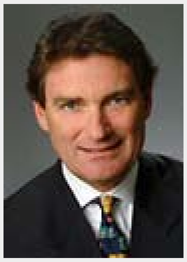
Recovery Zone Facility Bonds Offer Low Cost Construction and Takeout Financing for Qualified "Recovery Zone" Projects



Michael Joyce
Partner
Orange County
(949) 851-5434
mjoyce@allenmatkins.com

Susan Ihrke Johnson
Associate
Orange County
(949) 851-5454
sjohnson@allenmatkins.com

In this alert we provide information on Recovery Zone Facility Bonds and how the Bonds may be used.

Developers and investors of nonresidential rental properties may benefit from Recovery Zone Facility Bonds, which offer tax-exempt interest rates on bonds providing construction and takeout financing for qualified projects.

The American Recovery and Reinvestment Act of 2009 was signed into law on February 17, 2009 (the Recovery Act). The Recovery Act earmarks $15 billion for a new category of tax-exempt private activity bonds called "Recovery Zone Facility Bonds", which are available in areas designated as "recovery zones". Recovery zones are defined as areas designated by state and local governments as having significant poverty, unemployment, home-foreclosure rates or general distress or any area for which a designation as an empowerment zone or renewal community is in effect.

Recovery Zone Facility Bonds may be used to finance "depreciable" recovery zone property, subject to the following requirements:

1. The facility is constructed, reconstructed, renovated or acquired by a taxpayer by purchase after the date of the designation of a recovery zone and the original use of the property in the recovery zone starts with the taxpayer.
2. The property is located in the recovery zone and constitutes a "qualified business" which includes any trade or business except for residential rental facilities and other specifically designated non-qualifying projects, i.e., golf courses, racetracks and gambling facilities, among others.

Recovery Zone Facility Bonds must be issued before January 1, 2011, although many believe that this authorization period will be extended.

Recovery Zone Facility Bonds are subject to the existing rules applicable to private activity bonds (except the rules relating to qualification, volume cap and prohibitions on the acquisition of existing property).

Recovery Zone Facility Bonds may provide construction and takeout financing at variable rates as low as 2% per annum (with credit enhancement) and at fixed rates in the range of 4.5% per annum. Interest paid on these Bonds is not subject to the Alternative Minimum Tax. Traditional conduit financing issuers are permitted to act as the issuer for Recovery Zone Facility Bonds.

The Recovery Zone Facility Bond allocation to the State of California is $1,209,338,000. There are 48 cities and 29 counties across the State with sub-allocations, which can be found at: http://www.irs.gov/pub/irs-tege/rzblocalreallocations.pdf.

Joint Power Authorities have been formed to consolidate unused authority allocated to one or more municipalities and in order to exempt projects from prevailing wage requirements.

With a limited time frame, Recovery Zone Facility Bonds offer an important opportunity for the low-cost financing of certain development or renovation projects.

Allen Matkins Offices

Orange County
(949) 553-1313

Los Angeles
(213) 622-5555

San Diego
(619) 233-1155

San Francisco
(415) 837-1515

Century City
(310) 788-2400

Del Mar Heights
(858) 481-5055

Walnut Creek
(925) 943-5551