

Ohio Department of Development Issues Reallocation Guidelines for Recovery Zone Bonds

*Plans of Issuance Must be Submitted to the
Department of Development by January 31, 2010*

For more information regarding Recovery Zone Bonds and the DOD's reallocation guidelines, please contact your Vorys attorney or:

Scott J. Ziance
sjziance@vorys.com
614.464.8287

Aaron S. Berke
asberke@vorys.com
330.208.1017

Thomas R. Trotter
trtrotter@vorys.com
330.208.1126

Chris L. Connelly
clconnelly@vorys.com
614.464.8244

Blake C. Beachler
bcbeachler@vorys.com
216.479.6140

The Ohio Department of Development ("DOD") has published waiver and reallocation guidelines relating to Recovery Zone Economic Development Bonds ("RZEBs") and Recovery Zone Facility Bonds ("RZFBs" and, together with RZEBs, "Recovery Zone Bonds") authorized under the American Recovery and Reinvestment Act of 2009 ("ARRA").

RZEBs are taxable bonds, the interest from which would have been excluded from gross income for federal tax purposes had the issuer not designated the bonds as RZEBs. RZEBs may be used to finance (i) capital expenditures paid or incurred with respect to property located in a recovery zone, and (ii) expenditures for public infrastructure and the construction of public facilities. The issuer may elect for either the issuer to receive a 45 percent subsidy from the Treasury Department on the interest payable on the RZEBs or for the holders of the RZEBs to receive a 45 percent tax credit. RZEBs must be issued before January 1, 2011.

RZFBs significantly expand the use of tax-exempt bonds for private projects. RZFBs are tax-exempt private activity bonds used to finance certain private company depreciable property located in a recovery zone. Ninety-five percent of RZFB-financed property: (i) must be constructed, reconstructed, renovated or acquired by purchase by the taxpayer after the designation of the recovery zone; (ii) must have the original use of the property commence with the taxpayer; and (iii) must be used by a "qualified business" in the recovery zone. RZFBs must be issued before January 1, 2011.

A recovery zone is: (i) any area designated as having significant poverty, unemployment, rate of home foreclosure, or general distress;

(ii) any area designated as economically distressed by reason of the closure or realignment of a military installation; and (iii) any area designated as an empowerment zone or renewal community.

ARRA allocated approximately \$423 million for RZEBs and \$634 million for RZFBs to the State of Ohio. Those amounts were sub-allocated to municipalities with a population greater than 100,000 and counties ("Allocation Recipient").

The DOD's guidelines require each Allocation Recipient to submit a plan of issuance to the DOD by January 31, 2010 to retain its original Recovery Zone Bond allocation. The plan of issuance must: (i) identify all projects for which the Allocation Recipient has issued or plans to issue Recovery Zone Bonds; (ii) list regional collaborative projects for which the Allocation Recipient is voluntarily waiving its allocation to support those regional projects; and (iii) include a copy of the legislation establishing the recovery zone within the jurisdiction of the Allocation Recipient. Allocation Recipients that fail to submit a plan of issuance by January 31, 2010 will automatically waive their Recovery Zone Bond allocation. In addition, an Allocation Recipient's unused allocation balance not designated for a project will automatically be waived.

On or before March 1, 2010, the DOD will announce the total amount of Recovery Zone Bonds available for reallocation. Between March 1, 2010 and April 1, 2010, the DOD will accept applications for reallocation.

Additional information, including the plan of issuance form, is available at the DOD's website at <http://recovery.ohio.gov/opportunities/bonds/>.

IRS CIRCULAR 230 DISCLOSURE: In order to ensure compliance with requirements imposed by the U.S. Internal Revenue Service, we inform you that any federal tax information contained in this communication (including any attachments) is not intended or written to be used, and it cannot be used, by any taxpayer for the purpose of (i) avoiding penalties that may be imposed under the U.S. Internal Revenue Code; or (ii) promoting, marketing, or recommending to another person, any transaction or other matter addressed herein.

This client alert is for general information purposes and should not be regarded as legal advice.