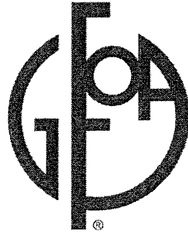

GOVERNMENT FINANCE OFFICERS ASSOCIATION

Selected Issue Briefs

January 2010

GFOA Federal Liaison Center
Washington, DC

1. American Recovery and Reinvestment Act
2. Tax Exempt Bonds
3. Tax Credit Bonds
4. Withholding Requirement on Government Payments and Other General Tax Issues
5. Remote Sales Tax Collection
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Issue Brief: AMERICAN RECOVERY AND REINVESTMENT ACT

Updated January 2010

Background

The President signed the $787 billion American Recovery and Reinvestment Act (ARRA) on February 17, 2009. Since that time, states and localities have received millions of dollars in grant funding from various federal agencies to assist with job creation and economic recovery in communities throughout the country. The Act also subjects states and localities to an unprecedented amount of accountability and transparency regarding how the funds are distributed and utilized, and whether they are achieving their primary intended purpose – job creation.

States and localities that are receiving grant funding under the ARRA must complete quarterly accountability and transparency requirements set forth in Section 1512 of the Act and the guidance promulgated by the Office of Management and Budget (OMB). The guidance discussed below reflects the most recent issuances by OMB, although it is likely that the agency will publish some additional guidance prior to the next required reporting period.

Implementation Updates

Updated Guidance on Data Quality and Reporting for Job Estimates

OMB issued its most recent guidance on December 18, 2009 in a two part memorandum. The guidance can be found at http://www.whitehouse.gov/omb/assets/memoranda_2010/m10-08.pdf. The Recipient Reporting Data Model, Supplement 2, has also been updated to align with changes included in the new guidance, and can be found at http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21-supp2.pdf. **This new guidance supersedes all previous guidance related to jobs and the reporting of job creation and retention issued since the enactment of the ARRA.**

Part I of the memorandum provides guidance to federal agencies to improve the quality of data reported under Section 1512 of the ARRA, as well as outlines important steps agencies must take to both identify non-reporting recipients and actions to encourage compliance. While this information is directed at federal agencies, recipients are encouraged to review this information to incorporate some of the recommendations and requirements into their own data quality review plans.

Part 2 of the memorandum makes two very important changes concerning the manner in which job estimates are calculated and reported. First, recipients will now report jobs **quarterly**, rather than on a **cumulative basis**. Accordingly, a recipient will now report job estimate totals by dividing hours worked in the reporting quarter by the hours in a full-time schedule in that quarter. The new guidance provides several examples of how to apply this formula so recipients can more accurately and easily report estimates of jobs created or retained by the ARRA. It is important to note, however, that reporting fields that include expenditure data and other qualitative data will still be done on a cumulative basis.

Second, recipients will no longer be required to make a substantive judgment on whether jobs were created or retained as a result of the ARRA. Instead, recipients will only report on jobs funded with ARRA dollars. Jobs funded with non ARRA funds will not be counted unless they are expected to be reimbursed with ARRA money. Jobs funded partially with ARRA dollars will only be counted based on the portion funded by the ARRA. A funded job is defined as one in which the wages or salaries are either paid for or will be reimburse with ARRA funding. Once a job is reported by a recipient as created or retained by ARRA dollars, the recipient shall continue to report this job as created or retained in subsequent quarters, as long as the job continues to be funded by the ARRA.

Some recipients, for example those receiving ARRA funding from the Department of Transportation, have additional job reporting requirements beyond those set forth in Section 1512. In these cases, recipients should follow this guidance, as well as any specific federal agency guidance requirements.

Beginning on February 2, 2010, FederalReporting.gov will be open for correction of all data submitted for the quarter ending December 31, 2009. Recipients will have the chance to make corrections until the start of the next reporting period, April 1, 2010. However, recipients will **not** have the chance to correct any data submitted for the previous quarter - that is the quarter ending September 30, 2009. Instead, recipients who would like to make these corrections or non-reporters who would like to submit reports for prior quarters are directed to maintain this information in their administrative records for submission to the federal government at a time and through a process to be determined in the future. Recipients are not required to recalculate or correct job estimate totals for the quarter ending September 30, 2009 based upon this new guidance. Any corrections to the job estimate totals reported for the quarter ending September 30, 2009 should rely on the definitions of a created or retained job found in the OMB guidance issued on June 22, 2009.

Supplements to Circular A-133/Single Audit

The OMB released the *OMB Circular A-133 Compliance Supplement* in Marcy 2009 (http://www.whitehouse.gov/omb/circulars_a133_compliance_09toc/). The Supplement identifies important compliance requirements that the federal government expects to be considered as part of an audit in accordance with the Single Audit Act and Circular A-133. In particular, the Supplement introduces a new *Appendix VII, Other OMB Circular A-133 Advisories* which includes information and guidance for auditors on the ARRA and its implications on audits performed under Circular A-133. Additional information about the March 2009 Supplement can be found at: http://gaqc.aicpa.org/Resources/Archived+GAQC+Update+Newsletters/GAQC+Alert+No.+112.htm.

The limited time between the enactment of the ARRA and the issuance of the March 2009 Supplement limited OMB's ability to fully incorporate all the guidance necessary to address issues related to the ARRA. OMB provided this additional guidance in its June 30th *Circular A-133 Compliance Supplement Addendum #1* (http://www.whitehouse.gov/omb/assets/a133_compliance/arra_addendum_1.pdf.). Additional information concerning the June 30th Supplement can be found at: http://gaqc.aicpa.org/Resources/Archived+GAQC+Update+Newsletters/GAQC+Alert+No.+118.htm.

Implementing Guidance for Reports on the Use of ARRA Funds

On June 22, 2009 OMB released a guidance memo (http://www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-21.pdf) detailing state and local government recipient reporting requirements under the ARRA. The guidance answers questions and clarifies issues related to the mechanics and chronology of recipient reporting, provides specifics on what information will be required to be reported on, and instructs recipients on steps that must be taken to meet these requirements. **Section 5 of the guidance on reporting job creation and retention has been superseded by OMB's guidance issued on December 18, 2009.** For all other purposes, the June 22 guidance is still controlling.

GFOA Initiatives

The GFOA will continue to monitor and report on ARRA activities related to reporting requirements, grant opportunities and bond programs. Additional information related to the ARRA, as well as significant updates, can be found on the American Reinvestment and Recovery Act Resource Center on the GFOA Web site, at www.gfoa.org.

Issue Brief: TAX-EXEMPT BONDS

Updated January 2010

Background

The *American Recovery and Reinvestment Act of 2009* contains many tax-exempt bond provisions of interest to state and local governments. The *Act*, which was signed by President Obama in February 2009, is the largest piece of legislation passed by Congress and includes more bond provisions than any other legislative initiative in recent history. We expect the municipal bond market will continue to receive attention by Congress, the U.S. Treasury Department, the Internal Revenue Service (IRS) and the Securities and Exchange Commission (SEC) throughout 2010. Items to watch include Treasury and IRS proposed regulations related to the bond provisions passed in the stimulus bill, an IRS effort for post-issuance compliance procedures and likely significant reforms to the financial services sector that will affect municipal securities. GFOA members are advised to keep apprised of Congressional and regulatory action through the GFOA's newsletter and Web site.

Legislative Initiatives

Regulatory Reform of the Financial Services Sector –

The House of Representatives passed its version of the overhaul legislation in December (H.R. 4173, *The Wall Street Reform and Consumer Protection Act*), and the Senate is set to consider its version of the bill early this year. Both the House-passed bill and discussion drafts of the Senate bill contain numerous provisions that affect the municipal bond market and issuers of municipal securities. They would:

- **Create a uniform ratings for municipal and corporate securities.** Currently, credit rating agencies maintain two separate rating systems for municipal securities and corporate securities. In most cases, the scale used for rating municipal securities is more rigorous than what is used for corporate securities, even though the rating agencies readily acknowledge that the default rate for municipal securities is far lower than what exists in the corporate sector. The two separate scales, as well as the criteria used to determine creditworthiness, cause municipal bonds to be rated lower than their corporate counterparts, which increases debt issuance costs for state and local governments. Adopting legislation that mandates the use of uniform ratings based on the likelihood of default would create a level playing field for all securities, making it easier for investors to compare different types of securities and significantly assisting state and local governments. The House legislation includes such parity language, while drafts of the Senate version seen thus far do not. The GFOA and other state and local government organizations are strongly advocating for the inclusion of a provision that would require all securities to be rated in the same manner.

- **Mandate the regulation of financial advisors, swap providers and other professionals involved in the issuance of municipal securities.** Currently, financial advisors and most other advisory professionals involved in municipal securities are not regulated by the SEC, Financial Industry Regulatory Authority (FINRA) or the Municipal Securities Rulemaking Board (MSRB). Both the House bill and drafts of the Senate bill drafts create a regulatory framework, similar to what exists for broker/dealers that would ensure that those advising state and local governments meet certain qualifications and adhere to rules that protect their clients from unlawful practices. The GFOA supports such efforts.

- **Mandate the regulation of derivative products.** Currently all derivative products, including those associated with municipal securities, are not regulated. A cornerstone of the reform effort is to ensure that an adequate regulatory framework exists for the entire derivatives market. Both the House and Senate versions would impact state and local governments that enter into these contracts. The House legislation would allow a state or local government to enter into a derivatives contract only if the government has over $50 million in "discretionary investments" or if the counterparty to the transaction is a regulated party (e.g., a bank). The Senate draft would only allow governments with over "$50 million in discretionary investments" to enter into these contracts.

- **Create studies to review the need for federal intervention in municipal securities issuance, governmental accounting rules and GASB funding.** Senate drafts have included two studies that would affect state and local governments significantly. The first study would have the Government Accountability Office (GAO) examine the effectiveness of the Tower Amendment on municipal securities. In a nutshell, the Tower Amendment, passed in 1975 and named after then-Senator John Tower (R-TX), reiterates language in the 1933 Securities Act that prohibits the SEC from regulating issuers of municipal securities. The GFOA strongly supports the prohibition of federal government involvement in the issuance of bonds by state and local governments, and we remain vigilant in opposing efforts to change or eliminate this ban. The second study calls on the SEC to review a stable funding source for the GASB. The GFOA continues to oppose any efforts to involve the federal government in the funding or oversight of the GASB and has expressed concern that such a study, especially if conducted by the SEC, would not provide a well-rounded assessment of the potential options for funding GASB nor adequately address the concerns with having the federal government involved in the management of GASB.

Extension of tax-exempt bond programs included in the *American Recovery and Reinvestment Act of 2009*

Many of the bond provisions included in the ARRA expire at the end of 2010. The GFOA will continue to monitor Congressional action and advocate to extend those programs that benefit state and local governments (see Tax Credit Bond issue brief for additional information). These provisions:

- Increase the Bank Qualified Debt Limit to $30 Million. The ARRA increases the small issuer exception to $30 million from its current $10 million level. This allows smaller governments to place their debt directly with community or other banks, which can then deduct 80% of the purchasing costs for the bonds. Extending this limit past 2010 – or making it permanent – tops GFOA's 2010 advocacy efforts.

- Provide New Incentives for Banks to Purchase all Types of Bonds. Since 1986, banks have been able to deduct only the carrying costs of bank-qualified bonds. The ARRA allows a bank to deduct 80% of the carrying costs of purchasing all types of newly issued bonds, up to 2% of the bank's total assets.

- Eliminate the application of the AMT on private activity and governmental bonds. The interest on private activity bonds and some governmental bonds is not deductible for individuals and corporations, who must pay the alternative minimum tax (AMT). The legislation eliminates the application of the AMT on all newly issued bonds and the refunding of bonds that initially were issued after 2003.

- Create New "Recovery Zone Bonds". A new category of tax-exempt private activity bonds has been created for use in "recovery zones," which are designated areas with significant unemployment, poverty and home foreclosure rates. For Recovery Zone Facility Bonds, $15 billion in private activity bonds would be allocated based on a proportion of a jurisdiction's unemployment rate versus that of the nation's unemployment rate.

- Expands Definition of Industrial Revenue Bonds. The ARRA expands the definition of industrial revenue bonds to include facilities used for the manufacturing, creation or production of intangible property.

FHLB Letters of Credit: *The Housing and Economic Recovery Act of 2008* included a provision amending Section 149(b) of the Internal Revenue Code, which added Federal Home Loan Banks (FHLBs) to the list of Government Sponsored Enterprises permitted to provide credit-enhancement for all types of tax-exempt bonds. (Prior to this change the FHLB only had the authority to provide credit enhancement to housing bonds). The authority sunsets on Dec. 31, 2010, and the state and local government community is seeking to have the authority extended or made permanent. This is especially necessary as the lack of credit enhancement in the municipal market remains stifled due to the lack of bond insurance.

Regulatory Initiatives – Securities and Exchange Commission

Municipal Securities and GASB - The Federal Liaison Center will monitor closely the SEC's efforts to further regulate municipal market and state and local governments. SEC officials stated throughout 2009 that they want to give the agency more authority to regulate issuers of municipal securities through the repeal of the Tower Amendment, which would allow the SEC to place direct regulations on state and local governments that issue bonds. The SEC also has stated that it wants a direct relationship with the GASB by possibly providing a funding source to the organization, mandating the use of GASB standards by all governments, and having oversight authority over GASB. GFOA and the state and local government community strongly oppose any such intrusion by the SEC in these areas and will continue to resist any efforts that would give the federal government authority over state and local governmental accounting standards, the issuance of municipal bonds, or other state and local government functions.

Changes to Rule 15c2-12. In July 2009, the SEC proposed additional requirements to SEC Rule 15c2-12, which sets forth obligations on underwriters for ensuring that issuers of municipal bonds have prepared official statements for primary offerings and have agreed to provide continuing disclosure information for the lifetime of the bond, including material event disclosures and annual financial information. The proposed changes would apply continuing disclosure obligations to variable rate demand obligations, increase the number of material events that must be submitted by issuers and require disclosure of certain events even if they are not deemed "material." One of the most significant proposals would require material event notices to be submitted within 10 business days after the event, which the GFOA opposes. Currently Rule 15c2-12 calls for submissions to be made "in a timely manner." In a formal comment letter submitted in September 2009, the GFOA cautioned the SEC against a uniform standard and noted that in some instances an issuer may be made aware of a material event long after 10 days from when it occurs, such as in the case of a downgrade of insurance or letter of credit provider. The GFOA also has expressed concern with the elimination of the need to determine "materiality" for some events, especially a new requirement to disclose IRS audits. The SEC is expected to finalize these rules in early 2010 and may propose additional changes to Rule 15c2-12 sometime this year as well.

Regulatory Initiatives – Department of the Treasury and Internal Revenue Service

The Treasury Department has been tasked with writing regulations for all of the new bond programs. It already has released many of these rules, including the forms for receiving BABs subsidy payments and allocation authorities and rules for issuing QSCBs and RZEDBs. Right now, we are anxiously awaiting Treasury's guidance on allowing investors to "strip" off the tax credit of these bonds so that they may be sold to other investors, as such guidance would make the tax credit bonds more attractive to investors.

In recognition of current credit market constraints, the Treasury in December extended by a year the temporary rules that allow state and local governments to buy and temporarily hold their tax-exempt bonds without being considered reissued for tax purposes. The rules allow issuers to buy and hold tax-exempt auction-rate securities, variable-rate bonds and commercial paper without penalty until Dec. 31, 2010.

Meanwhile, the IRS will continue its focus on post issuance compliance matters. In 2008 and 2009, both governmental and 501(c)3 bond issuers received "surveys" from the IRS asking detailed questions about their entity's compliance standards that are in place to ensure compliance with the tax code after the bonds are issued. The IRS also is expected to take a close look at issuer compliance efforts under the BABs program. The surveys and focus on post-issuance compliance practices may result in additional IRS guidance and procedures.

Related Public Policy Statements (see www.GFOA.org)

- Disclosure and Federal Regulation of the Market for Municipal Securities (2003)
- Federal Tax Policy and Preserving the Tax-Exempt Status of Municipal Bonds (2005)

Issue Brief: TAXABLE TAX-CREDIT BONDS PROGRAMS

Updated January 2010

Background

Tax credit bonds are taxable instruments that may be issued by state and local governments and governmental entities for a wide array of purposes. Unlike tax-exempt bonds, where the investor is able to exclude tax-exempt interest from gross income of their federal tax return (and on many state returns), tax credit bonds allow investors to receive a tax credit at a rate set by the Department of the Treasury on their federal tax returns. The bond issuer maintains the responsibility to pay the principal on the bonds. In essence, these programs provide an interest-free loan to the issuer. Additionally, in 2008, Congress amended the tax credit bond rules to permit tax credits to be sold separately from the related bond in what is knows as "stripping" the tax credit in order to make these instruments more attractive to investors,.

Congress generally authorizes specific amounts of available funds for each tax credit bond program. The formula for how the authorization is allocated is usually set for each state by the Department of the Treasury or for some programs, the Department of the Treasury approves specific projects for which tax credit bonds will be issued. Until 2009, the authorization for many of these programs has been small compared to the total volume of the tax-exempt bond market. In 2009, Congress not only substantially increased the size of many of these programs but also introduced a new type of tax credit bond where the federal government reimburses the issuing government a set percentage of the interest costs that the issuer incurred when issuing these taxable bonds rather than giving the investor a tax credit. In the *American Recovery and Reinvestment Act of 2009* (*ARRA*), Congress authorized two of these types of taxable bonds -- Build America Bonds and Recovery Zone Economic Development Bonds that may be issued in 2009 and 2010.

Issuers who are new to tax credit bonds should talk with their bond counsel and financial advisors about the intricacies involved with issuing these instruments and how the issuance process and ongoing compliance differs from tax-exempt bonds.

More information about each of these programs is listed below. Technical and allocation information from the Treasury and IRS may be found at –http://www.irs.gov/taxexemptbond/article/0,,id=206034,00.html.

Schools

Qualified School Academy Zones (QZABs)

QZABs were created in 1997 to improve schools located in empowerment zones, enterprise communities, or in districts where 35% of the students qualify for free or reduced-price school lunches. At least 85% of the bond proceeds must be used for rehabilitating or repairing public school facilities, providing equipment, developing course materials, or training teachers and other school personnel. QZABs cannot be used for new school construction. Bondholders receive an annual tax credit rate set by the Treasury Department in lieu of tax-exempt interest while the bond is outstanding. Congress has authorized $1.4 billion annually to be used in 2009 and 2010 for the program. As indicated above, the tax credit may be stripped and sold separately from the bond. The money is authorized to each state, based on their portion of population below the poverty line. States are then responsible for allocating the available tax credit bonds to specific local governments.

Qualified School Construction Bonds (QSCBs)

In ARRA, Congress created a new tax credit bond program to finance the construction, rehabilitation or repair of public school facilities. These bonds may be used for new construction projects. As with QZABs, the bondholder (or the purchaser of a stripped tax credit) receives an annual tax credit – at a rate set by the Treasury Department – in lieu of tax-exempt interest while the bond is outstanding. ARRA authorizes $11 billion annually for years 2009 and 2010 for the program. States receive 60% of this authority, based on the respective amount of local education grants each state receives under the *Elementary and Secondary Education Act*. The other 40% is allocated to the largest educational agencies in the nation, as determined by the Secretaries of the Treasury, Commerce and Education.

Energy

Clean Renewable Energy Bonds (CREBs)

CREBs are used to finance qualified energy production projects, including facilities for wind, bio-mass, geothermal and solar energy, trash combustion, refined coal production, and certain hydropower facilities. A total of $2.4 billion is available for CREBs issuance to be divided equally among electric cooperatives, public power systems and other state or local governmental units. To qualify, state and local governments and other entities must receive approval from the Treasury on their proposed projects. CREB investors receive an annual tax credit – equal to 70% of the tax credit rate set by the Treasury Department – while the bond is outstanding in lieu of tax-exempt interest.

Qualified Energy Conservation Bonds (QECBs)

This program, created in 2008, allows governments to issue bonds and use the proceeds to reduce energy consumption in publicly-owned buildings, implement green community programs, produce electricity from renewable energy resources for rural areas, build research facilities and provide grants to support development of "green" technologies, reduce pollution from mass commuter vehicles, and advance other green technologies and infrastructure. A total of $3.2 billion has been authorized for the program, which is allocated to each state in proportion to its population. ARRA expands the use of QECBs to allow governments to make loans to individuals for green community programs – for instance, financing loans for homeowners to retrofit their homes with energy conservation products.

Issuer Subsidized Tax Credit Bond Programs

Build America Bonds (BABs)

Build America Bonds may be issued by state and local governments in lieu of tax-exempt governmental bonds for any governmental purpose. There is no authorization limit associated with BABs – any government may issue BABs in 2009 and 2010 for those projects where governments may otherwise issue governmental tax-exempt bonds. BABs allow the issuer to receive a rebate from the federal government equal to 35% of the interest paid on the bonds, for the lifetime of the bond, instead of giving investors the tax credit. While Congress did include a provision that allows the issuer to give the investor the tax credit, rather than receive the subsidy payment themselves, it is unlikely that any governments will chose to do so. However, while the issuer-subsidized option is available for bonds issued in 2009 and 2010, bonds issued where the investor is given the tax credit, do not have a sunset date. It is important to note that all of the rules that apply to tax-exempt bonds also apply to BABs.

Recovery Zone Economic Development Bonds

This new program, again included in ARRA, authorizes $10 billion in taxable bonds, similar to BABs, for purposes to promote development or economic activity within a Recovery Zone. A Recovery Zone is determined by a government's unemployment, poverty and home foreclosure rates, as determined by the Department of the Treasury. The bonds must be issued by Dec. 31, 2010. The unique characteristic of Recovery Zone Development Bonds is that there is no option for the investor to receive the tax credit, and the issuer receives a payment from the federal government equal to 45% of the interest on the bonds.

Outlook in 2010

GFOA will keep our members informed of any Congressional actions to extend or expand all types of tax credit bond programs in the 111th Congress.

Resources

- GFOA Public Policy Statement, *Federal Tax Policy and Preserving the Tax-Exempt Status of Municipal Bonds* (2005)
- Congressional Research Service, *Tax Credit Bonds – A Brief Explanation* (2008). http://assets.opencrs.com/rpts/RL34629_20080820.pdf

Issue Brief: WITHHOLDING REQUIREMENT ON GOVERNMENT PAYMENTS AND OTHER GENERAL TAX ISSUES

Updated January 2010

Background

Congress frequently proposes and enacts federal tax policy that has both direct and indirect implications for state and local governments. GFOA monitors the impact that the various legislative proposals and subsequent U.S. Department of Treasury regulations have on state and local governments. Areas of particular concern include the need to repeal legislation passed in 2006 that mandates governments to withhold taxes from payments made to vendors and contractors, as well as supporting items that have long been on the GFOA's legislative agenda which could come to fruition in 2010.

Withholding Requirement on Government Payments

The 1996 *Tax Increase Prevention and Reconciliation Act (TIPRA)* (P.L. #109-222) contains a provision that requires all government entities that spend more than $100 million on goods and services to withhold 3% of payments to contractors and vendors and remit it to the federal government, in addition to annual reporting requirements. The measure (Section 511) is scheduled to take effect on Jan. 1, 2012 and, without repeal or significant alterations, would have a significant financial administrative impact on many large governments. The withholding requirement constitutes an unfunded mandate on state and local governments. In 2006, the Congressional Budget Office estimated the cost to state and local governments for administering this provision to be $62 million per year.

The GFOA and other state and local government organizations submitted comments to the Treasury Department, and the IRS proposed regulations in 2008 and 2009 about the many problems associated with implementing the withholding provision. While the regulations provide a favorable provision allowing any payment under $10,000 payment to be exempt from the law, many concerns remain including the fact that governments would be responsible for remitting the 3% on all payment and credit card transactions. Governments would need to complete Form 945 when remitting funds to the IRS (which would need to be deposited and reported in the "same manner as other nonwage withheld amounts, such as withholding on gambling winnings and pensions") and Form 1099 to satisfy the reporting requirement.

The GFOA and other state and local organizations support legislation introduced in both the House and Senate that would repeal the withholding law (H.R. 275 and S. 292).

State and Local Property, Sales and Income Tax Deduction

The temporary extension to allow taxpayers to deduct state and local sales taxes on their federal tax returns will expire on Dec. 31, 2009. The House already has passed a proposal to extend the legislation by one year through Dec. 31, 2010. The Senate has not yet acted. Legislation to permanently extend the sales tax deduction has been introduced in the House and the Senate in a number of bills (S. 23, S. 35, H.R. 16, and H.R. 379) but currently is not in the economic stimulus plan. This extension is particularly important for federal taxpayers in states that do not have an income tax in order for them to claim the sales tax deduction. Taxpayers in states with an income tax may choose to deduct either income or sales taxes.

Alternative Minimum Tax (AMT)

The AMT was created in the late 1960s to ensure that very high income taxpayers pay their fair share of taxes and do not abuse tax deductions. However, since Congress has not been able to permanently alter the law, it has had to increase the threshold amounts each year to avoid the unintended consequence of the AMT affecting middle-class taxpayers. Taxpayers who must pay the AMT cannot deduct state and local taxes or interest from tax-exempt private-activity bonds – and some governmental bonds - from their federal return. The *ARRA* included a provision that exempts the application of the AMT on private activity and governmental bonds for two years – 2009 and 2010. Additionally, legislation has been introduced that would allow permanently exempt the application of the AMT on private activity and governmental bonds (S. 138 and H.R. 425). GFOA and other state and local government organizations support these legislative efforts.

Offset Legislation for Local Taxes Due

Legislation may be reintroduced in this Congress, as it has been introduced in previous sessions that would allow local governments to notify the Treasury Department of individuals who owe past-due legally enforceable local tax obligations. The Treasury Department would then reduce the amount of an individual's federal tax refund by the amount of the outstanding debt and remit that amount to the state for transfer to the local government. GFOA and other state and local governments support these efforts.

Uniform Rates for Hotel Taxes Booked Over the Internet

Efforts to exempt hotel occupancy taxes from being collected for reservations made through an on-line vendor (e.g., Expedia, Travelocity, Hotels.com) may be introduced this Congress. Such legislation would preempt authority to implement these taxes and strip anticipated and needed revenues from local governments. Many cities have filed suit against the on-line hotel vendors for not fully remitting the amount of taxes paid by the customer and owed to the government, causing millions of dollars in losses to governments across the country. GFOA strongly opposes any federal action that would allow for this preemption.

Outlook in 2010

Congress is likely to take up at least one tax bill this year. GFOA along with other state and local government organizations will be calling on Congress to include provisions that are helpful to our members, most significantly the repeal of the 3% withholding law. Additionally, we will strongly oppose any efforts to preempt state and local taxing authority.

Related GFOA Public Policy Statements

- Taxation of Remote Commerce (2008)
- Federal Legislation to Permit the Offset of Federal Tax Refunds for State and Local Tax Debts (2001)
- Federal Preemption of State and Local Taxing Authority (1997)
- Federal Preemption of State and Local Policies (1990)
- Federal Partnership and the Federal Deficit (1985)
- Deductibility of State and Local Property, Sales and Income Taxes (1984)

Issue Brief: REMOTE SALES TAX COLLECTION

Updated January 2010

Background

To date, Congress and the Supreme Court have prevented state and local governments from collecting taxes on purchases made through remote means. In *National Bellas Hess v. Illinois* (1967) and in *Quill v. North Dakota* (1992), the U.S. Supreme Court ruled that states cannot require vendors to collect and remit taxes on purchases made in states where the vendors do not have a physical presence, or nexus. The basis for these decisions is that requiring businesses to collect taxes on such purchases would impose an undue burden because of the complexity of and variations in state and local government sales tax rates and structures.

Although these Court decisions were based on catalog sales and were handed down before the emergence of e-commerce, the rulings extend to all remote sales—including those made over the Internet. Over the past few years, Congress has attempted to overcome the effects of the *Bellas Hess* and *Quill* decisions and allow state and local governments to require retailers to collect and remit taxes on remote sales.

The Streamlined Sales Tax Project

To overcome the sticking point in the *Bellas Hess* and *Quill* decisions—the compliance burden on vendors—a group of public and private entities formed the Streamlined Sales Tax Project (SSTP) in March 2000 with the goal of simplifying state and local tax systems. More than 40 states joined the SSTP, along with state and local government associations, retailers and retail associations. The participants developed a set of recommendations for the terms of an *Agreement* that would simplify the multiple sales tax systems across the country and create equity in business practices between "bricks and mortar" and remote vendors.

The first step in moving the *Agreement* forward was to establish a group of implementing states, the Streamlined Sales Tax Implementing States (SSTIS). On Nov. 12, 2002, the SSTIS officially approved the provisions of the *Agreement* outlining a uniform system for the administration and collection of all sales taxes – whether collected at a physical location or remotely.

The Streamlined Sales and Use Tax Agreement includes the following provisions:

- Creates a centralized state administration of sales tax collection and the distribution thereof to local jurisdictions;
- Creates an electronic registration system for all vendors;
- Limits state and local governments to a single general sales tax rate per jurisdiction;
- Requires states to create and maintain a database of tax rate information for all taxing jurisdictions;
- Simplifies sourcing rules for all taxable transactions;
- Protects states' right to exempt any item or service from taxation (e.g., food);
- Uniformly defines goods (e.g., if a state taxes "candy," it must adopt the *Agreement's* definition of "candy");
- Standardizes tax holidays.

A Governing Board comprised of representatives of each member state that has adopted the *Agreement*, was established to interpret and amend the *Agreement,* to resolve issues such as binding dates, provisions for state participation and non-participation, and appointment of advisory boards, and to certify the automated systems and service providers. Non-member states may have representatives serve as ex-officio members to the Board, providing important input on various aspects of the *Agreement*.

On Oct. 1, 2005 the *Agreement* went into effect for the states that have adopted it through their state legislatures. Retailers in those states, on a voluntary basis, may use the system to collect and remit sales and use taxes for those states. There are currently 19 full member states that are collecting remote sales tax revenues: **Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, Nevada, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Vermont, Washington, West Virginia, and Wyoming**. Three states are associate member states (those states that have adopted most of the *Agreement* but are not yet in full compliance) -- **Ohio, Tennessee** and **Utah.**

The GFOA, the National League of Cities (NLC), the National Association of Counties (NACo), and the U.S. Conference of Mayors (USCM) have representatives serving on the State and Local Government Advisory Council (SLAC). The SLAC serves to provide technical advice to the Governing Board on matters of the *Agreement* that impact state and local governments. Its counterpart, the Business Advisory Council (BAC), represents the views of the business community to the Governing Board.

Important Change to Sourcing Rules Adopted in December 2007

An amendment on sourcing rules adopted by the Governing Board in December 2007 significantly impacts state and local governments, especially where taxes are collected at the point of origin rather than the point of delivery. The amendment allows states to chose either to have destination sourcing for all sales or to allow for origin sourcing for all in-state sales and destination-sourcing for all out-of-state sales. The change was adopted in order to help states with origin sourcing laws that have been reluctant to join the Project and adopt the *Agreement.*

Prior to the Amendment, a state had to adopt destination sourcing for all sales (in-state and out-of-state; in store and remote). Some local governments in origin states were concerned with this provision, since the change to destination sourcing could have brought dramatic sales tax revenue losses. After months of debate, the Governing Board agreed to allow states to choose which type of sourcing to adopt in their state, with the caveat that the new sourcing arrangement would only occur once it has been adopted by five states.

Local Governments' Interest in the *Agreement*

While the SSTP and the *Agreement* address state laws and taxation policy, the GFOA is monitoring specific issues of interest to local governments. These include:

- Amending the *Agreement* to include the simplification of non-sales and use telecommunication taxes and fees. GFOA opposes having the SST include communication taxes and fees simplification within the *Agreement*, as it is not within the scope of the SST's mission, and could be quite harmful to local governments, as it would preempt their current authority to tax communication services.
- Amending the *Agreement* to include any taxes on hotels and rental cars. Similar to concerns with including communication taxes within the *Agreement*, these type of taxes fall outside of the SST's scope. GFOA is concerned that efforts to 'simplify' these taxes could result in a federal preemption of a local government's ability to tax these items.
- Requiring vendors to be compensated for collecting sales and use taxes.
- Implementation and clarification of the sourcing rules.
- Fair remittance procedures from the state to the local government.

Federal Legislation

While the *Sales Tax Fairness and Simplification Act* was introduced in the 110th Congress (S. 34 and H.R. 3396), it is uncertain whether legislation that would mandate that collection of taxes on remote sales will be introduced in the 111th Congress.

The GFOA and local government associations support federal legislation that allows states and localities to collect taxes on remote sales, but **remains concerned that the legislation could include provisions that would be harmful to local governments**. For example, the call for state and local governments to simplify their telecommunication taxes before they would be able to collect taxes on remote sales is of great concern. The GFOA, NLC, NACo and USCM all have expressed concern that the legislation could limit the ability of local governments to impose taxes and fees on a range of communication services, including rights-of-way fees, per-line subscriber charges franchise fees, and other telecommunication services taxes. Revenues from these fees are a major source of funding for local governments. Additionally, such taxes and fees go beyond the SST's scope of simplifying sales and use taxes. **Local government associations continue to call for communications reform proposals to be separate from remote sales and use tax legislation.**

Looking Ahead in 2010

The GFOA will be working closely with the SSTP Governing Board on areas where the *Agreement* impacts local governments. GFOA also will continue its call for the telecommunication tax provisions to be stripped from pending federal legislation and not be included in the SST *Agreement*. Our efforts will be coordinated with our partners at NLC, NACo, and the USCM.

Related Public Policy Statements (see www.GFOA.org)

- Taxation of Remote Commerce (2008)
- Federal Preemption of State and Local Government Taxing Authority (1997)
- State and Local Government Authority Over Telecommunications (1995)

Additional Resources

- Streamlined Sales Tax Project: www.streamlinedsalestax.org

Issue Brief: COMMUNICATIONS REFORM

Updated January 2010

Background

In 1996 Congress passed legislation, the *Telecommunications Act of 1996*, and began its first efforts to deregulate the communications industry. In this deregulatory environment, came some of the first initiatives to preempt the essential and long-standing authority of states and local governments to regulate communications providers and services. In the area of taxation, in particular, some members of Congress argued that state and local taxation of the communications industry would stifle the competition and industry growth deregulation hoped to achieve. Industry maintained that in a deregulated environment, where there is increased competition among service providers, "monopoly" type taxation was overly burdensome. States and local governments argued the detrimental impacts of loss of authority and revenues.

Since 1996, states and localities have engaged in substantial advocacy activities to protect their taxing and franchising authority over communications services and providers. These efforts continue today, as Congress and industry propose new initiatives to preempt state and local governments in the areas of taxing and franchising.

Legislative Activity

It is unlikely that Congress will pursue large scale communications reform in the 111th Congress. However, piecemeal preemptions of state and local taxing authority continue.

In June 2009, the GFOA, along with the National League of Cities, the U.S. Conference of Mayors, the National Association of Counties and the National Association of Telecommunications Officers and Advisors (NATOA), presented testimony before the House Subcommittee on Commercial and Administrative Law in opposition to the *Cell Tax Fairness Act of 2009* (H.R. 1521), introduced by Rep. Zoe Lofgren (D-CA). The legislation would impose a five year moratorium on state and local government's ability to tax mobile telecommunications services in a "discriminatory" manner, in other words, at a rate higher than any other industry is currently taxed. It currently has 179 cosponsors.

Testifying on behalf of the local government associations, Don Stapley, president of the National Association of Counties, told members of the subcommittee that the legislation would preempt state and local taxing authority and represent a federal intrusion into historically-protected state and local tax classifications. He further noted that enactment of the bill would lead other industries to seek similar special federal protection from state and local taxes and could create a direct threat to the fiscal health of state and local governments. His testimony can be found on the GFOA Web site at: http://www.gfoa.org/downloads/StapleyTestimony_Celltax.pdf.

Joanne Hovis, president of Columbia Telecommunications Corporation, a national, public interest, communications engineering and business consulting firm, and a member of the NATOA Board of Directors also testified on behalf of the local government associations. Ms. Hovis told subcommittee members that state and local taxes of wireless service are not an obstacle to wireless broadband deployment, thereby undermining an argument often made by supporters of the legislation. Hovis noted that relieving wireless providers of their local tax costs is "unlikely to change investment choices and may simply serve to convert into carrier profits those funds that would otherwise have accrued to localities in this critical economic environment." Her testimony can be found on the GFOA Web site at: http://www.gfoa.org/downloads/HovisTestimony_Celltax.pdf.

Senators Ron Wyden (D-OR) and Olympia Snowe (R-ME) have introduced a companion measure in the Senate, S. 1192.

Other preemptions of state and local taxing authority include legislation by Senators John Ensign (R-Nevada) and John McCain (R-Arizona) (S. 43) to make the current moratorium on Internet access taxes permanent. A companion measure (H.R. 1560) has been introduced in the House by Rep. Anna Eshoo (D-California).

In other efforts, the GFOA, in collaboration with other local government partners, submitted comments to the Federal Communications Commission (FCC) relating to the agency's plan to further develop and deploy Broadband throughout the country. In these reply comments, the local government coalition responds to industry claims regarding telecommunications taxes, as well as other issues affecting localities such as wireless facilities siting, rights-of-way access, and open network/network neutrality issues. The reply comments also reaffirm the essential role of local governments in any National Broadband Plan, and illustrate how local governments are working to speed, not hinder, broadband deployment nationwide. The FCC's National Broadband Plan is to be submitted to Congress by March 17, 2010. GFOA comments relating to the plan can be found on the GFOA Web site at: http://www.natoa.org/documents/National%20Broadband%20Plan%20Reply%20Final%20Draft.pdf

Related Public Policy Statements (www.GFOA.org)

- State and Local Government Authority Over Communications (2006)
- Federal Preemption of State and Local Government Taxing Authority (1997)

Additional Resources

- Federal Communications Commission at www.fcc.gov
- To view legislation see http://thomas.loc.gov

Issue Brief: PENSION & RETIREMENT

Updated January 2010

Background

Pension and retirement continue to receive considerable attention in Washington, as the economic crisis and market downturns in 2008 spurred losses that exceeded $800 billion in state and local government pension funds. Despite these upsets, most pension plans covering the vast majority of employees of state and local government still have sufficient assets to continue paying promised benefits to their participants for decades.

Legislative Activity

President Obama has stated that the issue of retirement security for all Americans is of considerable importance and one that his administration plans to address during this term in office. It is still unclear, however, whether this issue will be a priority in 2010. The GFOA and other members of the Public Pension Network (PPN) continue to devote significant time to setting the record straight regarding the long-term viability and strength of state and local government employee retirement systems, which are continually portrayed in the media as on the brink of disaster. The PPN is preparing to send a letter to Congress explaining that press articles often use inappropriate and incomplete information, and muddle pension and health care liabilities, to distort the truth about pubic pension finance and the financial condition of public plans.

Regulatory Activity

GFOA and several other representatives of the PPN have had two meetings with Treasury officials to discuss important public sector pension and retirement issues pending before the IRS and Treasury. This includes the IRS survey of practices of governmental plans and the application of normal retirement age regulations, and to share thoughts about how the PPN and these federal agencies could better work together to facilitate positive change for public sector retirement systems.

IRS Governmental Plan Compliance Activity

Last spring, the IRS announced plans to significantly increase audits of governmental defined benefit pension plans to be sure they are in compliance with section 401(a) of the IRC to ensure favorable tax treatment for plan participants, stating that the size and importance of the governmental plans area warrants more scrutiny. In preparation for the increased auditing, and to collect information from state and local plans as a way to learn more about the governmental plans area, the IRS sent out a questionnaire to 25 governmental plans. It is now posted on the IRS website: http://www.irs.gov/pub/irs-pdf/f14035.pdf

The GFOA joined with other associations representing state and local governments and public retirement systems on comments to the IRS concerning the draft questionnaire sent to governmental plans as part of the governmental plan's initiative. The comments express several concerns with the questionnaire, including the purpose and timing for which the information will be used, the scope of the information being requested, and the methodology by which the information will be collected. The comments can be found on the GFOA Web site at http://www.gfoa.org/downloads/CommentsonIRSQuestionnaire5-23-09.pdf

After receiving comments on the pilot questionnaire, the IRS had intended to distribute a final questionnaire to roughly 200 governmental plans. However, as a result of the comments and concerns expressed by members of the PPN, as well as many retirement systems around the country, the IRS has stated that it will, at least for the time being, **not** be moving forward with its final questionnaire. The GFOA will continue to monitor all new developments regarding the compliance initiative.

Normal Retirement Age Regulations

The IRS issued Notice 2008-98 (http: www.irs.gov/pub/irs-drop/n-08-98.pdf) on October 10, 2008, to extend the date when governmental plans must comply with final regulations concerning distributions from a pension plan upon attainment of normal retirement age. The extension will change the effective date to plan years beginning on or after January 1, 2011, giving governmental plans two additional years to comply with the normal retirement age regulations.

The PPN, including the GFOA, sent a letter to the IRS in April 2008 urging the IRS to extend the effective date of the regulations for governmental plans so the agency would have time to consider comments offered by governmental plans on the normal retirement age regulations. These comments discussed the difficulty of applying the new regulations in the public sector, where there is no precedent for requiring plans to establish a normal retirement age, and many plans base receipt of retirement benefits on years of service. While the IRS has extended the effective date of the regulations for two years, the agency has not yet addressed the issues set forth in the joint comments submitted by governmental plans, which request that the agency "refrain from creating standardized definitions for early or normal retirement age with regard to governmental plans, and instead defer to the applicable state or local laws, regulations and policies governing the plan." Both the letter and comments to the IRS may be found on the GFOA's Web site at: http://www.gfoa.org/downloads/PPN_NormalRetirementAgeRegExtension.pdf

SEC Pay-to-Play Regulations

GFOA, along with several other national associations representing state and local governmental employers and retirement systems, submitted comments to the SEC on their pay-to-play proposed rule. The proposed rule would bar an investment advisor who makes a political contribution to an elected official in a position to influence the selection of the advisor from providing advisory services for compensation for a period of two-years. The rule also would ban the use of third party placement agents by investment advisory firms. The pay-to-play rule can be found at: http://www.sec.gov/rules/proposed/2009/ia-2910.pdf.

The GFOA's comments express concern about the possible impact to both public pension funds and state and local governments arising from the abrupt termination of long-standing investment advisor relationships that would take place should the two-year time-out set forth in the proposed rule become effective. This includes leaving the plan or government without the adequate professionals needed to focus on investing billions of dollars of employee and taxpayer money. The comments urge the Commission to explore alternatives to its present approach. The GFOA comments can be found at: http://www.gfoa.org/downloads/JointNationalPublicSectorOrganizationLetteronPaytoPlayRegulations.pdf

In other SEC matters, the Commission has taken action to indicate that there is increasing attention being paid to public pensions. In particular, an "informal inquiry" into certain public pension fund activities initiated by the SEC's Division of Enforcement, and the announcement of the creation of a new "Municipal Securities/Public Pension Unit" to look into unfunded and underfunded pension liabilities, among other things, may be of some concern. The GFOA will work with the PPN to continue to monitor the activities of the SEC in this area and provide information as needed to help ensure that the Commission has an accurate understanding of the operations of public sector plans.

GFOA Advocacy

GFOA will continue to work with its partners in the PPN in support of legislative, regulatory and legal initiatives that facilitate the ability of state and local governments and public employee retirement systems to effectively use both defined benefit and supplemental defined contribution plans to assist public employees in saving for retirement.

Related GFOA Public Policy Statements (www.GFOA.org)

- Federal Regulation of Public Employee Retirement Systems (1992)
- Federal Proposals to Unify Compensation Plans (1997)
- Pension Portability (1997)
- Mandatory Social Security Coverage for State and Local Government Employees (1999)
- Proposed Social Security Reform (2000)

Additional Resources

- GFOA's Federal Relations page – Public Pension Reform (http://www.gfoa.org/index.php?option=com_content&task=view&id=93&Itemid=105)
- National Association of State Retirement Administrators (www.nasra.org)
- National Council on Teacher Retirement (www.nctr.org)
- National Institute on Retirement Security (www.nirsonline.org)
- The Center for State and Local Government Excellence (www.slge.org)

Issue Brief: HEALTH CARE REFORM

Updated January 2010

Background

State and local governments have several roles in the health care arena. As purchasers and providers of health insurance, they must negotiate with health insurance companies to secure adequate health benefits for active and, in many cases, retired employees and their families. At the same time, they must monitor the costs of purchasing and offering these benefits. State and local governments may also serve as a community safety net or health provider of last resort, providing health care services to the uninsured, the under-insured, and Medicaid recipients.

Health care is now the fastest growing portion of state budgets, and local governments have cited rising health care costs as one of the main contributors to budgetary pressures. These costs limit spending on other important public needs such as education, infrastructure and economic development.

President Obama and the Democratic leadership in Congress have made comprehensive health care reform one of their top domestic priorities.

Legislative Activity

Both chambers of Congress have passed large scale health care reform measures in 2009, however, the prospects for both chambers reconciling their differences in order to produce a single bill, remains unclear.

For states and localities, the ultimate impact of health care reform remains unclear. The National Conference of State Legislatures and the National Governors Association continue to express opposition to reform measures that expand Medicaid eligibility without 100% federal matching payments, something that neither bill currently provides. They argue that these expansions will cost billions of dollars per year. Many counties also are responsible for financing Medicaid costs and, along with the states, will be required to bear these increased cost burdens.

The expanded coverage guarantees found in both bills may also increase costs to state and local employers, as well as many of the administrative requirements related to the Senates use of the 40% excise tax to finance reform, such as W-2 reporting about the value of the benefit provided to all employees. Self-insured plans (65% of state and local plans self-insure) also would be required to undertake significant annual reporting.

The House Bill

The bill (H.R. 3962) would create a national Health Insurance Exchange, beginning in 2013, which would serve as a marketplace in which individuals and certain businesses could purchase health insurance coverage. A public plan option would be included among the insurance options offered by the Exchange. Generally, individuals with employer-sponsored coverage would not be eligible to participate in the Exchange. Also, beginning in 2013, both an individual and employer coverage mandate would take effect. Under the employer mandate, an employer, including public employers, could choose to provide both single and family coverage that meets specific standards for benefits, employer contributions, and actuarial value or pay an amount equal to eight percent of payroll as an excise tax. The legislation provides exemptions for employers with payrolls of $500,000 or less.

The legislation would require that all qualified health plans provide coverage that meets or exceeds standards of an "essential benefits package."

Medicaid eligibility would be expanded to those with incomes up to 150% of the Federal Poverty Level (FPL), while those with incomes between 150% and 400% of the FPL would be eligible for subsidies that would assist them in purchasing insurance in the Exchange.

Group health plans would be prohibited from imposing an aggregate dollar lifetime limit on benefits. COBRA would be extended for those receiving COBRA benefits on the date the bill is enacted. COBRA coverage would have to extend until the participant is eligible for other coverage or is eligible for the Exchange, whichever is earlier. Preexisting condition exclusions would be prohibited.

The legislation would create a temporary reinsurance program to reimburse employers, including public employers, who sponsor retiree health care for a portion of the claims for pre-Medicare retirees between the ages of 55-64. The program would reimburse plans for 80% of the claims for a covered individual between $15,000 and $90,000. Plans would be required to use the funds to lower costs borne by the retirees. The program would be funded with $10 billion.

ERISA-governed health plans would be prohibited from reducing the benefits provided under the plan to a retired participant if the reduction would affect benefits provided to the participant as of the date that he or she retired. The reduction could be made if the same reduction applied to active participants, or if the reduction is not deemed "substantial." A "substantial" reduction is an increase in premium or a decrease in the actuarial value of the benefit package that is greater than five percent. **This provision does not apply to plans offered by state and local governments to their employees.**

The House bill is funded primarily by a 5.4% tax on individuals earning more than $500,000. According to the Congressional Budget Office, the bill would cost $1,055 billion over 10 years.

Senate Bill

The bill (H.R. 3590) would require each state to establish an Exchange, which would serve as a marketplace in which individuals and small businesses could purchase health insurance coverage. Unlike the House bill, the Senate bill does not create a national Exchange, and does not provide for a public plan within the Exchange. In 2014, both an individual mandate to purchase coverage and an employer free rider penalty would take effect. Under the free rider penalty rule, an employer with 50 or more full-time employees that fails to provide "minimum essential coverage" would have to pay a fine for every month that at least one full-time employee is receiving federal subsidies in the Exchange.

Medicaid eligibility would be expanded to those with incomes up to 133% of the Federal Poverty Level (FPL), while those with incomes between 133% and 400% of the FPL would be eligible for subsidies that would assist them in purchasing insurance in the Exchange.

The legislation would require that all qualified health plans provide coverage that meets or exceeds standards of an "essential benefits package."

Dollar lifetime limits would be prohibited, as would annual limits beginning in 2014. Preexisting condition exclusions would be prohibited.

The Senate measure would establish a temporary reinsurance program to reimburse employers, including public employers, who sponsor retiree health care for a portion of the claims for pre-Medicare retirees between the ages of 55-64. The program would reimburse plans for 80% of the claims for a covered individual between $15,000 and $90,000. Plans would be required to use the funds to lower costs borne by the retirees. The program would be funded with $5 billion.

The Senate bill would be financed through a series of tax increases. Most notably, the measure would impose, beginning in 2013, a 40% excise tax on the cost of health plans above a threshold of $8,500 for single coverage and $23,000 for

family coverage. The thresholds would be increased for retired individuals over the age of 55 and individuals engaged in high-risk professions by $1,350 for individual coverage, and $3,000 for family coverage, and would be indexed for inflation by the Consumer Price Index for All Urban Consumers (CPI-U) plus one percent. Recent negotiations among the White House, Congressional Democrats and labor unions resulted in an agreement to raise the individual and family thresholds before the 40% tax would be imposed to $8,900 and $24,000 respectively. In addition, for collectively bargained plans as well as state and local government plans, the excise tax would not take effect until 2018. However, it is important to note that these changes are NOT currently part of the bill adopted by the Senate in December.

The bill would require annual reporting by self-insured plans, including public plans, to the Secretary of Labor on information including enrollment, benefits, number of participants, funding arrangements, assets, liabilities, expenses, and investments. Employers, including public employers, would be required to disclose the value of the benefit provided by the employer for each employee's health insurance coverage on the employee's annual Form W-2.

GFOA Advocacy

The GFOA will closely monitor negotiations on the compromise measure to assess the impact on states and localities, and advocate for a final bill that reduces health care costs for public sector employers, while expanding access for all.

Related GFOA Policy Statements (www.GFOA.org)

- Health Care Reform Policy (2006)

Additional Resources

- Public Sector Healthcare Roundtable at www.healthcareroundtable.org.