

Chapter 100 Bonds

LEGAL NAME: Missouri Chapter 100

STATUTORY CITATION: §§ 100.010-100.200 RSMO

FUNDING LIMITS:

Missouri Law authorizes municipalities to issue Industrial Development Bonds (IDBs) to finance industrial development projects for private corporations, partnerships or individuals. There is no preset limit on the amount that may be authorized.

TYPE OF BENEFITS:

Property tax abatement and sales tax exemption on construction materials.

DESCRIPTION OF BENEFITS:

There are two primary reasons to issue industrial development bonds ("IDBs") under the Act. First, if the bonds are tax-exempt, it may be possible to issue the bonds at lower interest rates than those obtained through conventional financing. Second, even if the bonds are not tax-exempt, ad valorem taxes on bond-financed property may be abated so long as the bonds are outstanding. Such tax abatement may result in a significant financial benefit to a company.

ALLOWED USES OF BENEFITS:

IDBs may be issued by any city, county, town or village (referred to as a "municipality") to issue bonds to finance the costs of warehouses, distribution facilities and industrial plants. In connection with such projects, the bond proceeds may be used to finance land, buildings, fixtures and machinery.

ELIGIBLE GEOGRAPHIC AREA: Statewide

ELIGIBLE BUSINESS TYPES:

IDBs may be used to finance various industrial projects, including:

- costs of industrial plants, warehouses, distribution facilities
- research and development facilities, office industries, services facilities providing interstate commerce
- agricultural processing industries
- land, buildings, fixtures and machinery in connection with the IDB-financed development project

BENEFITS ELIGIBILITY REQUIREMENTS:

Under Article X, Section 6 of the Missouri Constitution and Section 137.100 of the Missouri Revised Statutes, all property of any political subdivision are exempt from taxation. In a typical IDB transaction, the Municipality holds fee title to the project and leases the project to the company. Although the Missouri Supreme Court has held that the leasehold interest is taxable, it is taxable only to the extent that the economic value of the lease is less than the actual market value of the lease. See *Iron County v. State Tax Commission*, 437 S.W.2d 665 (Mo. 1968) (en banc) and *St. Louis County v. State Tax Commission*, 406 S.W.2d 644 (Mo. 1966) (en banc). Accordingly, if the rental payments under the lease agreement equal the actual debt service payments on the bonds, the leasehold interest has no "bonus value" and the bond-financed property should be exempt from ad valorem taxation and personal property taxation so long as the bonds are outstanding.

The Municipality and the company may determine that partial tax abatement -- but not full tax abatement -- is desirable. For instance, if bonds are issued to finance both real and personal property, but the Municipality determines that tax abatement on the personal property is not appropriate, the company may agree to make "payments in lieu of taxes" to the city or county. The amount of payments in lieu of taxes is negotiable; it could be an amount equal to the personal property taxes that would otherwise be assessed against the personal property if the project was not otherwise exempt from taxation, or it could be any other amount. In any event, the payments in lieu of taxes would be payable by December 31 of each year, and would be distributed to the State of Missouri and to each political subdivision in the same manner and in the same proportion as property taxes would otherwise be distributed under Missouri law.

SPECIAL REQUIREMENTS:

IDBs issued by a Municipality may be sold at either public or private sale at a price not less than 95% of the principal amount thereof and at an interest rate not in excess of 14 percent per annum. There is no limit on the final maturity of the bonds.

The interest on IDBs is exempt from Missouri state income taxation only if the interest is excluded from gross income for federal income tax purposes. The municipality may issue a project exemption certificate which would allow construction materials to be purchased exempt from sales tax. This is typically negotiated and left to the discretion of the municipality.

FOR MORE INFORMATION VISIT:

Statutes: <http://www.moga.mo.gov/STATUTES/STATUTES.HTM>

Missouri Department of Economic Development: www.MissouriDevelopment.org