



## **INTEREST RATE REDUCTION ON ASSUMED AMORTIZATIONS FOR BUILDING AID PURSUANT TO NYSEL 3602 6(e)(5)(C) AS AMENDED BY CHAPTER 57 OF THE LAWS OF 2016**

### **OVERVIEW, IMPACT AND WAIVER APPLICATION PROCESS**

***(NOTE: This guidance supersedes all previously published information regarding interest rate reduction)***

#### **OVERVIEW**

- Education law requires the commissioner to revise the assumed amortization schedule for remaining debt service payments for outstanding principal and interest at the end of each 10 year segment of an assumed amortization for Building Aid if the current interest rate is at least one quarter percent (.25) lower than the original interest rate for the assumed amortization.
- The law specifies that the adjustment applies to retro and prospective assumed amortization projects and to all school districts in the State.
- A new assumed amortization for the remaining life of the retro bond or prospective project will be established based on the new interest rate and the new rate will be applied going forward. Prior year aid is not affected.
- The State Education Department (SED) must notify districts of projects subject to the interest rate adjustment no later than December 1 of the school year preceding the school year of the implementation. The prospective project and retro bond listings included in the 2016-17 SAMS Form FB Waiver Application Form will serve as this statutory notification to districts by SED of projects/bonds subject to interest rate reduction starting with the 2017-18 aid year.
- A waiver from the interest rate reduction may be granted by the State Aid Office of SED if the district can demonstrate that it is precluded by state or federal law, rule or regulation from refinancing. (See waiver sections below for more information)
- If a waiver is approved, the interest rate applied to the retro bond or prospective project assumed amortization for Building Aid will not change.
- When 2017-18 Building Aid output reports are published in fall 2017, and when the November 15<sup>th</sup>, 2017 frozen data file is provided to the executive and the legislature, Building aid amounts will reflect lowered interest rates for *all* prospective projects and retro bonds for which a) no waiver application was received, b) waiver requests were disapproved and c) waiver applications were received too late to process in time for the initial output report release and the November 15<sup>th</sup> data file.

## **IMPACT ON 'RETRO' ASSUMED AMORTIZATIONS**

- The rate on all retro assumed amortizations currently at the statewide average interest rate of 4.5% will be reduced to the final 2016-17 statewide average rate (available fall 2017) and applied to remaining balances as of 7/1/2017.
- The rate on retro assumed amortizations associated with Dormitory Authority (DASNY) borrowings will be reduced to (a) a new DASNY rate if the district refinanced with DASNY or did not refinance at all, or (b) the 2016-17 statewide average interest rate if the district refinanced but not with DASNY.
- The rate on Big 4 district retro assumed amortizations will be reduced to reflect each district's applicable interest rate for the 2016-17 school year (available fall 2017).

## **IMPACT ON PROSPECTIVE PROJECT AMORTIZATIONS**

- Prospective projects not funded through DASNY are currently amortized using the statewide average interest rate for the school year in which the project was approved by the Commissioner (CAD).
- If the amortization began before 7/1/2008 the interest rate will change starting with the 2017-18 aid year, and the new rate will be the final 2016-17 statewide average rate when it becomes available in fall 2017, or the applicable 2016-17 rate for Big 4 city districts.
- The rate on prospective project assumed amortizations associated with Dormitory Authority (DASNY) borrowings will be reduced to (a) a new DASNY rate if the district refinanced with DASNY or did not refinance at all, or (b) the 2016-17 statewide average interest rate if the district refinanced but not with DASNY.

## **REASONS FOR WAIVERS FROM INTEREST RATE ADJUSTMENT**

Districts can apply to the State Aid Office of SED for a waiver from the interest rate reduction if they can demonstrate that they are precluded by state or federal law, rule or regulation from refinancing. Reasons why a waiver may be approved include but are not limited to:

1. Bonds cannot be refinanced or advance refunded and retain their tax exempt status due to restrictions in state or federal law or prior refundings;
2. Refundings would not meet the savings requirements in local finance law sections 90 or 90.1;
3. Instances where a district would exceed its constitutional debt limit as a result of refinancing.

## **WAIVER APPLICATION & AUTOMATED PRELIMINARY WAIVER APPROVAL INCLUDED IN 2016-17 SAMS SOFTWARE**

The remaining balance of a retro bond or prospective project assumed amortization is eligible for a waiver from interest rate reduction if the district is precluded by state and/or federal law from refinancing. Since interest rates have decreased significantly in the past ten to fifteen years, most bonds that could be refinanced, were refinanced during that time period. Many of those refinanced bonds either cannot be refinanced again, or cannot be refinanced until a specified future date. Retro and prospective amortizations funded with bonds that cannot be refinanced will most likely receive waivers *if the district applies for a waiver for each amortization.*

In order to simplify the waiver application and expedite waiver determinations, the waiver application and preliminary approval process have been incorporated into the 2016-17 SAMS Form FB schedule. The form can be accessed from the list of FB schedules and appears on the menu as **Interest Rate Reduction Waiver Application Form.**

The schedule displays each district's retro bonds and prospective projects that are subject to the interest rate reductions to be implemented starting with the 2017-18 aid year.

Pursuant to statute, SED must notify districts of projects subject to the interest rate adjustment no later than December 1 of the school year preceding the school year of the implementation. The prospective project and retro bond listings included in the 2016-17 SAMS FB schedule will serve as the statutory notification of districts by SED of projects/bonds subject to interest rate reduction starting with the 2017-18 aid year.

All districts should open the Waiver Application Form in SAMS to see if there are any retro bonds or prospective projects subject to the interest rate reduction. Districts with any retro or prospective amortizations displayed on the application form should complete the schedule as part of their fall 2016 SAMS Form FB submission *even if the form was completed last year for the same prospective projects and/or retro bonds*, and even if one or more waivers were approved previously.

The form must be completed each year because information about eligible bonds and projects can change. Examples of potential changes include:

- The date of the bond issue currently financing the projects or bonds in question;
- A bond's call date;
- For a recent refunding, whether or not savings threshold is met, per NYS Local Finance law;
- Whether or not refinancing would cause a district to exceed its constitutional debt limit;
- Whether a bond that could be refinanced was refinanced, or will be refinanced prior to implementation of the rate reduction;
- The remaining term / outstanding assumed debt service amounts.

These and other changes may affect districts' decisions whether or not to apply for a waiver, the reason for applying or not applying, and the waiver eligibility of a project or bond from one year to the next. Therefore, each prospective project and retro bond on the Waiver Application Form must be individually reviewed each year. Please note that last year's form is fully accessible in 2015-16 SAMS, should districts wish to refer to the information that was provided last year.

## HIGHLIGHTS OF THE SAMS WAIVER APPLICATION / APPROVAL PROCESS

1. Each of the district's retro bonds and prospective projects listed on the application form includes an estimate of the 2017-18 Building Aid impact if a waiver is not approved.
2. Each of the district's retro bonds and prospective projects listed on the application form includes an estimate of the *total Building Aid impact over the remaining life of the assumed amortization* if a waiver is not approved.
3. All required fields for all listed retro bonds/prospective projects must be completed in order to successfully save this form. If the information provided passes programmed edit checks, allowing the district to successfully save the application form, the last column of the form will inform the district if a waiver has been preliminarily approved.
4. Waiver approvals displayed on the Waiver Application Form are *preliminary*. After April 1, 2017, some districts will be notified in writing by the State Aid Office that supporting documentation is required to substantiate information reported on the SAMS Waiver Application Form. The State Aid Designee will receive these notifications via email, at the email address on the SAMS Entity Info screen. (Please ensure that the designee e-mail address in SAMS is accurate/up-to-date.) Once the supporting documentation is reviewed, the district will be notified regarding the final waiver approval status.
5. Districts that are not asked to provide substantiating documentation will also be notified as to final waiver status for each retro bond/prospective project. Details regarding this notification will be provided after April 1, 2017.
6. The SAMS waiver application form is part of the existing Form FB, similar to other FB schedules. As always, the superintendent must certify Form FB in order to transmit the data to SED. The superintendent's certification of Form FB will constitute certification of the data provided in the waiver application form; there will be no separate superintendent certification for the waiver application form.

For complete details on the bond and project data included on the form, review the 'Explanation of Project and Bond Data' link at the top of the SAMS waiver application form. For instructions on filling out the form, please see the SAMS Help file.

## SUPPORTING DOCUMENTATION FOR SAMS WAIVER APPLICATIONS

All districts applying for a waiver must have appropriate supporting documentation on file at the district; however, *districts need not submit documentation supporting the information provided on the SAMS waiver application form unless and until such documentation is requested by the State Aid Office*. If supporting documentation is requested, the waiver will not receive final approval until the documentation is received and reviewed by SED.

The following is considered appropriate supporting material and may be requested by the State Aid Office:

1. Copies of refunding reports or pages of official statements indicating bonds which have been refunded and call provisions relating to refunding bonds for bonds which cannot be refunded. In many instances the original bonds on the retro bond spreadsheet and the bonds associated with projects on the prospective project spreadsheet will have been refunded one or more times since the original issuance. To clearly indicate that currently outstanding refunding bonds are related to the original retro bonds or prospective project, the following substantiating documentation may be requested by the State Aid Office:

- a. A copy of the cover page of the original retro bond issuance or the first issuance of bonds official statement associated with a prospective project. If the cover page does not include a schedule of maturities, a copy of a page from the interior of the official statement with a listing of maturities should be included.  
[Example of Official Statement Cover with Schedule of Maturities](#) (📄 728 KB)
  - b. b. A copy of the call provisions (optional redemption provisions) of the original issuance. [Example of Optional Redemption or Call Provisions](#) (📄 905 KB)
  - c. A copy of the cover page of each refunding bond issuance associated with a retro bond issuance or a prospective project. If the cover page does not include a schedule of maturities, a copy of a page from the interior of the official statement with a listing of maturities should be included.  
[Example of Official Statement Cover with Schedule of Maturities](#) (📄 728 KB)
  - d. For each refunding bond issuance a copy of the section including the plan of refunding which indicates the bonds that were to be refunded by the issue. In the event the refunded bond maturities are not included in the official statement, a copy of the final numbers from the refunding including a listing of the refunded bonds may be substituted.  
[Example of Refunding Plan with Schedule of Refunded Bonds](#) (📄 601 KB)
  - e. For each refunding bond issuance a copy of the call provisions (optional redemption provisions)
2. An estimated Refunding Financial Plan, prepared consistent with the requirements of the Office of the State Comptroller (see <http://www.osc.state.ny.us/pension/debt9010.htm>) for approval of refundings pursuant to sections 90.00 and 90.10 demonstrating that a refunding of a given series of bonds would not meet the thresholds in local finance law. Estimates of market rates and costs of issuance should be consistent with current market standards and OSC guidelines for approval. Any submission of a Refunding Financial Plan should include a written description of the major assumptions. For example, “The scale used to create this Refunding Financial plan was based on AAA municipal market daily rates from 2/12/13 plus a spread of 30 basis points based on how the districts bonds are anticipated to price” or “The underwriters discount is based on the levels paid in the districts 2012 refinancing”

If supporting documentation is requested, districts should mail the hard copy material to the following address:

The State Education Department  
State Aid Office  
Attention: Building Aid Unit  
Room 507 West Hall, Education Building  
89 Washington Avenue  
Albany, New York 12234

Please e-mail Louise Gallerie ([louise.gallerie@nysed.gov](mailto:louise.gallerie@nysed.gov)) or Lynn Butler ([lynn.butler@nysed.gov](mailto:lynn.butler@nysed.gov)) with questions about the above information.

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