

IRS News Release

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IRS Issues Guidance on New Build America Bonds

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WASHINGTON — The Internal Revenue Service today issued guidance on the new Build America Bond program. This program allows state and local governments to issue taxable bonds for capital projects and to receive a new direct federal subsidy payment from the Treasury Department for a portion of their borrowing costs.

The American Recovery and Reinvestment Act of 2009 creates the new Build America Bond program, which authorizes state and local governments to issue Build America Bonds as taxable bonds in 2009 and 2010 to finance any capital expenditures for which they otherwise could issue tax-exempt governmental bonds. State and local governments receive a direct federal subsidy payment for a portion of their borrowing costs on Build America Bonds equal to 35 percent of the total coupon interest paid to investors.

This new program is intended to assist state and local governments in financing capital projects at lower borrowing costs and to stimulate the economy and create jobs. “These innovative bonds give state and local governments an important new tool to help finance public capital projects that will benefit communities in challenging times,” said IRS Commissioner Doug Shulman.

The IRS issued Notice 2009-26, which provides guidance on Build America Bonds to enable state and local governments to begin using this program. This notice includes guidance on eligible types of projects and financings, initial implementation of the direct federal subsidy payment procedures, elections to use this program, and information reporting for this program. Certain guidance in this notice also applies to another type of Build America Bond in which a federal subsidy is delivered in the form of tax credits to investors instead of direct federal subsidy payments to state and local governments.

In addition, the IRS released a new form to claim the federal subsidy payment. Issuers can expect to receive requested payments within 45 days after the IRS receives new Form 8038-CP (“Return for Credit Payments to Issuers of Qualified Bonds”).

Build America Bonds can be issued in 2009 and 2010. There is no volume limitation on the amount of eligible Build America Bonds that can be issued during this period.

Notice 2009-26 also solicits public comment on all aspects of the direct payment procedures for Build America Bonds. The notice will appear in Internal Revenue Bulletin 2009-16 dated April 20, 2009.