



Economic Stabilization Act - Energy Tax Credit Bond Provisions

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- ★ **Scope & Recent Legislative History**
- ★ **Common Attributes of Tax Credit Bonds**
- ★ **New Tax Credit Bond Framework**
- ★ **New CREBs**
- ★ **Qualified Energy Conservation Bonds (“QECBs”)**
- ★ **Historical Data – CREBs Allocations**

★ **Scope**

- **Energy Tax Credit Bond Provisions Available for Energy Projects, with an emphasis on LFGTE, not QZABs, Gulf, Midwestern or Forestry Tax-Credit Bonds**

★ **Energy Policy Act of 2005**

- **CREBs created**

★ **Tax Relief and Health Care Act of 2006**

- **QZABs modified and extended**
- **CREBs extended and expanded**

- ★ **Heartland, Habitat, Harvest, and Horticulture Act of 2008**

- **New tax credit bond framework created**

- ★ **Energy Improvement and Extension Act of 2008**

- **CREBs extended through 2009**

- **New CREBS created**

- **QECBs created**

★ **Purpose of Subsidy**

- **Complement the renewable energy and resource incentives provided to taxable entities**

★ **Sizing of Subsidy**

- **Annual tax credit**
- **Tax credit rate**
- **Included in gross income**

★ **Allocation Limits**

★ **Arbitrage Restrictions**

- ★ **New Tax Credit Bond Framework Found in Section 54A**
 - **Certain tax credit provisions of IRC**
 - **54C – New CREBS**
 - **54D – QECBs**
- ★ **No Regulations Yet**
- ★ **Provisions Effective for Obligations Issued after October 3, 2008**

*** Significant Developments**

- **Available Project Proceeds Concept**
- **Three-Year Expenditure Period**
- **2% Costs of Issuance Limitation**
- **Reserve Fund**
- **Reimbursement**

- **No Refunding**
- **No Ratable Amortization**
- **Stripping of Credits**
- **Carryover of Credits**
- **Financial Conflicts of Interest**

★ **Retained Concepts**

- **Credit rates, credit amount formula and maximum permitted term calculated by Treasury**
- **Credit allowance dates are quarterly and on the final maturity date**
- **Designation by issuer**
- **Allocation and IRS closing report**
- **New CREBs: qualified facilities are the same as existing CREBs, except refined coal is removed**

- ★ **Available project proceeds = sales proceeds less financed costs of issuance (not to exceed 2%) plus earnings thereon**
- ★ **Expectations test for expenditures**
 - **100% of APP by third anniversary**
 - **10% of APP by six months**

★ Actual Test for Expenditures

- **Expenditure period: three years**
 - Period may be extended by Treasury
- **Test: 100% of APP spent by end of period**
- **Failure to satisfy: redemption of nonqualified bonds within 90 days**

★ Reimbursement

- **Timing of allocation award may affect eligibility of reimbursable costs**
- **Modified reimbursement rules apply**
 - **Reimbursement is no later than 18 months after original expenditure**

★ Arbitrage and Rebate

- Section 148 Restrictions apply
- Exception for investment of APP during expenditure period if spent on qualified purposes
- Exception for reserve fund

★ Reserve Fund Exception

- **Expectation of use to repay bonds**
- **Funded no more than in equal annual installments**
- **No more than needed to repay**
- **Fund is yield restricted to semi-annual long term adjusted AFR (i.e., discount rate for maximum permitted term)**

★ **Stripping of Credits**

- **Credit may be separated from bond**
- **Tax-exempt bond stripping rules (IRC Section 1286) apply**
- **Regulations are to be provided**

★ **Carryover of Unused Credits**

★ Financial Conflicts of Interest

➤ Issuer certifies compliance with:

- State and local conflict of interest laws
- Any additional Treasury rules

New CREBs Found in Section 54C

★ Significant Developments

- **Tax Credit: 70% of existing CREBs Tax Credit**
- **Qualified borrowers and issuers include public power providers**
 - **Public power providers are state utilities providing electric services**
- **Issuers also include not-for-profit electric utilities receiving a loan or loan guarantee under the Rural Electrification Act**
- **Allocation: One-time amount of \$800 million and split in thirds among co-ops, governmental bodies and PPPs**
- **No sunset date**

- ★ **100% APP spent on capital expenditures incurred by qualified borrowers for qualified facilities owned by a qualified borrower**

★ Allocation Process

- Treasury will control process
- Expect allocation application notice
- Eligible public power provider projects will require pro-rata awards
- Allocation for co-ops and governmental bodies is subject to Secretary's discretion

★ Open Issues

- Application of existing guidance
- Timing of new regulations
- Smallest to largest methodology for co-ops and governmental bodies
- Effect of prior awards on future eligibility
- Congressional review of program

QECBs Found in Section 54D

★ Qualified Conservation Purposes:

➤ Capital expenditures for:

- Reducing energy consumption in publicly-owned buildings by at least 20%
- Implementing green community programs
- Rural development involving production of electricity from renewable energy resources
- Qualified facilities under Section 45(d):
 - Wind, solar, geothermal, biomass, landfill gas & hydro, etc. but not coal

- ★ **Research Facility Expenditures and Research Grants to Support**
 - **Cellulosic ethanol and non-fossil fuel development**
 - **Technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels**
 - **Increasing in efficiency of existing technologies for providing non-fossil fuels**
 - **Technologies to reduce energy use in buildings**

- ★ **Mass community facilities to reduce energy consumption**
- ★ **Demonstration projects to commercialize research**
- ★ **Public education campaigns to provide energy efficiency**

- ★ **QECBs issuers are state and local governments**
- ★ **QECB borrowers include non-governmental entities subject to limitations**
- ★ **Reduced tax credit: 70% of credit amount**
- ★ **100% of APP spent for “qualified conservation purposes”**
- ★ **Private activity bond limitation**
 - **If bond is a PAB, a QCP does not include any non-capital expenditures**

- ★ **\$800 million of allocation to be split among states by population**
- ★ **Large local governments receive pro-rata amount of state allocation**
- ★ **LLG – \geq 100,000 residents**
- ★ **Indian tribes are treated as LLGs**
- ★ **Not more than 30% of allocation to a state or LLG can be designated for private activity bond**
- ★ **No sunset date specified**

- ★ **1st Round – \$800 million (no more than \$500 million to governmental)**
 - **709 applications for 786 projects for approximately \$2.6 billion**
 - **610 award recipients (532 governmental and 78 cooperative)**

- **Range of Governmental Awards:
\$23,000 to approximately \$3.2 million**
 - **Projects Awarded: Solar (401), Wind (99),
LFGTE (23), Hydro (8) & Open-loop
Biomass (1)**

- **Range of Cooperative Awards:
\$120,548 to \$31 million**
 - **Projects Awarded: Solar (33), Wind (13),
LFGTE (13), Open-loop Biomass (12),
Hydro (6) & Refined coal (1)**

- ★ **2nd Round – \$400 million (no more than \$250 million to governmental)**
 - **Included \$77 million in returned 1st round allocations**
 - **342 applications for 395 projects for \$897 million**
 - **312 award recipients**

- **Governmental Awards Total \$263 Million (ranging from \$15,000 to \$2.95 million)**
 - **Solar (128), Wind (88), LFGTE (41), Hydro (12), Closed-loop Biomass (3), Trash Combustion (3) & Open-loop Biomass (1)**

- **Cooperative Awards Total \$143 Million
(ranging from \$300,000 to \$30 million)**
 - **Wind (14), LFGTE (14), Hydro (6), Solar (1) &
Open-Loop Biomass (1)**

→ Questions?

→ Contact Information

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