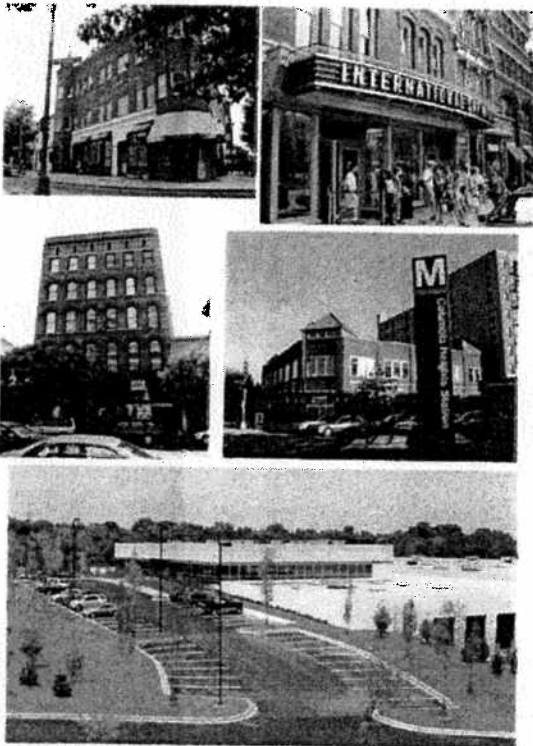


*THE A B C s*  
*OF*  
*ENTERPRISE*  
*ZONE*  
*BONDS:*

*TAX-EXEMPT FINANCING*  
*IN THE*  
*DISTRICT OF COLUMBIA*  
*ENTERPRISE ZONE*



*Qualified Enterprise Zone Business may obtain up to \$15 million of tax-exempt financing to pay costs of acquiring, constructing, renovating and equipping capital projects located within the District of Columbia Enterprise Zone.*

**What is the D.C. Enterprise Zone?**

The D.C. Enterprise Zone (D.C. Zone) consists of 122 non-contiguous census tracts in which \$1.2 billion of federal financing and investment incentives are available to sole proprietorships, corporations, partnerships, and other legal entities doing business in the Zone.

**What is a “Qualified Enterprise Zone Business”?**

In general, a “Qualified Enterprise Zone Business” is a corporation, partnership, sole proprietor or other legal entity that meets each of the following tests:

1. Every trade or business of the borrower is the active conduct of business in the D.C. Zone, or a borrower that maintains separate books and records allocating income, expenses and activities of the in-zone business, as if that business is a branch;
2. At least 50% of the total gross income of the borrower is derived from the active conduct of business within the D.C. Zone;
3. A substantial portion of the use of tangible property of the borrower (whether owned or leased) is within the D.C. Zone;
4. A substantial portion of the intangible property of the business is used in the active conduct of the business; and
5. A substantial portion of the services for the employer are performed within the Zone.
6. Less than 5% of the average of the aggregate unadjusted bases of the borrower’s property is attributable to collectibles that are held primarily for sale to customers in the ordinary course of a qualified business; and

7. Less than 5% of the average of the aggregate unadjusted bases of the property of the borrower is attributable to non-qualified financial property (such as stock, debt, partnership interest, options, forward contracts), other than as a reasonable working capital amount. {e.g., financial institutions generally are ineligible}

These requirements are met easily by businesses whose point of sale or service is at one or more locations within the zone. Such businesses might include:

- Business offices;
- Retail/wholesale department and specialty stores;
- Theaters;
- Restaurants and coffee houses;
- Shopping centers;
- Recreation and health centers;
- Manufacturing facilities;
- Solid/hazardous waste disposal/recycling facilities;
- Transportation and parking facilities;
- Tourism and entertainment centers;
- Private for-profit day care centers;
- Tenant improvements; and
- Other facilities.

Industries that perform services outside the zone may be expected to keep additional records. If you cannot meet the requirements when the financed property is placed in service, you must come into compliance within two years.

### **What are EZ Bonds?**

Enterprise Zone Facility (EZ) Bonds are tax-exempt municipal securities sold to institutions and individuals willing to invest in Qualified Enterprise Zone Businesses in exchange for a profit that comes to them in the form of periodic interest payments.

### **What are the benefits of tax-exempt EZ Bond financing?**

**EZ Bonds** offer creditworthy borrowers long-term financing at interest costs savings as much as 2 percentage points below market rates. Tax-exempt financing typically involves a longer maturity period--- up to 120% of the weighted average useful life of the financed property. These features enhance project feasibility and cash flow.

Purchasers of tax-exempt bonds accept a lower interest rate because they will not have to pay federal taxes (and in some cases state and local taxes) on their interest earnings. Those savings are passed along to the borrower in the form of lower interest rates. Additionally, it is possible to obtain tax-exempt financing of 100% of the appraised value of the property.

### **What types of activities can be financed with Enterprise Zone Bonds?**

Bond proceeds can be used to (1) construct a building, (2) renovate an existing building or equipment, and (3) acquire land, new equipment or a new building. Even certain tenant improvements are eligible for tax-exempt financing.

Tax-exempt bond proceeds also can be used to acquire used equipment or an existing building but only if the greater of 15% of the adjusted basis of the equipment, or \$5,000, is spent to recondition or rehabilitate the

equipment or building within two years of the acquisition.

### **Are some businesses ineligible for tax-exempt EZ Bond financing?**

Yes. Non-qualified activities include businesses involved in residential rental activity, commercial real estate (unless at

least 50% of the gross rental income is from Enterprise Zone businesses meeting the qualifications described above), country clubs, liquor stores, golf courses, racetracks or gambling facilities.

**May tax-exempt bond proceeds be used for working capital purposes?**

At least 95% of the bond proceeds (including any investment earnings) must be used to pay costs that are capitalized for federal tax purposes. Therefore, any amounts available for working capital would be minimal.

**What factors determine the amount of money that I may borrow?**

The actual size of any bond issue is determined by credit factors such as the business's bond rating, if applicable; the adequacy and certainty of project cash flow; the amount of other assets pledged to repayment of principal, interest and any premium on the bonds; and the presence of bond insurance or other repayment guarantees.

A business entity (including any related persons) can have no more than \$15,000,000 in Enterprise Zone facility bonds outstanding in the DC Zone. An entity could have bonds issued in the D.C. Zone and other empowerment zone or enterprise communities outside the District, but the total amount outstanding in those Zones (including the District bonds) can be no more than \$20,000,000.

**Does the government guarantee the bonds or the loan?**

No. The bonds are repayable only from the pledged assets of the borrower. EZ Bonds and the obligation to repay the loan are not liabilities of the District and do not involve the taxing power of the District or United

States governments.

**Who purchases tax-exempt bonds?**

Tax-exempt bonds typically are purchased by individuals, corporations, mutual funds and insurance companies. Technically, the investment banking firm that serves as the "underwriter" of the bonds will purchase the bonds from the District (wholesale) and then offer the bonds for sale to the public (retail).

A bank or investment-banking firm also may place the bonds with a small group of purchasers (a private placement).

Another possibility would be to set up an investment pool with money from various citizens or businesses in the DC Zone to purchase bonds. In either case, the borrower is responsible for the sale of bonds issued on its behalf.

**At what point in the process should a business contact the District?**

Tax-exempt financing typically takes longer to complete than a standard bank loan. In order to expedite the process, a business should contact the District's **Revenue Bond Program** in the very early planning stages. Program staff will select attorneys (bond counsel) who specialize in tax-exempt bonds to work with the borrower in understanding the tax rules associated with the financing.

Once the borrowing and repayment plans have been arranged, bond counsel will give an opinion stating that interest on the bonds is excludable from federal income taxes. Note that if a business desires to use tax-exempt bond proceeds to reimburse itself for any costs paid before tax-exempt bonds are issued, it first must obtain from the District an official declaration or resolution expressing the District's intent to finance such costs.

**What costs are involved in tax-exempt financing?**

There are certain costs involved in tax-exempt financing that may be higher than those involved in a bank loan. A business may need to consider the costs of tax-exempt borrowing in comparison to interest savings over the term of the bond. These costs include issuer fees to the District; fees to a bond counsel who reviews the transaction and delivers an opinion that interest on the bonds is tax-exempt; fees of the underwriter who markets the bond; and fees of a trustee who disburses bond proceeds and collects loan payments from the business.

Interest cost savings generally permit most borrowers to recover these costs in the early years of the repayment period. Additionally, the tax laws permit up to 2% of the bond proceeds to be used to pay costs of issuance of the bonds. The fee to the District is outside of this 2% limit.

**Is there any way to reduce the costs involved in issuing tax-exempt bonds?**

To help reduce issuance costs, the District will use standard bond financing and closing documents and a reduced fee schedule. Additionally, the District has permits bond "pools" in which several borrowers use standard documentation to lower costs. The District also will lend bond proceeds to a bank (a "loan-to-lenders" program) if the bank agrees to make loans to several qualified Zone businesses.

In a loan-to-lenders program, the bank guarantees repayment of the bonds, so that the interest rate on the bonds reflects the credit of the bank. The loan-to-lenders program provides the bank with a source of lower cost capital. The bank charges a fee for its services in making the actual loans

and expects to repay the bonds from the loan repayments made to it by the borrowers.

**What information must a business make available to the public?**

The tax laws require that there be a public notice and hearing regarding the bond issuance, including the amount to be borrowed, the borrower and the nature and location of the financed property. Following the hearing, the bond issue must be approved by the District of Columbia Council. Other proceedings of the District and documents submitted to the District may be subject to public disclosure requirements. The financial condition of the borrower will also be included in offering materials made available to prospective purchasers of a bond.

**Will tax-exempt financing affect any other tax rules applicable to my business?**

A business will not be able to take advantage of accelerated depreciation otherwise available for any depreciable property purchased with proceeds of the bonds. Bond-financed property must be depreciated over the class life of the property, using the straight-line method.

**What forms am I required to file with the Internal Revenue Service?**

A business need only submit those forms that it usually files with the Internal Revenue Service. When bonds are issued, the District will file with the IRS an information return on the bond. In some cases the District may

be required to file additional information supplied by the borrower. For example, any investment income earned on bond proceeds above the yield on the bonds must be paid to the IRS every five years, but the filing itself would be signed by District. If the bond

transaction was audited by the IRS, the business would likely be called upon to submit appropriate documentation.

**What happens if I am unable to continue to meet all of the “Qualified Enterprise Zone Business requirements?”**

The tax laws allow a borrower a reasonable time to cure any noncompliance. If the noncompliance is not cured, the borrower will lose its deduction for its interest expense on the bonds and interest on the bonds received by the purchaser of the bonds may become taxable. If interest becomes taxable, the borrower may be required to redeem the bonds as soon as possible or pay a higher taxable interest rate to the purchaser

**How can I determine whether my business is located in the D.C. Enterprise Zone?**

You may contact the District of Columbia Revenue Bond Program at **(202) 727-6365** or **(202) 727-0377** locate your site by referring to the D.C. Enterprise Zone map available from the D.C. Office of Planning at **(202) 442-6702**; or visit the Department of Housing and Urban Development (<http://www.hud.gov/ezec/locator/>) or (<http://www.dcbiz.washingtondc.gov/info>)

Further discussion of Enterprise Zone businesses and rules associated with Enterprise Zone Facility Bonds and other tax benefits can be found in IRS Publication 954, which is available by calling 1-800-TAX-FORM (1-800-829-93676); or at (<http://www.irs.ustreas.gov>).

**Are other incentives available in the D.C. Enterprise Zone?**

Businesses located and doing business in the 65 census tracts with 20 percent or higher

poverty rates, also qualify for:

- (a) the **D.C. Zone Employer Wage Tax Credit**;
- (b) a **zero percent federal capital gains rate**; and
- (c) **an increased personal property expensing allowances**.

The zero percent federal capital gains rate, and increased expensing allowances apply in the 57 census tracts with 10 percent and higher poverty rates.

*Resources and References*

**District of Columbia  
Revenue Bond Program**  
1350 Pennsylvania Avenue, NW, Suite 317  
Washington, D.C. 20005  
(202) 727-6365  
Fax: (202) 727-6703  
[www.dcbiz.dc.gov](http://www.dcbiz.dc.gov)

**District of Columbia  
Department of Employment Services  
WTW/WOTC Unit**  
609 H St., NE Ste 535  
Washington, DC 20004  
(202) 698-3538

**District of Columbia  
Chamber of Commerce**  
1301 Pennsylvania Avenue, N.W.  
Washington, D.C. 20005  
(202) 347-7201  
Fax: (202) 347-3538

**D.C. Business Improvement District**  
1259 H Street N.W.  
Washington, D.C. 20005  
(202) 504-0004  
Fax: (202) 504-0019

**D.C. Marketing Center**  
1213 K Street, NW  
Washington, D.C. 20005  
(202) 638-7333  
Fax: (202) 638-6762  
[www.dochamber.org/business](http://www.dochamber.org/business)

**Golden Triangle  
Business Improvement District**  
1025 Connecticut Ave., NW, Suite 416  
Washington, D.C. 20036  
(202) 463-3400  
Fax: (202) 463-7062  
<http://www.gtbid.com>  
[feedback@gtbid.com](mailto:feedback@gtbid.com)

**U.S. Department of Housing  
and Urban Development (HUD)  
Enterprise Zones Division**  
Rm. 7134  
451 7<sup>th</sup> St., S.W.  
Washington, D.C. 20410  
(202) 708-6339  
Fax: (202) 708-7543  
[www.hud.gov](http://www.hud.gov)

**U.S. Department of Labor  
WTW/WOTC**  
Room N4470  
200 Constitution Ave., N.W.  
Washington, D.C. 20210  
(202) 219-9092 ext. 127  
Fax: (202) 219-6643  
[www.doleta.gov](http://www.doleta.gov)

**U.S. Internal Revenue Service  
WTW/WOTC/Employer Tax Credit**  
(202) 622-6060  
Fax: (202) 622-4617  
[www.irs.gov](http://www.irs.gov)

Eligibility for these and other tax benefits generally is determined by individual tax status, and may vary with the location and type of business, and the nature of the activity or investment undertaken. Businesses generally may claim tax benefits by filing the appropriate form with their annual federal tax return. Entities seeking to obtain taxable or tax-exempt bond financing should contact the District's Revenue Bond Program.

*Information provided in this booklet is not intended nor should it be construed as tax advice. To determine the precise impact of provisions on individual taxpayers, the reader is encouraged to consult a tax advisor.*