MILLER CANFIELD

Recovery Zone Bonds

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Vice-President Biden recently announced an allocation of over $2 billion to all counties and seven cities in Michigan to be used for two new types of bonds that provide a tremendous opportunity for Michigan communities to invest in their future. The "American Recovery and Reinvestment Act of 2009," signed on February 17 by President Obama, created two new bond types:

- Recovery Zone Economic Development Bonds are designed for traditional government infrastructure and education projects and job training and allow municipalities to receive advantageous net interest costs on their borrowings.

- Recovery Zone Facility Bonds are designed to spur private development and investment by allowing a broad range of private developers to access the tax exempt municipal bond market to lower their borrowing costs.

Under this program, bond issuers are eligible to issue the new types of bonds to finance economic activities in a Recovery Zone. A Recovery Zone is defined as an area having significant poverty, unemployment, home foreclosures, or general distress; or an area that has already been federally designated as an Empowerment Zone or Renewal Community. In addition to the federally designated areas, a county or municipality may designate areas within their jurisdiction as Recovery Zones.

Recovery Zone Economic Development Bonds
Recovery Zone Economic Development Bonds are designed to help governments finance traditional infrastructure projects. These bonds are issued by municipalities on a taxable basis and the issuers of the bonds receive a subsidy payment from the federal government of 45% of the interest payable on the bonds. The net interest rate, or the interest rate taking into account the federal subsidy, provides a significant savings over the traditional tax exempt market. Economic development activities qualified under this program include, capital expenditures paid or incurred for property in Recovery Zones, expenditures for public infrastructure and construction of public facilities and expenditures for job training and educational programs. Counties receiving this allocation should note that if they are unable to make use of this financing option, they can allow local communities within their county to issue these types of bonds. They can also make their allocation available to the state for reallocation.

Private activities, defined as those in which a substantial portion of the bond or tax credit proceeds benefit a private business or individual, may not be financed with this program. It is important to also note that the Davis Bacon Wage Act applies to projects financed with proceeds from these bonds.

Recovery Zone Facility Bonds
Recovery Zone Facility Bonds are a new type of exempt facility private activity bond that can be used by private developers. Private developers could use the funds for redeveloping vacated auto plants, to finance infrastructure for alternative energy projects or any number of other private developments. The project must occur in a recovery zone and the financed proceeds must be depreciable property if the property was constructed, reconstructed, renovated or acquired by purchase by the taxpayer after the date on which the designation of the recovery zone took effect.

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Most businesses can make use of this financing option. Exceptions include: golf courses, country clubs, massage parlors, hot tub facilities, sun tan facilities, racetracks, gambling and liquor stores. These bonds are traditional tax exempt bonds and are not eligible for any tax credit payment from the federal government.

If you are planning any infrastructure for your community or are working with potential developers who intend to invest in your community, we are happy to offer advice as to the best way to make use of these new exciting tools.

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