

## AMERICAN INDIAN LAW AND POLICY ALERT

### TREASURY DEPARTMENT NOTICE REGARDING AVAILABILITY OF TAX-EXEMPT TRIBAL ECONOMIC DEVELOPMENT BONDS

On June 23, 2009 the Department of the Treasury published a notice regarding the allocation of \$2 billion as Tribal Economic Development Bonds. The bonds will be issued under § 7871(f) of the Internal Revenue Code and are designed to give tribal governments greater flexibility to issue bonds for economic development projects than is currently available under § 7871(c). While § 7871(c) prevented the use of tax-exempt bonds to finance what are considered “essential governmental functions customarily performed by State and local governments,” the new standard will allow the tax-exempt bonds to be used for almost all economic development projects or programs that may be funded by state or local government tax-exempt bonds.

The broad range of projects eligible for tax-exempt bonds includes, but is not limited to, “hotels, convention centers, golf courses, and qualified private activities.” Restrictions for the use of tax-exempt bonds under this program will exist for “certain gaming facilities and projects located outside of Indian Reservations as provided in § 7871(f)(3)(B).” Under § 7871(f)(2)(A) and (B), tribal governments issuing the bonds are to be treated as state or local governments for the purpose of § 141, which provides limits to the use of government-issued bonds for private purposes.

The notice describes eligibility requirements, the components of a qualified project, and the method used to allocate funds to the Treasury Department. The deadline for allocations from the first \$1 billion is August 15, 2009. After that, applications for allocations under the remaining cap of the original \$2 billion must be received between August 15, 2009 and January 1, 2010.

#### CONTACT INFORMATION

If you have any questions regarding this alert, please contact—

Michael Rossetti ..... 202.887.4311 ..... [mrossetti@akingump.com](mailto:mrossetti@akingump.com) ..... Washington, D.C.