



Tribal Bond Financing— The Basics

Presented jointly by the
IRS Offices of Indian Tribal
Governments and Tax Exempt
Bonds



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Disclaimer

- This information is for educational purposes only.
- It is current as of the date presented.
- It is not official IRS guidance or legal advice.
- It is a summary of key points.

Reference Code sections 54, 54A, 54C, 103, 141-150, 7871, 7701



Three bond types presented:

- Tribal Bonds (Section 7871(a)-(e))
- Tribal Economic Development Bonds (Section 7871(f))
- New Clean Renewable Energy Bonds (Sections 54A and 54C)



Three types of federal subsidies

- Interest that is tax-exempt to the bondholder
- Tax credit allowed to the bondholder
- Direct payment to the issuer



Three basic rules- Section 7871(a)-(e)

- The issuer must be a federally recognized Indian tribal government or subdivision thereof.
- Substantially all of the proceeds must be used in the exercise of any “essential governmental function” which does not include any function not customarily performed by state and local governments with general taxing powers.
- Generally issuers cannot issue tax-exempt private activity bonds, except to finance the construction of qualified manufacturing facilities that meet certain use, location, ownership, and employment requirements.



Revenue Procedure 2008-55

Before an Indian tribal government can issue tax-exempt bonds, it must be designated by revenue procedure.



Tribal Economic Development Bonds

- Created by ARRA 2009
- Codified in section 7871(f)
- Require Volume Cap Allocation
- No essential governmental function financing requirement
- Gaming facilities financing limitations



Link to TED Volume Cap Allocation

[http://www.irs.gov/Tax-Exempt-Bonds/Published-Volume-Cap-Limit-for-Tribal-Economic-Development-Bonds.](http://www.irs.gov/Tax-Exempt-Bonds/Published-Volume-Cap-Limit-for-Tribal-Economic-Development-Bonds)

The IRS updates this amount every two months.



New CREBs

- Added by HIRE Act 2010
- Codified in sections 54A and 54C
- Issuer may elect to receive direct payments from the Federal Government instead of the Federal tax credits that otherwise would be allowed to holders of qualified tax credit bonds.
- Finance certain renewable energy projects
- Requires volume cap



New CREBs cont'd

- Holders of tax credit New CREBS receive a tax credit equal to 70% of the credit rate on the Bonds.
- Holders of direct pay New CREBS receive a subsidy which is the lesser of the interest payable on the bonds or 70% of the interest which would have been payable if determined at the credit rate.



IRS Tax Credit Bond Rates

- www.treasurydirect.gov



Link to Websites

ITG:

www.irs.gov/Tribes

TEB:

www.irs.gov/Tax-Exempt-Bonds.



Questions or Comments

- ITG questions and comments:
tege.ask.itg@irs.gov
- TEB questions and comments
TaxExemptBondQuestions@irs.gov.
Please put “**Tribal Bond Financing-The Basics**” in
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