

## Part III - Administrative, Procedural, and Miscellaneous

### Qualified Zone Academy Bond Allocations for 2010

Notice 2010-22

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

This Notice sets forth the maximum face amount of Qualified Zone Academy Bonds (“QZABs”) that may be issued for each State for the calendar year 2010 under § 54E(c)(2) of the Internal Revenue Code. Under § 54A(e)(3), the term State includes the District of Columbia and any possession of the United States. This Notice also provides certain interim guidance for QZABs issued after October 3, 2008.

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

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

Section 313 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Div. C of Pub. L. No. 110-343, 122 Stat. 3765 (2008) (“Act”) added new § 54E, which provides revised program provisions for QZABs in lieu of the existing provisions under §1397E, effective for obligations issued after October 3, 2008. The Act amended

§ 54A(d)(1) to provide that the term qualified tax credit bond (“QTCB”) means, in part, a qualified zone academy bond which is part of an issue that meets the requirements of §§ 54A(d)(2), (3), (4), (5), and (6) regarding expenditures of bond proceeds, information reporting, arbitrage, maturity limitations, and prohibitions against financial conflicts of interest. The Act also amended § 54A(d)(2)(C) to provide that, for purposes of § 54A(d)(2), the term “qualified purpose” for a QZAB means a purpose specified in § 54E(a)(1), described below.

The Act added § 54E(c)(1) to provide a national zone academy bond limitation authorization for QZABs of \$400 million for each of calendar years 2008 and 2009. In addition, section 1522 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“2009 Act”) further amended § 54E(c)(1) to provide an increased national zone academy bond limitation authorization for QZABs of \$1.4 billion for each of calendar years 2009 and 2010.

#### .02 QUALIFIED ZONE ACADEMY BOND UNDER § 54E

Section 54E(d) defines “qualified zone academy” as any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level provided: (A) the public school or program is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates and prepare students for college and the workforce; (B) students will be subject to the same academic standards and assessments as other students educated by the eligible local education agency; (C) the comprehensive education plan

is approved by the eligible local education agency; and (D)(i) such public school is located in an empowerment zone or enterprise community including such designated after October 3, 2008; or (ii) there is a reasonable expectation (as of the date of bond issuance) that at least 35 percent of the students will be eligible for free or reduced cost lunches under the school lunch program established under the National School Lunch Act.

Section 54E(a) provides that a “qualified zone academy bond” or QZAB means any bond issued as part of an issue if: (1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency; (2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and (3) the issuer: (A) designates such bond for purposes of this section; (B) certifies that it has written assurances that the private business contribution requirement of § 54E(b) will be met; and, (C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

Section 54E(d)(3) provides that a qualified purpose with respect to each academy means: (A) rehabilitating or repairing the public school facility; (B) providing equipment; (C) developing course materials; and, (D) training teachers and other school personnel. The private business contribution requirement of § 54E(b) is met if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the

proceeds of the issue. Section 54E(d)(4) defines “qualified contributions” as any contribution (of a type and quality acceptable to the eligible local education agency) of: (A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment); (B) technical assistance in developing curriculum or in training teachers to promote appropriate market driven technology in the classroom; (C) employees’ services as volunteer mentors; (D) internships, field trips, or other educational opportunities outside the academy; or (E) any other property or service specified by the eligible education agency. Section 54E(d)(2) defines “eligible local education agency” as any local educational agency as defined in § 9101 of the Elementary and Secondary Education Act of 1965.

Section 54E(c)(2) provides that the Department of the Treasury shall allocate the national zone academy bond limitation among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

Under § 54E(c)(3), the maximum aggregate face amount of bonds issued during any calendar year which may be designated as QZABs with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy for such calendar year. However, under § 54E(c)(4)(A), if for any calendar year the limitation amount for any State exceeds the amount of bonds issued during such year which are designated QZABs with respect to qualified zone academies within such

State, the limitation amount for such State for the following calendar year shall be increased by the amount of such excess. Under § 54E(c)(4)(B), however, any carryforward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For these purposes, the limitation amount shall be treated as used on a first-in first-out basis.

Section 54E(c)(4)(C) applies the rules under §§ 54E(c)(4)(A) and (B) to QZABs issued after October 3, 2008, under a carryforward of an unused limitation to calendar years 2008 or 2009 that initially arose in a prior year under § 1397E(e)(4). Any such carryforward is treated as though it were a carryforward that initially arose under § 54E in that prior year.

Sections 1.1397-1 (the “Final Regulations”) and 1.1397-1T (the “Temporary Regulations”) set forth regulations that were issued under § 1397E. Except as provided in this Notice, or to the extent inconsistent with §§ 54A and 54E, the Final Regulations and the Temporary Regulations apply to QZABs issued under §§ 54A and 54E.

### **SECTION 3. INTERIM GUIDANCE AND RELIANCE**

#### **.01 GENERALLY**

Pending the promulgation and effective date of future administrative or regulatory guidance, taxpayers may rely on the interim guidance provided in this Notice and, to the extent not inconsistent with this Notice and the provisions of §§ 54A and 54E, the existing regulations issued under § 1397E.

#### **.02. CREDIT RATE**

For QZABs issued under §§ 54A and 54E, the maximum maturity and the credit

rate are determined as of the date that there is a binding, written contract for the sale or exchange of the bond. The applicable maximum maturity and the QZAB credit rate are published for that date by the Bureau of Public Debt on its Internet site for State and Local Government Series securities at: <http://www.treasurydirect.gov>. For further information regarding the methodology and procedures that the Treasury Department uses to determine these credit rates, see Notice 2009-15, 2009-6 I.R.B. 449 (February 9, 2009).

### .03 SINKING FUND YIELD

Section 54A(d)(4)(C) provides that an issue shall not be treated as failing to meet the requirements of § 148 by reason of any fund which is expected to be used to repay the issue if: (i) the fund is funded at a rate not more rapid than equal annual installments; (ii) the fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue; and (iii) the yield on such fund is not greater than the discount rate determined under § 54A(d)(5)(B) (the “permitted sinking fund yield”).

The permitted sinking fund yield is determined under § 54A(d)(5)(B) by using a rate equal to 110 percent of the long-term adjusted, applicable federal rate (“AFR”), compounded semiannually, for the month in which the bond is sold. The IRS publishes the long-term adjusted AFR, compounded semiannually, each month in a revenue ruling that is published in the Internal Revenue Bulletin. The Bureau of Public Debt publishes the permitted sinking fund yield for each month on its Internet site for State and Local Government Series securities at <https://www.treasurydirect.gov>.

#### **SECTION 4. NATIONAL ZONE ACADEMY BOND LIMITATION FOR 2010**

The national limitation for QZABs issued under § 54E for calendar year 2010 is \$1.4 billion. This amount is allocated among the States as follows:

##### Qualified Zone Academy Bond Allocations by State or Territory, 2010

<b><u>State or Territory</u></b>	<b><u>QZAB Allocation (in dollars)</u></b>
Alabama	24,649,000
Alaska	2,113,000
Arizona	31,935,000
Arkansas	16,361,000
California	163,260,000
Colorado	18,468,000
Connecticut	10,533,000
Delaware	3,004,000
DC	3,252,000
Florida	81,105,000
Georgia	47,428,000
Hawaii	3,982,000
Idaho	6,352,000
Illinois	52,218,000
Indiana	27,302,000
Iowa	11,304,000
Kansas	10,510,000
Kentucky	24,481,000
Louisiana	25,786,000
Maine	5,503,000
Maryland	15,324,000
Massachusetts	21,586,000
Michigan	47,898,000
Minnesota	16,722,000
Mississippi	20,163,000
Missouri	26,461,000
Montana	4,540,000
Nebraska	6,368,000
Nevada	9,846,000
New Hampshire	3,413,000
New Jersey	25,271,000
New Mexico	11,263,000
New York	88,638,000

North Carolina	44,454,000
North Dakota	2,413,000
Ohio	50,855,000
Oklahoma	18,925,000
Oregon	17,124,000
Pennsylvania	49,657,000
Rhode Island	4,172,000
South Carolina	23,224,000
South Dakota	3,355,000
Tennessee	32,065,000
Texas	128,252,000
Utah	8,931,000
Vermont	2,134,000
Virginia	26,185,000
Washington	24,830,000
West Virginia	10,519,000
Wisconsin	19,585,000
Wyoming	1,689,000
American Samoa	1,351,000
Guam	1,379,000
Northern Mariana Islands	868,000
Puerto Rico	59,775,000
Virgin Islands	1,219,000
Total Allocation	1,400,000,000

## **SECTION 5. EFFECTIVE DATE OF NATIONAL ZONE ACADEMY BOND**

### **LIMITATIONS**

The national limitation allocated in section 4 is effective for QZABs issued on or after January 1, 2010.

## **SECTION 6. DRAFTING INFORMATION**

The principal authors of this Notice are Timothy L. Jones and David E. White of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this Notice contact David E. White or Timothy L. Jones at (202)

622-3980 (not a toll-free call).