

**Revenue Ruling**  
**No. 11-001**  
**January 25, 2011**  
**Individual Income Tax**

**Taxability of Build America Bonds**

Build America Bonds are a financing tool for state and local governments that were created in the American Recovery and Reinvestment Act of 2009. Unlike traditional state and local bonds, interest from these bonds is included in the investor's federal gross income.

**Issue**

What is the proper treatment of interest income from Build America Bonds for Louisiana individual income tax purposes?

**Analysis/Discussion**

The American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (enacted February 17, 2009) ("ARRA"), added § 54AA to the Internal Revenue Code, authorizing state and local governments, at their option, to issue two types of Build America Bonds as taxable bonds in 2009 and 2010 to finance any capital expenditures for which they otherwise could issue tax-exempt governmental bonds. Under IRC Section 54AA(f)(1) all interest from a BAB is taxable to the bond holder (investor) and is therefore included in the bond holder's federal adjusted gross income.

The first type of Build America Bond provides a Federal subsidy through Federal tax credits to investors in the bonds in an amount equal to 35 percent of the interest payable by the issuer on taxable governmental bonds (net of the tax credit). Under IRC Section 54AA(f)(2) the credit is treated as interest income includable in federal adjusted gross income in addition to the bond interest.

The second type of Build America Bond provides a Federal subsidy through a refundable tax credit paid to state or local governmental issuers by the Treasury Department and the Internal Revenue Service in an amount equal to 35 percent of the total coupon interest payable to investors in these taxable bonds.

The transition provision in ARRA requires that, for state income tax purposes, interest income from both types of BABs will be treated the same as if the interest was from any other tax exempt obligation issued by a state or local government.

For Louisiana individual income taxpayers, the starting point for determining Louisiana tax table income is the taxpayer's federal adjusted gross income. All additions or subtractions from federal adjusted gross income that are used in determining Louisiana tax table income are specifically set forth in R.S. 47:293.

Federal adjusted gross income does not include interest from traditional state and local bonds under Internal Revenue Code section 103, but interest from non-Louisiana state and municipal bonds is added to federal adjusted gross income to arrive at Louisiana tax table income under R.S. 47:293(9)(a) and (c). This modification provides that tax table income means "adjusted gross income plus interest on obligations of a state or political subdivision thereof, other than Louisiana and its municipalities, title to which obligations vested with the resident individual on or subsequent to January 1, 1980."

<p>A Revenue Ruling is issued under the authority of LAC 61:III.101(C). A Revenue Ruling is written to provide guidance to the public and to Department of Revenue employees. It is a written statement issued to apply principles of law to a specific set of facts. A Revenue Ruling does not have the force and effect of law and is not binding on the public. It is a statement of the department's position and is binding on the department until superseded or modified by a subsequent change in statute, regulation, declaratory ruling, or court decision.</p>
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Interest from Louisiana state and local bonds is specifically exempted from Louisiana tax table income by R.S. 47:293(9)(b). “Interest on obligations of the state of Louisiana, its political subdivisions, public corporations created by them and constituted authorities thereof authorized to issue obligations on their behalf, title to which obligations vested with a resident individual shall be excluded from ‘tax table income’ and is hereby declared exempt from state income taxation.”

### **Conclusion**

Income from interest and credits from BABs issued by the state of Louisiana or its local governments is not subject to Louisiana individual income tax. Income from interest and credits from BABs issued by states and local governments other than the state of Louisiana or its local governments is subject to Louisiana individual income tax.

### **Application**

#### ***Other State and Local BABs***

No modification is necessary for interest or credit income from BABs issued by states and local governments other than Louisiana or its local governments because this interest income is already included in Federal adjusted gross income.

#### ***Louisiana State and Local BABs***

A modification to federal AGI will be required to arrive at the correct computation of tax on the state return for interest income from Louisiana state and local BABs.

Taxpayers who filed a resident or non-resident Louisiana income tax return for 2009 and did not subtract interest or credit income from a BAB issued by Louisiana or its local governments that was included in federal AGI, may file an amended 2009 income tax return to correct their Louisiana income tax liability.

Taxpayers who have Louisiana state or local BAB interest or credit income included in federal AGI on their 2009 or 2010 federal return should follow these instructions for amending their 2009 Louisiana income tax returns or completing their 2010 Louisiana income tax returns:

***Resident Returns***—On the Louisiana resident individual income tax return, IT-540, Schedule E, Exempt Income, enter the amount of interest and credit income attributable to BABs issued by Louisiana or its local governments. Identify the exempt income as “Louisiana Build America Bonds” and enter code “**49**” for other exempt income in the code box on the return.

***Non-Resident Returns***—On the Louisiana non-resident and part-year resident individual income tax return, IT-540B, enter the amount of interest and credit income attributable to BABs issued by Louisiana or its local governments that is included as income taxable to Louisiana on the “other exempt income” line on the NPR Worksheet. For 2009, use line 30 on the NPR Worksheet. For 2010, use line 31. Identify the exempt income as “Louisiana Build America Bonds.”

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