

Bond Case Briefs

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IRS Releases Qualified Zone Academy Bond Allocations for 2014.

The Internal Revenue Service has released Notice 2015-11, which announces the total Qualified Zone Academy Bond allocation for each state, totaling a \$400 million national limitation for calendar year 2014. The national limitation allocated for 2014 is effective for QZABs issued after December 31, 2013.

Part III — Administrative, Procedural, and Miscellaneous

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 2014 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.

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. 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”) 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. Section 758 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public L. No. 111-312, 124 Stat. 3296 (2010) (“2010 Act”) amended § 54E(c)(1) to provide an authorization for QZABs of \$400 million for calendar year 2011. Section 310 of the American Taxpayer Relief Act of 2012, Public L. No. 112-240, 126 Stat. 2313 (2012) (“2012 Act”) amended § 54E(c)(1) to provide authorization for QZABs of \$400 million for each of calendar years 2012 and 2013. Section 120 of the Tax Increase Prevention Act of 2014, Public L. No. 113-295 (2014) (“2014 Act”) amended § 54E(c)(1) to provide authorization for QZABs of \$400 million for calendar year 2014. The amendment made by § 120 of the 2014 Act applies to obligations issued after December 31, 2013. Section 202 of the 2014 Act also amended § 6431(f)(3)(A)(iii) to provide that the direct-pay subsidy

option does not apply to any national zone academy bond limitation for years after 2010 or any carryforward of any such limitation.

.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.

Sections 1.1397E-1 (the “Final Regulations”) sets forth regulations that were issued under § 1397E. For other guidance concerning the applicability of the regulations issued under § 1397E, the credit rate, and the sinking fund yield see § 1.397E-1(m), and Notice 2009-15, 2009-6 I.R.B. 449, Notice 2009-30, 2009-16 I.R.B. 852, Notice 2010-22, 2010-10 I.R.B. 435, and Rev. Proc. 2011-19, 2011-6 I.R.B. 465.

SECTION 3. NATIONAL ZONE ACADEMY BOND LIMITATION FOR 2014

The national limitation for QZABs issued under § 54E for calendar year 2014 is \$400 million. This amount is allocated among the States as follows:

Qualified Zone Academy Bond Allocations (in dollars)
by State or Territory, 2014

State or Territory QZAB Allocation

Alabama \$7,035,000
Alaska \$575,000
Arizona \$9,550,000
Arkansas \$4,410,000
California \$50,069,000
Colorado \$5,264,000
Connecticut \$2,954,000
Delaware \$916,000
DC \$911,000
Florida \$25,858,000
Georgia \$14,637,000
Hawaii \$1,214,000
Idaho \$1,952,000
Illinois \$14,574,000
Indiana \$7,979,000
Iowa \$2,983,000
Kansas \$3,099,000
Kentucky \$6,354,000
Louisiana \$7,099,000
Maine \$1,435,000
Maryland \$4,680,000
Massachusetts \$6,100,000
Michigan \$13,024,000
Minnesota \$4,688,000
Mississippi \$5,476,000
Missouri \$7,349,000
Montana \$1,260,000

Nebraska \$1,857,000
Nevada \$3,428,000
New Hampshire \$911,000
New Jersey \$7,876,000
New Mexico \$3,465,000
New York \$24,276,000
North Carolina \$13,540,000
North Dakota \$641,000
Ohio \$14,191,000
Oklahoma \$4,939,000
Oregon \$5,044,000
Pennsylvania \$13,355,000
Rhode Island \$1,173,000
South Carolina \$6,793,000
South Dakota \$904,000
Tennessee \$8,930,000
Texas \$35,854,000
Utah \$2,849,000
Vermont \$585,000
Virginia \$7,446,000
Washington \$7,620,000
West Virginia \$2,624,000
Wisconsin \$5,963,000
Wyoming \$491,000

American Samoa \$247,000
Guam \$287,000
Northern Mariana Islands \$211,000
Puerto Rico \$12,872,000
U.S. Virgin Islands \$183,000

Total Allocation \$400,000,000

SECTION 4. EFFECTIVE DATE OF NATIONAL ZONE ACADEMY BOND LIMITATIONS

The national limitation allocated in section 3 for calendar year 2014 is effective for QZABs issued after December 31, 2013.

SECTION 5. DRAFTING INFORMATION

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