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Public Finance Bulletin

RECOVERY ZONE BONDS - LOW COST FINANCING OPTIONS

President Obama signed into law the "American Recovery and Reinvestment Tax Act of 2009" (the "Recovery Act") on February 17, 2009. The Recovery Act creates a new category of bonds called Recovery Zone Bonds which are broken into two types—Recovery Economic Development Bonds and Recovery Zone Facility Bonds.

Recovery Zone Bonds are intended to stimulate economic recovery in "recovery zones." The Recovery Act provides that Recovery Zone Bonds may only be issued **until December 31, 2010**.

Under the Recovery Act, the Federal government will allocate each category of Recovery Zone Bonds to the states based on each state's decrease in employment compared to the national decrease in employment. Each state shall then allocate its allocation to counties and large municipalities (defined as having population in excess of 100,000) based on their decrease in employment compared to the state's decrease in employment.

Recovery Zone - Definition

A "recovery zone" is any area that has been designated by the county/large municipality as having significant poverty, unemployment, home foreclosure or general distress, or any area affected by military realignment, or any area that has been designated as an empowerment zone or a renewal community. States should be notified within a few weeks of their allocations for each category of Recovery Zone Bonds.

Types of Recovery Zone Bonds

Recovery Zone Economic Development Bonds

The Recovery Act earmarks $10 billion of Recovery Zone Economic Development Bonds ("RZEDBs"). These are governmental bonds to be used for governmental purposes that will allow the county/large municipality to borrow on a lower cost than traditional tax-exempt financing. RZEDBs may be issued for purposes of promoting development or other economic activity, including public infrastructure and construction of public facilities or job training and educational facilities, in an area that has been designated by the county/large municipality as a "recovery zone." RZEDBs are taxable bonds (the interest earned by the holders of the bonds is subject to taxation and the rate of interest paid by the county/large municipality would presumably be higher than that on tax-exempt bonds). However, the federal government would reimburse the county/large municipality for 45% of the interest paid; thus making the true cost of the interest paid lower than that paid on tax-exempt bonds.

Recovery Zone Facility Bonds

The Recovery Act earmarks $15 billion of Recovery Zone Facility Bonds ("RZFBs"). RZFBs permit counties/large municipalities to provide tax-exempt financing for projects which historically would not qualify (e.g. large manufacturing plants, distribution centers, hotels, research parks, etc.). RZFBs are private activity bonds and are classified as "exempt facility bonds" for tax purposes. RZFBs may be issued for any depreciable property that (a) was acquired after the date of designation of a "recovery zone," (b) the original use of which occurs in the recovery zone and (c) substantially all of the use of the property is in the active conduct of a "qualified business." "Qualified business" is defined to include any trade or business except for residential rental facilities or other specifically listed "bad projects" (e.g. golf courses, massage parlors, gambling facilities, etc.). Volume Cap is not required for RZFBs, and there is no prohibition on acquiring existing property.

Additional Information

If you are interested in learning more about Recovery Zone Bonds or if the Benesch Public Finance Group can be of further service, please contact any of the following:

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