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## Tax Credit Bonds – Direct Subsidy Payments

On March 18, 2010, President Obama signed into law the Hiring Incentives to Restore Employment (HIRE) Act (the “Act”), which permits issuers of certain tax credit bonds to elect to receive a direct subsidy payment from the federal government similar to the build America bonds subsidy, in lieu of providing tax credits to owners of these bonds.

The Act allows direct subsidy payments to be made to the issuer with respect to the following tax credit bonds: (i) qualified zone academy bonds (“QZABs”); (ii) qualified school construction bonds (“QSCBs”); (iii) new clean renewable energy bonds (“NCREBs”); and (iv) qualified energy conservation bonds (“QECBs”).

In the case of QZABs and QSCBs, the amount of the direct subsidy payment to the issuer is equal to the lesser of (i) the interest payable on the QZAB or QSCB on each interest payment date or (ii) the amount of interest that would be payable on the QZAB or QSCB if the credit rate published by the Secretary of the Treasury on the sale date of the QZAB or QSCB were the interest rate on the bond.

In the case of NCREBs or QECBs, the direct subsidy payment to the issuer is equal to the lesser of (i) the interest payable on the NCREB or QECB on each interest payment date or (ii) seventy percent of the amount of

interest that would be payable on the NCREB or QECB if the credit rate published by the Secretary of the Treasury on the sale date of the NCREB or QECB were the interest rate on the bond.

The provisions of the Act apply to QZABs, QSCBs, NCREBs and QECBs issued after March 18, 2010.

The Act also makes a technical correction relating to the carryover of unused QSCB volume cap allocation of large local educational agencies. Large local educational agencies are retroactively permitted to carryover any unused volume cap allocation to the following calendar year. The Act also clarifies that the allocation received by the State is to be allocated by the “State education agency (or such other agency as is authorized under State law to make such allocation).”

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