information reporting for Recovery Zone Facility Bonds, in the case of an issue of Recovery Zone Facility Bonds, the issuer must submit to the IRS an information return on Form 8038, *Information Return for Tax-Exempt Private Activity Bond Issues*, at the same time and in the same manner as required under § 149(e), with modifications as described below. Issuers of Recovery Zone Facility Bonds should complete Part II of Form 8038 by checking the box on Line 11q (Other), writing “Recovery Zone Facility Bonds” in the space provided for the bond description, and entering the issue price of the Recovery Zone Facility Bonds in the Issue Price column. For purposes of this notice, the term “issue” has the meaning used for tax-exempt bond purposes in § 1.150-1(c).

.04 ELIGIBLE ISSUERS IN GENERAL AND ALLOCATIONS OF VOLUME CAP  
TO ULTIMATE BENEFICIARIES

Eligible issuers of Recovery Zone Bonds include States, political subdivisions as defined for purposes of § 103, and entities empowered to issue bonds on behalf of any such entity under rules similar to those for determining whether a bond issued on behalf of a State or political subdivision constitutes an obligation of that State or political subdivision for purposes of § 103 and § 1.103-1(b) of the Income Tax Regulations. Further, eligible issuers include otherwise-eligible issuers in conduit financing issues (as defined in § 1.150-1(b)). An eligible issuer may issue Recovery Zone Bonds based on a volume cap allocation received by the eligible issuer itself or by a conduit borrower or other ultimate beneficiary of the issue of the bonds. In all events, the eligible costs for qualified economic development purposes or recovery zone property, as applicable, financed with the proceeds of an issue of Recovery Zone Bonds under §§ 1400U-2 or 1400U-3, respectively, must relate to any such purpose or property that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the entity authorized to allocate volume cap to an issue of bonds for the financing of such purpose or property.

Entities authorized to allocate volume cap to ultimate beneficiaries consist of States (with respect to allocations waived or deemed waived by any county or large municipality), counties, and large municipalities (as defined in § 1400U-1(a)(3)(B)) that receive volume cap allocations under § 1400U-1(a)(3)(A). Such States, counties, and large municipalities may use such volume cap themselves for eligible costs or may allocate such volume cap received to ultimate beneficiaries in any reasonable manner as they shall determine in good faith in their discretion for use for eligible costs for qualified economic development purposes or recovery zone property, as applicable. In

the event that a county or large municipality that receives an allocation of volume cap under § 1400U-1(a)(3)(A) of Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds does not possess substantial taxing, eminent domain, *and* police powers, any entity the jurisdiction of which includes such county or large municipality may issue bonds and designate such bonds as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, on behalf of, and for the benefit of, such county or municipality, subject to the applicable volume cap limitations for those Recovery Zone Bonds allocated to such county or large municipality. In such case, the proceeds of an issue of Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds under §§ 1400U-2 or 1400U-3, respectively, must be allocated to eligible costs for qualified economic development purposes or recovery zone property, as applicable, that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the county or large municipality that received the volume cap allocation under § 1400U-1(a)(3)(A). Thus, for example, a county or large municipality that received a volume cap allocation under § 1400U-1(a)(3)(A) may issue bonds and designate them as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, for use of that volume cap by an ultimate beneficiary (including such county or large municipality itself or another entity) or another eligible issuer may issue bonds and designate them as Recovery Zone Economic Development Bonds or Recovery Zone Facility Bonds, as applicable, for use of that volume cap by an ultimate beneficiary (including such county or municipality or another entity), based on an allocation by such county or large municipality of that volume cap to an ultimate beneficiary. In all events,

the proceeds of the issue must be used to finance eligible costs for qualified economic development purposes or recovery zone property, as applicable, that is located within, or attributable to, both the jurisdiction of the issuer of the bonds and the jurisdiction of the county or large municipality authorized to allocate volume cap to an ultimate beneficiary of the issue of Recovery Zone Bonds for the financing of those purposes or property.

#### 05. WAIVERS OF VOLUME CAP ALLOCATIONS

Section 1400U-1(a)(3)(A) provides that a county or large municipality may waive any portion of a volume cap allocation received for Recovery Zone Bonds. Upon any such waiver, the State in which such county or large municipality is located shall be authorized to reallocate the waived volume cap in any reasonable manner as it shall determine in good faith in its discretion.

#### 06. DESIGNATIONS OF RECOVERY ZONES

As further described in Section 2.01 of this Notice, § 1400U-1(b) requires, in part, that issuers “designate” eligible recovery zones based on certain specified criteria. For this purpose, any State, county, or large municipality that receives a volume cap allocation for Recovery Zone Bonds may make these designations of recovery zones in any reasonable manner as it shall determine in good faith in its discretion.

### **SECTION 6. ALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP**

#### 01. VOLUME CAP DESIGNATIONS IN GENERAL

Sections 1400U-2(b)(2) and 1400U-3(b)(2) provide generally that the maximum face amount of the applicable type of Recovery Zone Bonds designated for issuance by an issuer cannot exceed the amounts of volume cap for the applicable Recovery Zone

Bonds allocated to such issuer under § 1400U-1. For this purpose, these designations, including associated determinations of qualified economic development purposes, may be made by an issuer in any reasonable manner as it shall determine in good faith in its discretion, taking into account the special rules for eligible issuers under Section 5.04 of this Notice.

#### .02 VOLUME CAP ALLOCATIONS IN GENERAL

Section 1400U-1(a)(1)(A) provides that, subject to § 1400U-1(a)(1)(B) (relating to minimum allocations), generally, the Secretary shall allocate the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds among the States in the proportion that each State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States. Section 1400U-1(a)(1)(B) provides that the Secretary shall adjust the allocations under § 1400U-1(a)(1)(A) for any calendar year for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the national volume cap for Recovery Zone Economic Development Bonds and 0.9 percent of the national volume cap for Recovery Zone Facility Bonds.

Section 1400U-1(a)(2) provides that for purposes of § 1400U-1(a), the term "2008 State employment decline" means, with respect to any State, the excess (if any) of (A) the number of individuals employed in such State determined for December 2007, over (B) the number of individuals employed in such State determined for December 2008. The volume cap allocations provided pursuant to this Notice are based on Local Area Unemployment Statistics ("LAUS") data for December 2007 and December 2008

released by the United States Bureau of Labor Statistics. See generally <http://www.bls.gov/lau/home.htm>.

Section 1400U-1(a)(3)(A) provides generally that each State with respect to which an allocation is made under 1400U-1(a)(1) is required, without discretion, to reallocate such allocation among the counties and large municipalities in such State in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State. For purposes of § 1400U-1(a)(3)(A), the term "large municipality" means a municipality with a population of more than 100,000. For purposes of determining the local employment decline under § 1400U-1(a)(3), the employment decline of any county or large municipality is determined in the same manner as the determination of the State employment decline under 1400U-1(a)(2), except that in the case of a municipality any portion of which is in a county, such portion is treated as part of such municipality and not as part of such county.

### .03. STATE ALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP

Pursuant to § 1400U-1(a), the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds under §§ 1400U-2 and 1400U-3, respectively, are allocated among the States as follows:

<b>State</b>	<b>Recovery Zone Economic Development Bond Allocations (in dollars)</b>	<b>Recovery Zone Facility Bond Allocations (in dollars)</b>
Alabama	244,676,000	367,014,000
Alaska	90,000,000	135,000,000
Arizona	90,000,000	135,000,000
Arkansas	90,000,000	135,000,000

<b>State</b>	<b>Recovery Zone Economic Development Bond Allocations (in dollars)</b>	<b>Recovery Zone Facility Bond Allocations (in dollars)</b>
California	806,225,000	1,209,338,000
Colorado	99,018,000	148,527,000
Connecticut	90,000,000	135,000,000
Delaware	90,000,000	135,000,000
District of Columbia	90,000,000	135,000,000
Florida	538,485,000	807,727,000
Georgia	355,785,000	533,677,000
Hawaii	90,000,000	135,000,000
Idaho	90,000,000	135,000,000
Illinois	666,972,000	1,000,457,000
Indiana	313,081,000	469,621,000
Iowa	90,000,000	135,000,000
Kansas	90,000,000	135,000,000
Kentucky	97,120,000	145,681,000
Louisiana	90,000,000	135,000,000
Maine	90,000,000	135,000,000
Maryland	208,860,000	313,291,000
Massachusetts	222,676,000	334,013,000
Michigan	773,050,000	1,159,575,000
Minnesota	132,154,000	198,231,000
Mississippi	90,000,000	135,000,000
Missouri	229,143,000	343,715,000
Montana	90,000,000	135,000,000
Nebraska	90,000,000	135,000,000
Nevada	90,000,000	135,000,000
New Hampshire	90,000,000	135,000,000
New Jersey	251,104,000	376,655,000
New Mexico	90,000,000	135,000,000
New York	370,098,000	555,147,000
North Carolina	418,154,000	627,231,000
North Dakota	90,000,000	135,000,000
Ohio	422,637,000	633,955,000
Oklahoma	90,000,000	135,000,000
Oregon	103,450,000	155,175,000
Pennsylvania	154,008,000	231,012,000

<b>State</b>	<b>Recovery Zone Economic Development Bond Allocations (in dollars)</b>	<b>Recovery Zone Facility Bond Allocations (in dollars)</b>
Rhode Island	100,882,000	151,322,000
South Carolina	115,041,000	172,562,000
South Dakota	90,000,000	135,000,000
Tennessee	231,417,000	347,126,000
Texas	90,000,000	135,000,000
Utah	90,000,000	135,000,000
Vermont	90,000,000	135,000,000
Virginia	104,396,000	156,595,000
Washington	90,000,000	135,000,000
West Virginia	90,000,000	135,000,000
Wisconsin	158,811,000	238,217,000
Wyoming	90,000,000	135,000,000
American Samoa	90,000,000	135,000,000
Guam	90,000,000	135,000,000
Northern Marianas	90,000,000	135,000,000
Puerto Rico	92,757,000	139,136,000
US Virgin Islands	90,000,000	135,000,000
<b>Total</b>	<b>10,000,000,000</b>	<b>15,000,000,000</b>

**.04. LOCAL SUBALLOCATIONS OF RECOVERY ZONE BOND VOLUME CAP AMONG COUNTIES AND LARGE MUNICIPALITIES**

The Treasury Department and the IRS recognize that the required local suballocations of the national volume cap for Recovery Zone Bonds among counties and large municipalities impose administrative burdens for the States and involve mandatory local suballocations without State discretion. Accordingly, the Treasury Department and the IRS undertook to determine these required local suballocations. For purposes of these local suballocations among counties and large municipalities, certain county-equivalent

entities (including independent cities that are not otherwise located within counties, parishes, boroughs, and similar entities) are treated as counties in the same manner that the Bureau of Labor Statistics treats such entities as county equivalent entities in its employment data. This undertaking to provide local suballocations is intended to facilitate prompt availability of Recovery Zone Bonds as a source for State and local governmental borrowing at lower borrowing costs to promote job creation and economic recovery in areas particularly affected by employment declines.

Pursuant to § 1400U-1(a)(3), the State volume caps of the \$10 billion national volume cap for Recovery Zone Economic Development Bonds and the \$15 billion national volume cap for Recovery Zone Facility Bonds under §§ 1400U-2 and 1400U-3, respectively, are reallocated locally among the counties and large municipalities within the States (except that no such local reallocations are being provided for the Possessions of the United States (see Section 6.05 of this Notice below)) in a document regarding the Recovery Zone Bond volume cap allocations being posted on the IRS's website at the following web address: <http://www.irs.gov/taxexemptbond/index.html> under the heading in the index entitled "IRS Releases Guidance on ARRA Bond Provisions," to be available on the same date that this Notice is released publicly. Stated differently, these local suballocations will be accessible by going to the IRS website at <http://www.irs.gov>, then clicking on the heading "Tax-exempt Bond Community" in the top right corner, then clicking on the heading in the index entitled "IRS Releases Guidance on ARRA Bond Provisions," and then clicking on the subheading regarding the Recovery Zone Bond volume cap allocations, starting on the same date that this Notice is released publicly.

## 05. SPECIAL RULES FOR VOLUME CAP ALLOCATIONS RECEIVED BY THE POSSESSIONS

In recognition of the disparate local governmental organizational structures and disparate availability of employment data for the Possessions of the United States, the Possessions may allocate locally, reallocate locally, or use directly their respective State allocations of volume cap for Recovery Zone Bonds in any reasonable manner as they may determine in good faith in their discretion.

### **SECTION 7. EFFECTIVE DATE OF VOLUME CAP ALLOCATIONS**

The allocations of national volume cap for Recovery Zone Bonds in Section 6 of this Notice are effective for bonds issued on or after February 17, 2009.

### **SECTION 8. DRAFTING INFORMATION**

The principal authors of this notice are Zoran Stojanovic and Timothy L. Jones of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this notice, contact Mr. Stojanovic or Mr. Jones on (202) 622-3980 (not a toll-free call).