



RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS

Recovery Zone Economic Development Bonds (RZEDB) are one of the new public finance tools created by the American Recovery and Reinvestment Act of 2009 (ARRA). (Please refer to our separate summary for information on Recovery Zone Facility Bonds.) On June 12, the Internal Revenue Service (IRS) issued written guidelines (Notice 2009-50) on the allocations of issuing authority and the use of these bonds. This summary offers our thoughts on the potential use of RZEDB.

Q: What are RZEDB?

A: Recovery Zone Economic Development Bonds are a tool for stimulating economic development and job growth by reducing the cost of local government debt. RZEDB are similar to direct payment Build America Bonds, but with a higher rate of interest expense reimbursement. Issuers of RZEDB receive federal reimbursement for 45% of the interest expense (as compared to 35% with Build America Bonds).

RZEDB are not a new debt issuing authority. Issuers need statutory authority to incur debt.

Q: Can I issue RZEDB?

A: Unlike Build America Bonds, RZEDB have some important limitations on their use.

- The issuer must have an allocation of the state volume cap equal to the amount of the bonds.
- The proceeds of the bonds must be used to finance "qualified economic development purposes" in a designated "recovery zone".
- The bonds must meet the criteria for Build America Bonds. This requirement means that the bonds could be used as tax-exempt bonds for a governmental activity.

Q: Who has allocation to use RZEDB?

A: The June 12 IRS Notice contained a list of allocations to local governments in each state. The South Dakota allocation went to Sioux Falls and 40 counties (see complete list on pages 3 and 4). Sioux Falls and these counties may directly issue and designate bonds as RZEDB up to the amount of allocated volume cap. Instead of issuing bonds, these local governments may reallocate or waive all or part of its allocation.

Reallocation may be made to any entity that includes the city/county. Such entities could include a city or school district within the county. The decision to reallocate can be made "in any reasonable manner".

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If the cities/counties decide not to directly issue or reallocate, then the allocated volume cap is waived. All waived volume cap is reallocated by the State. Northland is working with the State to determine criteria for reallocation to other local governments.

Q: What can RZEDB finance?

A: The proceeds of RZEDB must be spent on a “qualified economic development purpose”. The IRS guidelines contain a broad definition of qualified purposes – “any expenditure for the purposes of promoting economic development or other economic activity in a recovery zone”. Eligible expenditures include a wide range of activities ranging from public infrastructure/facilities to job training/educational programs. Many activities fit this broad definition. The real keys to determining use will be (1) statutory authority to incur the debt and (2) criteria for the issuance of Build America Bonds.

- Statutory Authority - RZEDB are not a new means of incurring debt for economic development projects. RZEDB represent a tax status given to bonds issued under existing statutory authority. For example, a city would issue general obligation improvement bonds to finance the qualified economic development purpose and designate the bonds as RZEDB. Planning for the use of RZEDB will involve determination of a specific use for the proceeds and then the evaluation of statutory authority to borrow for this purpose.
- Build America Bonds – There are a variety of criteria governing the use of Build America Bonds (see June 2009 Northland Navigator for more information - <http://www.northlandsecurities.com/downloads/Flyer-NavigatorNewsletterFINAL.pdf>). The most important for the initial evaluation of RZEDB is the ability of the bonds to be issued as tax-exempt bonds for a governmental activity. This requirement eliminates uses that result in taxable or qualified private activity bonds.

Q: What is a recovery zone?

A: The proceeds of RZEDB must be spent to promote development or other activity in a designated “recovery zone”. The IRS guidelines do not contain a detailed definition of a recovery zone. Instead, the criteria for a recovery zone must be pieced together from several parts of the guidelines.

- The guidelines specifically list three means of designation. (1) Issuers may designate a recovery zone as any area having “significant poverty,

unemployment, rate of home foreclosures, or general distress”. (2) Economic distress caused by the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990 may be used as the criteria for a recovery area. (3) A recovery zone may be an empowerment zone or renewal community in effect as of February 17, 2009.

- The guidelines do not further define these factors other than to require that designation be “based on certain specified criteria”.
- The only guidance on the designation process comes from the provision that any state or local government receiving a volume cap allocation may designate recovery zones “in any reasonable manner as it shall determine in good faith in its discretion”.

This lack of specific guidelines means that the designation of recovery zones will be an evolving issue as issuers exercise this authority.

Q: Can RZEDB finance part of a project?

A: Yes. RZEDB can be combined with tax-exempt bonds or Build America Bonds. This ability is particularly important for counties with smaller allocations. Almost one-half (18 of 40) of the county allocations were for less than \$1,000,000.

Q: What other factors apply to the use of RZEDB?

A: Two factors in particular should be noted:

- Activities financed with the proceeds of RZEDB are subject to federal prevailing wage rates.
- The bonds must be issued before January 1, 2011.

Q: What else do you need to know?

A: Unfortunately, the nature of the IRS guidelines mean that certain aspects of using RZEDB will evolve over time. Here are some things to watch:

- How will the County decide to use or reallocate issuing authority?
- Will the State make waived issuing authority available to other local governments?
- How will the initial issues shape future use?

RZEDB Allocations - South Dakota

Area	Recovery Zone		
	Residual	Economic Development Bond	Recovery Zone Facility Bond
South Dakota		90,000,000	135,000,000
Sioux Falls city, SD		13,288,000	19,933,000
Aurora County, SD		0	0
Beadle County, SD		0	0
Bennett County, SD		658,000	986,000
Bon Homme County, SD		1,122,000	1,683,000
Brookings County, SD		0	0
Brown County, SD		7,795,000	11,693,000
Brule County, SD		406,000	609,000
Buffalo County, SD		348,000	522,000
Butte County, SD		0	0
Campbell County, SD		0	0
Charles Mix County, SD		0	0
Clark County, SD		0	0
Clay County, SD		0	0
Codington County, SD		3,810,000	5,716,000
Corson County, SD		0	0
Custer County, SD		503,000	754,000
Davison County, SD		3,191,000	4,787,000
Day County, SD		0	0
Deuel County, SD		0	0
Dewey County, SD		1,064,000	1,596,000
Douglas County, SD		0	0
Edmunds County, SD		754,000	1,132,000
Fall River County, SD		2,805,000	4,207,000
Faulk County, SD		0	0
Grant County, SD		1,257,000	1,886,000
Gregory County, SD		309,000	464,000
Haakon County, SD		155,000	232,000
Hamlin County, SD		677,000	1,015,000
Hand County, SD		0	0
Hanson County, SD		561,000	841,000
Harding County, SD		0	0
Hughes County, SD		4,932,000	7,399,000
Hutchinson County, SD		812,000	1,219,000
Hyde County, SD		0	0
Jackson County, SD		0	0
Jerauld County, SD		0	0
Jones County, SD		116,000	174,000
Kingsbury County, SD		0	0
Lake County, SD		3,308,000	4,961,000
Lawrence County, SD		1,547,000	2,321,000
Lincoln County, SD	Residual	2,495,000	3,743,000
Lyman County, SD		0	0
McCook County, SD		426,000	638,000
McPherson County, SD		464,000	696,000
Marshall County, SD		0	0
Meade County, SD		1,818,000	2,727,000
Mellette County, SD		0	0
Miner County, SD		0	0
Minnehaha County, SD	Residual	2,785,000	4,178,000

RZEDB Allocations - South Dakota

Area	Residual	Recovery Zone	
		Economic Development Bond	Recovery Zone Facility Bond
Moody County, SD		0	0
Pennington County, SD		7,930,000	11,896,000
Perkins County, SD		503,000	754,000
Potter County, SD		0	0
Roberts County, SD		2,631,000	3,946,000
Sanborn County, SD		716,000	1,074,000
Shannon County, SD		3,965,000	5,948,000
Spink County, SD		1,799,000	2,698,000
Stanley County, SD		928,000	1,393,000
Sully County, SD		0	0
Todd County, SD		1,451,000	2,176,000
Tripp County, SD		1,006,000	1,509,000
Turner County, SD		658,000	986,000
Union County, SD		3,211,000	4,816,000
Walworth County, SD		1,780,000	2,669,000
Yankton County, SD		5,648,000	8,472,000
Ziebach County, SD		368,000	551,000