

Recovery Zone Bonds

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Recovery Zone Bonds

- The “American Recovery and Reinvestment Act of 2009” created a number of new financing options for communities:
 - Recovery Zone Economic Development Bonds
 - Recovery Zone Facility Bonds



Recovery Zone Bonds

- Issued for completely different purposes
- Benefits of each are completely different
- Must be issued prior to January 1, 2011
- Each type of Recovery Zone Bond is capped by a separate allocation amount.



Recovery Zone Bonds

- Recovery Zone Bonds may be used to finance certain purposes and properties within designated “recovery zones”.
- A “recovery zone” is:
 - An area designated as having significant poverty, unemployment, rate of home foreclosures or general distress
 - An area economically distressed due to military installation closure or base realignment
 - An empowerment zone or renewal community



Recovery Zone

- “Recovery Zones” are designated by resolution/ordinance of the county receiving an allocation
 - Most counties have designated the entire county as the “Recovery Zone”.
- Form resolution/ordinance available from:
Jim Stewart, Attorney at Law
Arntson & Stewart
(701) 280-0195

Recovery Zone Economic Development Bonds





Recovery Zone Economic Development Bonds

- Used to finance certain “qualified economic development purposes”.
- “Qualified economic development purposes” means expenditures for promoting development or other economic activity within zone including:
 - Capital expenditures for property in the zone
 - Expenditures for public infrastructure
 - Expenditures for public facilities
 - Job training and educational programs



Recovery Zone Economic Development Bonds

- Issued for public/governmental purposes
- Interest on Recovery Zone Economic Development Bonds is taxable
- Issuer receives a cash subsidy from the US Treasury equal to 45% of the total interest payable to bondowners (this should result in net interest cost lower than tax-exempt bonds)



Recovery Zone Economic Development Bonds

- Projects financed are subject to Davis-Bacon prevailing wage provisions.
- No refundings or refinancings – new money only
- Proceeds can not be used for private activity
- Issuance costs limited to 2% of proceeds
- Must be issued before January 1, 2011

Recovery Zone Facility Bonds

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Recovery Zone Facility Bonds

- New category of tax-exempt private activity bonds.
- Permits the tax-exempt financing of certain capital projects of private companies located in a designated Recovery Zone.
- 95% of proceeds used for capital expenditures on Recovery Zone Property.



Recovery Zone Facility Bonds

- Recovery Zone Property is depreciable property that satisfies all of the following:
 - Constructed, renovated or purchased after the date which the recovery zone designation takes effect;
 - Original use begins with the taxpayer in the recovery zone; and
 - “Substantially all” of the property is used within the recovery zone and used in a qualified business in the zone.



Recovery Zone Facility Bonds

- A qualified business is any trade or business not including:
 - Private golf course;
 - Country club;
 - Massage parlor;
 - Hot tub or suntan facility;
 - Race track or facility used for gambling;
 - Any store the principal business of which is the sale of alcoholic beverages for consumption off premises; and
 - Residential rental property



Recovery Zone Facility Bonds

- Bond is issued by a state or local government pursuant to a volume cap allocation
- Debt service is funded by the private business that owns and uses the property.
- Maturity limited to 120% of economic life of project.
- Need public hearing and elected official approval

Reallocation of Recovery Zone Bonds





Reallocation of Recovery Zone Bonds

- Counties may elect to waive part or all of its Recovery Zone Bond allocation.
- Waived allocation is given to the State.
- The Industrial Commission will oversee reallocating Recovery Zone Bonds.
- November 15, 2009 is the first time that the Industrial Commission may reallocate Recovery Zone Bonds.

Other Stimulus Plan Provisions

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Other Stimulus Plan Provisions

- Definition of “qualifying manufacturing facility” expanded to include any facility used in the manufacturing, creation or production of tangible and intangible property.
- Intangible property includes any patent, copyright, formula process, design, pattern, know how, format or similar item



Other Stimulus Plan Provisions

- Increases the “small issuer bank qualified” limit from \$10 million to \$30 million in a calendar year.
- Treats a 501(c)(3) organization as an “issuer” for purposes of meeting the “small issuer bank qualified” limitation of \$30 million.
- Liberalizes bank interest disallowance rule – rule does not apply in an amount up to 2% of its adjusted basis assets.
- Removes the Alternative Minimum Tax exception for tax-exempt private activity bonds.



Other Stimulus Plan Provisions

- New Clean Renewable Energy Bonds
 - Tax Credit Bonds that can be used for:
 - Wind Facilities;
 - Closed-loop and open-loop bio-mass facilities;
 - Geothermal or solar energy facilities;
 - Small irrigation power facilities;
 - Landfill gas facilities;
 - Trash combustion facilities;
 - Refined coal production facilities; and
 - Certain hydropower facilities

Questions

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