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Public Financing Tools for Tourism Projects

Roger D. Hunter, Esquire
Alexandra M. Shulz, Esquire
Bowles Rice LLP

Roger D. Hunter is an attorney in the Charleston, West Virginia office of Bowles Rice. He has worked extensively in matters involving capital markets and financial institutions, including large financings, bond issues, securities offerings and regulation, and mergers and acquisitions. Hunter helps lead the firm's Municipal Bonds and Public Finance, Tax Increment Financing (TIF) and Qualified Opportunity Zones practice groups, and his work in those areas has included a wide variety of transactions and projects. He is a member of the Board of Trustees of the West Virginia Investment Management Board.

Alexandra M. Shulz is an attorney in the Charleston, West Virginia office of Bowles Rice, where she concentrates her practice in the areas of commercial and financial law. A member of the firm's Municipal Bonds and Public Finance practice group, Shulz has served as bond counsel in several public finance matters, including general obligation bonds and lease-purchase financings. She also serves as legal counsel to the West Virginia Broadband Enhancement Council, an organization dedicated to enhancing broadband internet access and economic opportunity across the state.

For decades, the public finance, securities and economic development teams at Bowles Rice have enjoyed working with entrepreneurs, developers and investors to structure deals that have benefitted the tourism industry in West Virginia. Several new tools exist to complement the well-established techniques that support tourism in our state and region.

West Virginia Tourism Development Act Credit

A tax credit is available to companies that invest in and operate a new or expanded tourism destination project. The credit allows the company to retain some of the sales tax that it collects on operational sales. In order to qualify, the project must attract at least 25 percent of its visitors from outside of West Virginia, have approved costs in excess of one million dollars and produce sufficient revenues and demand to be open for a minimum of 100 days per year.

Securities Offerings: Private Placements and Exempt Offerings

The Bowles Rice securities law team has worked on a variety of private placements for tourism projects, including multiple SEC Rule 506(c) exempt offerings. In the early 1980s, we worked on a private placement to raise capital for a new hotel in Fayette County, aimed at the emerging whitewater rafting industry. More recently, our team assisted with a Rule 506(c) exempt offering of investment contracts for new cottages being built at Stonewall Resort using strictly private funding. Often, private placement capital can be combined with other financing tools to efficiently support new or expanding tourism projects.

Tax-Exempt Bonds and Tax Increment Financing (TIF) for Tourism Projects

We have also utilized tax-exempt bonds to help finance tourism projects in the state. In the 1990s, the development of the West Virginia Parkways Authority's Tamarack arts and crafts facility was financed with tax-exempt bonds in an innovative financing structure. Tax-exempt bonds were issued by and through the Raleigh County Commission to finance the original facility and later expansion. These bonds were secured by a pledge of the Authority's economic development and tourism revenues (that is, non-toll revenues), which ultimately were used to retire Tamarack's bonds. In that same decade,





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tax-exempt bonds were issued by the West Virginia Railroad Maintenance Authority (now the State Railway Authority) to upgrade and improve its South Branch Valley Railway. That financing not only boosted economic development in that part of the state, it also benefitted the extremely popular Potomac Eagle excursion train which uses part of that railway. More recently, we have been working with municipalities and other jurisdictions to discuss tax-increment financing and other techniques and tools that could provide funding for tourism projects.

Historic Rehabilitation Tax Credits

West Virginia tourism projects involving historic buildings may benefit from historic rehabilitation tax credits. State statutes are modeled on the Federal

Certified Historic Structure Credit and allow eligible taxpayers to transfer, sell or assign these credits upon approval by the West Virginia Department of Culture and History.

Broadband

Broadband internet access is crucial to the development of tourism, particularly in rural parts of the state where outdoor recreation opportunities are bountiful, but lack of internet service makes operating a business impractical. Bowles Rice acts as legal counsel to the West Virginia Broadband Enhancement Council, which was created by the Legislature in 2017 with the goal of making every municipality, community and rural area in the state accessible to the internet through the expansion of broadband services and technology.

Opportunity Zones and Qualified Opportunity Funds

Enacted by Congress via the Tax Cuts and Jobs Act of 2017, there are now significant tax incentives for investors who redeploy their capital gains by investing in a Qualified Opportunity Fund (QOF) which, in turn, invests in Qualified Opportunity Zone Properties/Businesses. The relevant rules, laid out in two sets of proposed U.S. Treasury regulations, are complex, but Bowles Rice's experienced "O-Zone" team is working with developers, investors, QOF sponsors and others in a variety of contexts to help them take advantage of these new incentives. In some cases, these opportunity zone incentives (either alone or in tandem with other tools and techniques) can be used to benefit potential tourism projects. ▽