

TEB Phase II - Lesson 13

Targeted Revitalization Bonds

Overview

Introduction

The Gulf Opportunity Zone Act of 2005, enacted on December 21, 2005, provides tax benefits for the revitalization of disaster stricken areas and bonds may be issued for this purpose (GO Zone Bonds). See §§ 1400M and 1400N. You learned about exempt facility bonds in Lesson 6. Qualified New York Liberty Bonds are exempt facility bonds authorized for issuance in accordance with § 1400L (d). You also learned about mortgage bonds in Lesson 8. This lesson will identify when qualified GO Zone Bonds will be treated as either exempt facility bonds or qualified mortgage bonds.

In Title XIII of the Omnibus Budget Reconciliation Act of 1993 ([Public Law 103-66](#)), the U.S. Congress authorized the U.S. Department of Housing and Urban Development to designate six Empowerment Zones in the United States. Congress's intended purpose for these zones and § 1400 was to revitalize the economies in targeted disadvantaged areas. This intention gave birth to a broad new category of tax exempt bonds designed to revitalize specific disaster-stricken areas in the U.S.

Purpose

The purpose of this lesson is to identify and understand bonds that may be issued pursuant to §§ 1400L, 1400M, 1400N and 1400T and to determine rules applicable to these bonds. These bonds are within § 1400 because this section specifically addresses economically revitalizing depressed regions in the U.S.

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Overview, Continued

Objectives

After completing this lesson, you will be able to:

- Identify a Gulf Opportunity Zone Bond and the various Gulf Opportunity Zones (GO Zones)
 - Determine special rules applicable to GO Zone Bonds
 - Describe permissible uses of GO Zone Bonds
 - Describe the special rules for mortgage revenue bonds per § 1400T and their applicability to any Midwestern and Ike disaster area
 - Describe the requirements for New York Liberty Bonds
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Reading Assignment



Background reading on Exempt Facility Bonds & Qualified Mortgage Bonds.

IRC sections:

- § 103: To be tax exempt, a private activity bond must be “qualified”
- § 141: Exempt facility bonds and qualified mortgage bonds are “qualified”
- § 142: Exempt facility bonds; e.g, transportation, public works, low-income rental housing, etc.
- § 143: Qualified mortgage bonds; finance owner-occupied residences

The Gulf Opportunity Zone/GO Zone Bonds

Codes	Sections 1400L, 1400M, 1400N and 1400T
Relevant Reference Materials	2005 Public Law (P.L.)109-135, Title I, § 101(a); 2008-P.L. 110-343; 42 U.S.C.A § 5121; Section 702 of the Heartland Disaster tax Relief Act of 2008; Section 764 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.
Congressional Intent	On December 21, 2005, Section 101(c) of Public Law 109-135 amended the Code to provide tax benefits for the Gulf Opportunity Zone and certain areas affected by Hurricanes Rita and Wilma. These provisions were added as § 1400N. The purpose of this law is to provide tax incentives to assist recovery and rebuilding in areas affected by Hurricanes Katrina, Rita, and Wilma.
Gulf Opportunity Zone Defined	The GO Zone means areas affected by the disasters, Hurricanes Katrina, Rita and Wilma. These areas were declared by the President to need federal disaster relief under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C.A § 5121). (See § 1400M.)

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Qualified Gulf Opportunity Zone/GO Zone Bonds, Continued

GO Zone Bonds- Tax Benefits

A qualified GO Zone Bond is described in § 1400N (a)(2) to mean any bond issued as part of an issue if:

- 95 percent or more of the net proceeds of such issue are to be used for qualified project costs located in the GO Zone, or such issue meets the requirements of a qualified mortgage issue;
- Such bond is issued by the state of Alabama, Louisiana, or Mississippi, or any political subdivision thereof;
- Such bond is designated for purposes of this section by the appropriate approving authority; which may be either the state bond commission or state governor; and
- Such bond is issued after the enactment date (December 21, 2005) and before January 1, 2011. (Section 764 of Public Law 111-312 extended this date to January 1, 2012.)

None of the bond proceeds may be used to provide golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetracks or gambling facilities. Nor may any bond proceeds be used for a store whose principal business purpose is selling alcoholic beverages for off premise use. (See the exclusions in § 144(c)(6)(B).)

Section 1400N(a)(1) provides that any qualified GO Zone Bond shall be treated as either an exempt facility bond or qualified mortgage bond, depending upon their specific characteristics.

Limitations on GO Zone Bonds

The following limitations apply to GO Zone bonds:

- The maximum aggregate face amount of the bonds for any state shall not exceed the product of \$2,500 multiplied by the portion of the state population within the GO Zone.
- No bonds may be issued to finance movable fixtures and equipment.

(See § 1400N (a)(3).)

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Qualified Gulf Opportunity Zone/GO Zone Bonds, Continued

Qualified Project Costs and 95 Percent Test

Qualified project costs include the costs of any qualified rental project (as per § 142(d)) located in the GO Zone.

Qualified project costs also include costs of acquisition, construction, reconstruction, and renovation of:

- Nonresidential real property located in the GO Zone.
- Public utility property located in the GO Zone.

(See § 1400N (a)(4).)

Special Rules

Specific modifications are applicable to all GO Zone Bonds. These special rules are related to §§ 142(d), 143, 146, 147(d) (2), and 148(f)(4)(c).

Interest on the bonds is not an item of tax preference for purposes of the alternative minimum tax.

(See § 1400(N)(a)(5).)

Special Issue Treatment of Portions of an Issue

An issuer can elect to treat a portion of an issue as a qualified bond or a non private activity bond. In either case, that portion would not be considered a GO Zone Bond.

(See § 1400 (N)(a)(6).)

Special Rule for Repair and Reconstruction of Residences

Any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation for purposes of § 1400 and § 143.

Qualified GO Zone repair or reconstruction is any repair of damage caused by Hurricanes Katrina, Rita, and Wilma to a building located in either the Gulf Opportunity Zone or the GO Zone. However, the expenditures for such repair or reconstruction must be at least 25 percent of the mortgagor's adjusted basis in the property, valued after the repairs.

(See § 1400 (N)(a)(7).)

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Qualified Gulf Opportunity Zone/GO Zone Bonds, Continued

Special Rule for Qualified Residential Projects

With regard to treatment of representations regarding income eligibility, project operators may rely on any prospective project tenant's representations that their income will not exceed the applicable income limits of § 142(d)(1) when their tenancy begins if such tenancy begins during the 6-month period beginning on and after the date, the tenant was displaced because of Hurricane Katrina.

This special rule applies only to the evaluation of residential project qualifications when residential applicants were Hurricane Katrina victims. This evaluation pertains to satisfying the requirements for the "exempt facility bond."

(See § 1400N(n).)

Advance Refunding Bonds

One additional advance refunding is authorized for certain bonds outstanding on August 28, 2005, which were issued by the state of Alabama, Louisiana, Mississippi, or a political subdivision thereof.

- The additional advance refunding must be between December 21, 2005, and January 1, 2011.
 - The governor of the state must designate the GO Zone Advance Refunding Bonds for purposes of § 1400N (b).
 - The requirements of § 1400N(b)(5) must be met.
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Qualified Gulf Opportunity Zone/GO Zone Bonds, Continued

Notices Applicable to GO Zone Bonds

Notice 2006-21, 2006-12 I.R.B. 643 (March 20, 2006) informs Alabama, Louisiana and Mississippi of their state population in the GO Zone. These population figures are required to determine the Gulf Opportunity housing amount and the maximum aggregate face amount of bonds qualified as GO Zone Bonds.

Notice 2006-41, 2006-18 I.R.B. 857 (May 1, 2006) provides informational reporting requirements applicable to GO Zone Bonds, GO Zone Advance Refunding Bonds, and Gulf Tax Credit Bonds issued pursuant to § 1400N. This notice also provides additional guidance for the tax credit and arbitrage requirements applicable to Gulf Tax Credit Bonds.

Notice 2012-3, 2012-3 I.R.B. 289 (January 17, 2012) provides guidance on current refunding issues that refund outstanding prior issues of bonds that qualify for tax-exempt bond financing under certain disaster relief bond programs including qualified GO Zone Bonds issued under § 1400N, qualified Midwestern Disaster Area Bonds issued under §702(d)(1) of the Heartland Disaster Tax Relief Act of 2008 and qualified Hurricane Ike disaster area bonds issued under § 704(a) of the Heartland Disaster Act.

Increased Deduction for Unqualified Section 179 GO Zone Property

IRC § 1400N(e) allows an increase in expensing qualified section 179 GO Zone property to the lesser of:

- \$100,000, or
- The cost of qualified section 179 GO Zone property placed in service during the tax year.

Qualified GO Zone property is defined in § 1400N(d)(2).

Midwestern and Hurricane Ike Disaster Area Bonds

Overview

The tax benefits applicable to the Gulf Opportunity Zone per § 1400N(a) are extended to any Hurricane Ike disaster and Midwestern Disaster area effective October 3, 2008. This is provided under § 704 of the Heartland Disaster Tax Relief Act of 2008.

Hurricane Ike disaster is a major disaster declared by the President on September 13, 2008.

Midwestern disasters include severe storms, tornados, and flooding in Arkansas, Illinois, Indiana, Iowa, Missouri, Nebraska or Wisconsin. Bond issuances related to this act must be before December 1, 2013.

(See 2008 - P.L. 110-343; 122 Stat. 3918 and section 702 of the Heartland Disaster Tax Relief Act of 2008 for further information.)

Qualified Hurricane Ike Disaster Area Bond

With regard to tax-exempt bond financing per § 1400N(a) :

- The term “qualified Hurricane Ike disaster area bond” is substituted for “qualified Gulf Opportunity Zone bond” each place it appears
 - “Any State in which any Hurricane Ike disaster area is located” is substituted for “the State of Alabama, Louisiana, or Mississippi”
 - “After December 31, 2008” and “before January 1, 2010” is substituted for after “December 31, 2005 and before January 1, 2007” (Section 764 of Public Law 111-312 extended this provision to bonds issued before January 1, 2012.)
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Midwestern and Hurricane Ike Disaster Area Bonds, Continued

Qualified Midwestern Disaster area Bonds

With regard to tax-exempt bond financing per § 1400N(a) :

- The term “qualified Midwestern disaster area bond” is substituted for “qualified Gulf Opportunity Zone bond” each place it appears.
- “Any State in which a Midwestern disaster area is located” is substituted for “the State of Alabama, Louisiana, or Mississippi.”

There is also a provision for tax credit bonds. There is a credit to holders of tax credit bonds and in accordance with Section 1400N(1):

- “Midwestern tax credit bond” is substituted for “Gulf tax credit bond” each place it appears.
 - “Any State in which a Midwestern disaster area is located or any instrumentality of the State” is substituted for “the State of Alabama, Louisiana, or Mississippi” in paragraph (4)(A)(i).
 - With regard to the tax credit bond issuance - “After December 31, 2008 and before January 1, 2010” is substituted for “after December 31, 2005 and before January 1, 2007.”
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Private Business Use

The Governor or designated representative is authorized to determine whether project costs involving private business use under § 141(b)(6) may be financed with proceeds of Qualified Midwestern Disaster Area Bonds and Qualified Hurricane Ike Disaster Area Bonds under [§ 1400N\(a\)\(2\)\(A\)\(i\)](#).

In the case of a project involving private business use under § 141(b)(6), for purposes of determining qualified project costs that may be financed with proceeds of Qualified Midwestern Disaster Area Bonds and Qualified Hurricane Ike Disaster Area Bonds under [§ 1400N\(a\)\(2\)\(A\)\(i\)](#), as modified by the Act, the determination of whether a loss in a trade or business has been suffered and whether a person is carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss may be made by the governor of the state in which the project is located. In addition, a duly authorized designee of such governor under applicable state law may make these determinations.

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Midwestern and Hurricane Ike Disaster Area Bonds, Continued

Qualified Costs Qualified project costs that may be financed with proceeds of Qualified Midwestern Disaster Area Bonds and Qualified Hurricane Ike Disaster Area Bonds include the repair or reconstruction of public utility property (as defined in § 168(i)(10)) damaged by a Midwestern Disaster or Hurricane Ike.

Allocations of Volume Cap Designated allocations of Qualified Midwestern Disaster Area Bonds and Qualified Hurricane Ike Disaster Area Bonds are to provide assistance to areas in the order in which such assistance is most needed under [§ 1400N\(a\)\(2\)\(C\)](#). A governor, or duly authorized designee of such governor or bond commission under applicable state law, may make the determination as to the order of allocations.

Notice 2008-109, 2008-50 I.R.B. 1282 provides guidance on state volume limits under section 1400N applicable to (1) the issuance of tax-exempt bonds for the Midwestern and Hurricane Ike disaster areas, and (2) the issuance of tax credit bonds for the Midwestern disaster areas. It also specifies the counties that qualify as Midwestern or Hurricane Ike disaster areas and provides the portion of the state population located in the disaster or other relevant areas for purposes of determining the volume limits applicable to each of these provisions. Reporting instructions for Midwestern and Hurricane Ike tax-exempt and credit bonds are also included.

The notice informs the states of Arkansas, Illinois, Indiana, Iowa, Missouri, Nebraska, and Wisconsin of those counties that comprise the Midwestern disaster area for purposes of certain tax extenders, tax relief, and Midwestern disaster housing amounts.

This notice also informs the states of Texas and Louisiana of the counties and parishes that comprise the Hurricane Ike disaster area for purposes of determining the maximum amount of Hurricane Ike disaster area bonds.

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Midwestern and Hurricane Ike Disaster Area Bonds, Continued

Allocations of Volume Cap (continued)

Notice 2010-10, 2010-3 I.R.B. 299 provides guidance on the tax-exempt bond provisions for the Midwestern and Hurricane Ike disaster areas under the Heartland Disaster Tax Relief Act of 2008, the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 (the Act) and § 1400N(a) of the Code, as modified by the Act. This notice also provides guidance on reimbursement expenditures made with proceeds of tax-exempt bonds issued for Midwestern and Hurricane Ike disaster areas and tax-exempt “Qualified Gulf Opportunity Zone Bonds” issued under § 1400N(a).

This notice, effective December 12, 2009, provides taxpayer interim guidance pending the promulgation and effective date of future administrative or regulatory guidance.

Notices 2012-3, 2012-3 I.R.B. 289 (January 17, 2012). Provides guidance on current refunding issues that refund outstanding prior issues of bonds that qualify for tax-exempt bond financing under certain disaster relief bond programs including qualified GO Zone Bonds issued under § 1400N, qualified Midwestern Disaster Area Bonds issued under § 702(d)(1) of the Heartland Disaster Tax Relief Act of 2008 and qualified Hurricane Ike disaster area bonds issued under § 704(a) of the Heartland Disaster Act.

Special Rules Mortgage Revenue Bonds

Modification of Rules for Katrina Disaster Areas

Generally, the Code imposes several limitations on qualified mortgage bonds, including income limitations for eligible mortgagors, purchase price limitations on the home financed with bond proceeds, and a “first time homebuyer” requirement. The first time homebuyer requirement provides qualified mortgage bonds generally can not be used to finance a mortgage for a homebuyer who has had an ownership interest in a principal residence in the three years preceding the execution of the mortgage.

The Katrina Emergency Tax Act, P.L. 109-73, waives the first time homebuyer requirement with respect to certain residences located in an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

The Gulf Opportunity Act of 2005, P.L. 109-135, extends the waiver of the first time homebuyer requirement to financings provided through December 31, 2010.

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Special Rules Mortgage Revenue Bonds, Continued

Modification of Rules in GO Zones

Financed, owner-occupied residences in the GO Zone, Rita GO Zone, or Wilma GO Zone, will be treated as targeted area residences for purposes of § 143, with certain modifications.

Special income and purchase price limitations apply to targeted area residences financed with qualified mortgage bonds. A targeted area residence is located in either (1) a census tract in which at least 70 percent of the families have an income which is 80 percent or less of the statewide median income, or (2) an area of chronic economic distress. Generally, for targeted area residences, the income limitation is satisfied when no more than one-third of the mortgages are made without regard to any income limits and the remainders of the mortgages are made to mortgagors whose family income is 140 percent or less of the applicable median family income. The purchase price limitation is raised from 90 percent to 110 percent of the average area purchase price for targeted area residences. The first-time homebuyer requirement does not apply to targeted area residences.

Pursuant to § 1400T the first-time homebuyer rule is waived and purchase and income rules for targeted area residences apply to residences located in the specified areas that are financed with qualified mortgage bonds. For these purposes, 100 percent of the mortgages must be made to mortgagors whose family income is 140 percent or less of the applicable median family income. Therefore, the § 143 rule allowing one-third of the mortgages to be made without regard to any income limits does not apply. In addition, § 1400T(a)(3) increases from \$15,000 to \$150,000 the amount of qualified home-improvement loan with respect to residences located in the specified disaster area.

This rule is in accordance with section § 1400T enacted by Section 201(a) of Public Law 109-135 on December 21, 2005. The provision is effective on the date of enactment, and applies to residences financed before January 1, 2011.

The provisions of § 1400T is extended to any Midwestern disaster area per section 702(a) of P.L. 110-343, the Heartland Disaster Tax Relief Act of 2008.

New York Liberty Bonds

Overview

On March 9, 2002, section 301(a) of Public Law 107-147 added § 1400L.

Section 1400L provides for two types of tax-exempt bonds:

- Qualified New York Liberty Bond
- Liberty Advance Refunding Bonds

Section 309 of Public Law 108-311 amended these provisions. Notice 2002-42, Notice 2003-40, and Notice 2002-73 provide interpretive guidance concerning § 1400L.

Qualified New York Liberty Bond

Any qualified New York Liberty Bond shall be treated as an exempt facility bond. (See § 1400L (d) (1).)

Section 1400L(d)(2) provides that the term qualified New York Liberty Bond means any bond issued as part of an issue if –

- 95 percent or more of the net proceeds of such issue are to be used for qualified project costs,
 - Such bond is issued by the state of New York or any political subdivision thereof,
 - The governor or the mayor designates such bond for purposes of this section, and
 - Such bond is issued after the date of the enactment of this section and before January 1, 2010. (Section 762 of Public Law 111-312 extended this date to January 1, 2012. However, this amendment applies to bonds issued after December 31, 2009.)
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New York Liberty Bonds, Continued

**Qualified
Project Costs**

Qualified project costs include costs of acquisition, construction, reconstruction, and renovation of:

- Nonresidential real property and residential rental property located in the New York Liberty Zone, and
- Public utility property located in the New York Liberty Zone.

Similar property located outside of the New York Liberty Zone, but within the city of New York is also included if such property is part of a project which consists of at least 100,00 square feet of usable office or commercial space.

(See §§ 1400L (d) (4) (A) and (B).)

**New York
Liberty Zone**

The New York Liberty Zone means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York. (See § 1400L(h).)

**Limitation on
Amount of
Bonds**

Section 1400L(d)(3) provides an overall limitation of \$ 8 billion of bonds and additional limitations for certain kinds of bonds

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New York Liberty Bonds, Continued

Special Rules

Special rules apply to qualified New York Liberty Zone Bonds.

- Section 146 relating to volume cap does not apply.
 - Section 147(d) rehabilitation requirement for the acquisition of existing property is applied using 50 percent.
 - Section 148(f)(4)(C) 2-year spending exception to rebate applies.
 - Repayments of principal paid on loans made with the proceeds can not be recycled.
 - Interest on the bonds is not an item of tax preference for purposes of the alternative minimum tax.
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Liberty Advance Refunding Bonds

One additional advance refunding is authorized for certain bonds outstanding on September 11, 2001, which were used to finance facilities located within the city of New York, New York (or property which is functionally related and subordinate to facilities located within the City of New York for the furnishing of water).

Limitation on Amount of Advance Refunding Bonds

Section 1400L (e)(3) provides an overall limitation of \$9 billion of bonds and additional limitations for certain kinds of bonds.

Qualifying bonds issued under this section must be designated by either the New York Governor or the Mayor of New York City. The maximum face amount of bonds so designated cannot exceed \$4.5 billion designated by the governor and \$4.5 billion designated by the Mayor. The advance refunding bonds must be issued prior to January 1, 2005.

(See § 1400L(e) in its entirety for more information.)

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New York Liberty Bonds, Continued

**Notice 2013-9
(Temporary
Shelter for
Individuals
Displaced By
Hurricane
Sandy**

This [notice](#) provides relief for all qualified residential rental projects described in the notice.

**Notice 2013-39
(Temporary
Shelter for
Individuals
Displaced by
Severe Storms
and Tornadoes
in Oklahoma)**

This [notice](#) provides relief for all qualified residential rental projects described herein. The Internal Revenue Service is suspending certain requirements under § 142(d) of the Internal Revenue Code for qualified residential rental projects financed with exempt facility bonds under § 142 to provide emergency housing relief needed as a result of the devastation caused by severe storms and tornadoes in Oklahoma that occurred between May 18, 2013, and May 27, 2013.

**Notice 2013-39
(Temporary
Shelter for
Individuals
Displaced by
Severe Storms
and Tornadoes
in Oklahoma).**

This [notice](#) amplifies the relief provided by [Notice 2013-39, 2013-25 I.R.B. 1252](#), and [Notice 2013-40, 2013-25 I.R.B. 1254](#), to reflect actions by the Federal Emergency Management Agency (FEMA) subsequent to the release of those notices.

Summary

Review of Lesson 13

Targeted Revitalization Bonds (Disaster Bonds):

- Tax incentives to revitalize areas hit by disaster:
- Examples: Hurricanes, severe storms, tornados, flooding, terrorist attacks
- Qualified Gulf Opportunity Zone Bonds
- Midwestern disasters
- Hurricane Ike
- Qualified New York Liberty Bonds

Outside Reading



- Publication 4492 (1/2006), Information for Taxpayers Affected
- Definitions:
 - o [Hurricane Katrina Disaster Area](#)
 - o [Katrina Covered Disaster Area](#)
 - o [Gulf Opportunity \(GO\) Zone \(Core Disaster Area\)](#)
 - o [Hurricane Rita Disaster Area \(Rita Covered Disaster Area\)](#)
 - o [Rita GO Zone](#)
 - o [Hurricane Wilma Disaster Area](#)
 - o [Wilma Covered Disaster Area](#)
 - o [Wilma GO Zone](#)