



TFA

Monthly Newsletter

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IN THE NEWS

Tax Exempt Financing – Another Financing Tool for Tribes

by David Howard

As sovereign nations, Native American Tribes do not have to pay federal taxes and therefore have the ability to access tax-exempt financing to fund or refinance qualified costs, as determined by the IRS. Lenders and bond investors do not have to pay income taxes on income received from IRS qualified tax-exempt loans, and pass a portion of these tax savings on to the tribes by means of a lower effective interest rate.

The tax-exempt savings vary from institution to institution based on their current tax position. We typically see discounts of 30% to 35% to the credit spread, which is in line with the current corporate tax rate.

The credit spread is the interest rate minus the lender's estimated funding cost. For example, LIBOR for banks. As borrowing costs rise, such as in higher credit spread situations or in large transaction sizes, the potential aggregate dollar savings by utilizing tax-exempt financing becomes substantial.

It is important to review the overall dollar savings versus the associated legal and issuance expenses. A tribe that enjoys a relatively low credit spread, say LIBOR or Treasuries plus 1.00%, would receive approximately 0.3% per year in interest expense savings. On a \$5,000,000 tax exempt financing, this would be approximately

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San Manuel to Build New Hotel, Event Venue, Parking Structure Next to Highland Casino

11/7/17 – SBSun.com

Pascua Yaqui Tribe to Expand Both Casinos in Tucson Area

11/9/17 – KVOA.com

Bureau of Indian Affairs Makes Changes to Loan Guarantee Program Amid Scrutiny

11/14/17 – Indianz.com

Ponca Tribe Returns to Indian Gaming Industry with Chickasaw Nation as Partner

11/20/17 – Indianz.com

Justice Thomas Attacks Land-Into-Trust process as Oneida Nation Secures Victory

11/27/17 – Indianz.com

Tohono O'odham Nation to Begin Work on \$400m Expansion at Glendale Casino

11/28/17 – WorldCasinoDirectory.com

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\$15,000 in annual savings. Even looking over 5 years, the aggregate savings likely wouldn't cover the legal and issuance costs and therefore, may not be worth the headache. However, a tribe with a higher credit spread, say 4.00%, would receive 4x more savings or \$60,000 per year. At this level of savings, analysis of tax-exempt financing would be warranted. Apply this tax-exempt rate to a larger financing amount and the savings really add up.

What qualifies? Per the IRS, tax-exempt financing may be issued by tribal governments for "essential governmental functions" and the construction of certain qualified manufacturing facilities. Additional commercial projects (gaming excluded) may also qualify if located on the reservation by requesting and receiving a Tribal Economic Development Bond ("TEDB") allocation. The TEDB application pro-

cess is relatively straightforward and approval of a qualifying project usually is received within 30-45 days after the application is submitted. A tribe should consult with knowledgeable legal counsel to determine if a project will qualify for traditional tax-exempt or TEDB financing.

Types of tax exempt financing – (1) a traditional tax-exempt bond similar to what other municipalities issue. (2) TEDB – once the application is approved, a TEDB is struc-

tured and sold similarly to a traditional tax-exempt bond. Finally, (3) Banks – most banks can provide a tax-exempt rate to a portion of the loan within a larger gaming credit facility. Issuance costs related to bank tax-exempt financing are typically lower than a bond.

We encourage tribes to consider utilizing tax-exempt financing, as appropriate, to lower interest costs and use the savings to support other tribal financial goals and objectives.



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