

## Midwestern Disaster Area Bonds

- I. A new type of private activity tax-exempt bond
  - a. Interest is exempt from federal income tax. Bondholder accepts a lower interest rate for the tax-free income. (Interest is also exempt from state income tax if a Community Development Authority or a Redevelopment Authority issues the bonds.)
  
- II. The proceeds must be used in a county declared as a federal disaster area.
  - a. Adams, Calumet, Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, Green Lake, Iowa, Jefferson, Juneau, Kenosha, La Crosse, Manitowoc, Marquette, Milwaukee, Monroe, Ozaukee, Racine, Richland, Rock, Sauk, Sheboygan, Vernon, Walworth, Washington, Waukesha, Winnebago
  - b. Total allocation for WI: \$3,830,112,000 (\$1,000 X Disaster Area Population)
  - c. Bonds must be issued before January 1, 2013.
  
- III. Applicants for a designation to allow the issuance of Midwestern Disaster Area Bonds are only eligible if, in each case,
  - a. The person using the property suffered a loss in a trade or business attributable to the disaster occurrence (severe storms, tornadoes, flooding) or
  - b. The cost is incurred by a person designated as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss.
    - i. In the case of each designation of Midwestern Disaster Area Bonds for a project involving private business use by a person who did not directly suffer a loss in a trade or business attributable to the severe storms, tornadoes, or flooding, the person undertaking the project shall be deemed to be designated by the Governor as a person carrying on a trade or business replacing a trade or business with respect to which another person suffered such a loss.
  
- IV. Proceeds of the bonds may be used to finance:
  - a. The cost of acquisition, construction, reconstruction or renovation of nonresidential real property (including fixed improvements associated with such property, **but not equipment and movable fixtures**).
  - b. Qualified residential rental housing.
  - c. A public utility project.
  
- V. Other requirements
  - a. Similar to exempt facility Industrial Revenue Bonds. There is no \$20.0 million capital expenditure limitation and no \$10.0 million bond size limit.

- b. The bonds do not require an allocation of Commerce's existing volume cap, but do require an allocation of the volume cap that has been specifically designated for the issuance of Midwestern Disaster Area Bonds.
  - c. The bonds cannot be used to refinance existing debt.
  - d. If the bonds are used to acquire existing buildings, the borrower must spend at least 50% of the cost of acquisition on rehabilitation of the building.
  - e. No more than 25% of the bond proceeds can be used to acquire land.
  - f. No more than 2.0% of the bond proceeds can be used to pay issuance costs.
  - g. Borrower can only use the bond proceeds to reimburse eligible costs that are incurred within 60 days prior to the adoption of the initial resolution.
  - h. Nonresidential real property projects can include:
    - i. Manufacturing facilities
    - ii. Retail businesses and shopping centers
    - iii. Auto dealerships
    - iv. Restaurants
    - v. Office buildings
    - vi. Warehouses and storage facilities
    - vii. Medical office buildings and other medical facilities
    - viii. Commercial development
    - ix. Agricultural facilities
  - i. Proceeds of the bonds may not be used to finance any skybox or other private luxury box, health club facility, golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other gambling facility, or liquor store. This is stipulated under federal law.
- VI. Participants in the process (in addition to the borrower)
- a. Issuer
    - i. City, town, village, redevelopment authority, community development authority.
    - ii. Initial resolution, public hearing, final resolution
  - b. Bond Counsel
    - i. Eligibility determination; qualifying opinion
  - c. Lender
    - i. Buy the bonds in a bank held deal or
    - ii. Issue a letter of credit
  - d. Commerce
    - i. Project/application review
    - ii. Recommendation of designation to the Governor's office
    - iii. Program administration and monitoring
  - e. Governor's office
    - i. Designation as Midwestern Disaster Area Bonds
- VII. Application and approval process
- a. Prospective borrower contacts Commerce Area Development Manager and completes application for designation. Contact information for the Area Development Managers is available at <http://commerce.wi.gov/BD/BD-AreaDevManagers.html>.

- i. Prospective borrower should consult with bond counsel, municipality, and lender prior to completing application.
  - b. Commerce reviews application.
    - i. To determine if application is complete and meets requirements.
  - c. Commerce recommends designation to the Governor's office.
  - d. Governor's office designates the bonds as Midwestern Disaster Area Bonds.
  - e. Issuer/Borrower has 120 days from designation date to issue bonds.
  - f. Issuer/Borrower has 15 days after the bond issue to notify Commerce of the issuance.
  - g. \$300 nonrefundable application fee. Nonrefundable closing fee of 0.1% of the bond amount up to a maximum of \$10,000. The \$300 application fee will be subtracted from the closing fee.
- VIII. Allocation distribution
  - a. \$50.0 million reserved for each of the counties prior to January 1, 2011. Balance (\$2,330,112,000) is available for designations for any of the affected counties.
  - b. Starting on January 1, 2011, designations to be made from the entire unused balance to finance projects in any of the affected counties.

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