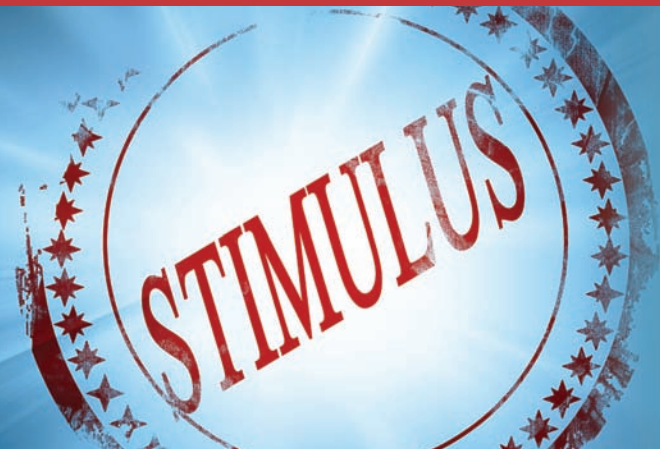


## A NEW OPTION FOR GOVERNMENTAL FINANCING

# *Economic Stimulus Act Introduces Build America Bonds*

- BABs are part of the economic stimulus package
- BABs are issued by governmental units
- Unlike traditional tax-exempt bonds, BABs are taxable, but they offer attractive cash subsidies to governmental units instead



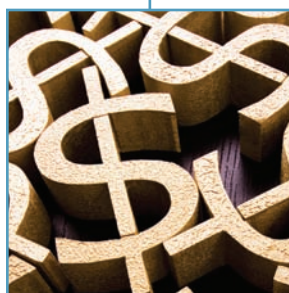
*Say hello to BABs. BABs—officially Build America Bonds—are an alternative to traditional government-issued tax-exempt bonds. Part of the American Recovery and Reinvestment Act of 2009, BABs are designed to generate financing for public projects and attract investors looking for ways to diversify.*

While interest on BABs is taxable, tax credits could make the investment very attractive.

The most popular type of BAB (called direct-pay) provides the government issuer with payments from the Federal Treasury equal to 35% of the interest on the BAB. Because credit is paid to the issuer and the BAB is a taxable obligation, purchasers of this type of bond need not be a taxpayer. This opens a new market for the debt of state or local governmental units—including various tax-exempt entities such as pension plans.

Under the Act, BABs may be issued in 2009 and 2010 by any state or local government. Proceeds can be used for any purpose traditionally eligible for tax-exempt financing. The BAB issuer structures the transaction in a manner similar to tax-exempt bonds, and follows all the rules applicable to tax-exempt financing—including limits on arbitrage and private use.

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To date, several matters concerning BABs remain unaddressed. Among them: whether states will treat interest on BABs as tax-exempt; optimum financial structure for the bonds—including call provisions and maturities; and the nature and extent of required legal opinions regarding the bonds. Preliminary guidance has been provided by the IRS, and additional guidance from regulators is expected soon.

We will include updates on our website. For a more detailed description, visit [millercanfield.com/publications-alerts-550.html](http://millercanfield.com/publications-alerts-550.html) or call our office if you'd like more information.

