

# Tax Alert



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## 4-11

### Important Information Regarding Build America Bonds

#### Overview

On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (hereinafter the “ARRA”) (Public Law No. 111-5). Section 1531 of Title I of Division B of the ARRA created Build America Bonds which are federally taxable state and local governmental bonds, with Federal subsidies as either tax credits for bond holders (Tax Credit) or refundable tax credits paid to bond issuers (Direct Payment). Build America bonds can be issued in 2009 and 2010, and may have an average life of ten or more years.

Build America Bonds include Recovery Zone Economic Development Bonds under § 1400U-2 of the Internal Revenue Code, and may include also Qualified School Construction Bonds to which the Hiring Incentives to Restore Employment Act of 2010 (HIRE Act) extended the Direct Payment option.

Section 1531(d) of the ARRA provides that “Except as otherwise provided by a State after the date of the enactment of this Act, the interest on any build America bond (as defined in section 54AA of the Internal Revenue Code of 1986, as added by this section) and the amount of any credit determined under such section with respect to such bond shall be treated for purposes of the income tax laws of such State as being exempt from Federal income tax.” Accordingly, interest on any Build America Bond that is federally taxable may be subtracted in arriving at Maryland taxable income.

#### How to Claim the Subtraction

Taxpayers, who have not yet filed their 2010 tax return, should use code letter **e** (Profit from the sale or exchange of bonds issued by the Maryland State or local governments) on Form 502SU for interest from Build America Bonds, which would be carried over to line 13 of Form 502. This applies to interest from Build America Bonds regardless of the state of issuance, to the extent that this interest is included as income on the federal return. For nonresidents, interest from Build America Bonds is non-Maryland income includible on line 6b of Form 505NR. For corporations, use code letter **m** on line 4e of Form 500.

Taxpayers who have already filed their 2009 or 2010 returns may file an amended return to claim the subtraction modification for the interest from Build America Bonds that was included in their federal adjusted gross income and in their Maryland taxable income. *Resident* and *corporate* taxpayers should use Forms 502X and 500X respectively, and write **BUILD AMERICA BONDS** at the top of their amended tax return. *Nonresident* taxpayers are generally not taxable on intangible income; thus, they may have already subtracted out this income as non-Maryland income.

Maryland 2011 income tax returns will include a subtraction modification for this purpose when they are released next year. In addition, we will update the Comptroller’s Administrative Release No. 13 after this filing season.

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