



Solutions

Money Matters

Managing finances effectively is an increasingly important issue for Native American tribes with gaming

By Steven Marlin

As tribal gaming revenues have grown, so has the complexity of financial and investment options. Propelled by their successes in the gaming and hospitality markets, tribes are seeking ways to raise capital for a variety of projects that transcend traditional boundaries.

Because of their unique legal structure as independent, sovereign nations located within their respective states, Native American governments must comply with some federal and state laws that don't apply to municipalities or corporations. Some of these laws, such as restrictions on use of tax-exempt bond revenue to "essential government services," make it more difficult to sell debt in the capital markets.

To address these issues, tribes are turning to financial services companies for tax-exempt and taxable bond financing, mergers and acquisitions, investment advice and education. An overriding theme is to increase the degree of independence in financial management. "To have true sovereignty, we must achieve financial sovereignty," said Maurice John, president of the Seneca Nation of Indians.

Seeking diversity, security

Bond financing is playing an increasingly important role not only in accomplishing business goals, but also in improving the quality of life in Indian Country. In April 2007, the Senecas raised \$159.5 million through bonds issued through a new Capital Improvements Authority. The bond issue, one of the largest infrastructure debt transactions done by a Native American government, will go toward water, sewer and infrastructure upgrades, recreation facilities and expansion of health clinic and government administration space.

The fact that the bonds have generated strong interest from capital markets investors is further evidence that the drive to achieve a more diversified economy is gaining ground as the perception of tribal economies based solely on gaming gives way to a more balanced view.

Gaming and hospitality have been the drivers of growth in the Indian economy. According to the National Indian Gaming Association's 2006 Indian Gaming Economic Impact Report, Indian gaming is critical to the economic success of states, counties and local municipalities. Nationwide, 225 Indian tribes in 28 states use Indian gaming to create new jobs, fund essential government services and rebuild communities. In 2006, tribal governments generated \$25.7 billion in gross revenue from Indian gaming, \$3.2 billion in gross revenue from related hospitality and entertainment services, 670,000 jobs and \$8.6 billion in federal taxes and revenue savings.

At the same time, Indian Country sits on a vast pool of natural resources that form the basis for industries such as manufacturing, natural resource management, wind and solar energy, fossil fuels, hydroelectricity and agriculture.

"Tribes realize that the gaming economy, generous as it is, can't serve a population that until recently hasn't had its assets well managed," said Mike Lettig, head of Native American financial services at Key Bank. Indian nations are akin to "developing countries embedded within the boundaries of the lower 48 states that are evolving to become industrialized and diversified," he said.

Although the mortgage crisis has raised the cost of capital, there's still plenty of financing available. Spreads, or the premium paid by borrowers, have increased 25 to 50 basis points, or between one-quarter and one-half of one percent, said Steve Stallings, vice president of Native American banking services at Wells Fargo. Still, financing is available for the right property and the right project.

"We're seeing lots of startups in places like Oklahoma and Mexico," Stallings said.

As for casino operations, Native American governments are in some ways similar to gaming corporations. Both have to comply with regulations and regulators—the tribal gaming commissions and the National Indian Gaming Commission in the case of tribes and tribal casinos. Both have a duty to generate revenue and manage investments. Both need to manage risk (e.g., fraud, cheating) and both need to use technology to identify and maintain sources of customer satisfaction, repeat customers and marketing in cost-effective ways.

Still, tribes differ from gaming companies in many fundamental respects. "Tribal casinos need to develop compacts with states while maintaining and reinforcing tribal sovereignty, self-governance and self-determination. They need to support and reinforce tribal values, culture and traditions," said Walter Hillabrant, managing director of Native American Capital, which raises funds and invests in non-gaming enterprises in Indian Country.

Knowing the differences

Unlike municipalities, which can use proceeds from tax-exempt bonds to build golf courses and other amenities, Native American government are restricted to using tax-

exempt revenue for what are deemed “essential government services,” like health, education and housing. In the past, this has put them at a disadvantage in the debt markets. For example, because it was viewed as a risky investment, the Senecas’ tribally-chartered gaming corporation was forced to enter into a high-interest loan agreement in order to raise the capital to begin operation.

While Native American groups continue to lobby Congress to remove what they consider to be unfair, discriminatory barriers to the issuance of tribal bonds, the cost of capital for Indian governments remains up to 30 percent higher than for other governments and corporations, said Key’s Lettig. Alternative forms of financing, such as syndicated loans, high-yield bonds, taxable bonds and direct loans, are more expensive.

When putting together financing for gaming enterprises, banks employ analytics based on factors such as demographics and occupancy rates, which are applicable to both Indian and commercial entities. Indian gaming presents additional factors that need to be taken into account, however. “There are individual assessments of tribal laws, venues for dispute resolution and sovereign community waivers that you wouldn’t see in private sector relationships,” Lettig said.

This often means adapting to tribal traditions and culture.

“Tribes have unique constitutions and oral forms of government that extend to processes like account-opening documents for investment management,” said Jeff Carey, managing director of Native American banking at Merrill Lynch. By taking steps such as working with outside counsel that specialize in Indian law and conducting in-house training programs for bank personnel, the company has gained proficiency in “a whole spectrum of services that our clients needs as issuers or that we need as investment advisers or underwriters.”

In the last three years, Merrill Lynch has raised almost \$8 billion for tribal governments and enterprises, over \$1 billion of which was raised for infrastructure and government services. Merrill Lynch has “a network of financial advisers active in investing tribal members’ money and providing financial education so as wealth builds in tribal territories, sophistication and education increases,” Carey said.

Financial diversification is a high priority.

“Many clients are working to build growth funds and invest in other businesses,” Carey said. “Much like colleges build up endowments, tribes are increasingly investing in a range of businesses locally and off premises.”

As to the effectiveness of tribal management of investments, “there is a wide range in the quality of investments made by tribes,” Hillabrant said. Like other institutions with large and growing assets, tribes employ experts to ensure that their investments are made along a continuum of risk and reward.

Joint ventures between Indian and non-Indian gaming companies, such as those between Foxwoods and MGM Grand and the Seminoles and Hard Rock, are likely to increase, Carey said. The Seminoles' acquisition of Hard Rock International was motivated by the success of the two Seminole Hard Rock Hotels & Casinos; licensing fees contributed by the Seminole Tribe were in excess of 25 percent of Hard Rock profits.

That's creating a deep base of skills upon which tribes can build.

"Lots of our [Native American] clients are building up their talent base with individuals experienced in operating full services facilities, as well as people who can build market share and diversify revenues because of experience in competitive markets," Carey said.

Steps toward financial sovereignty

Native American Capital's Walter Hillabrant gives his tips for successful financial management in Indian Country

- Continue to lobby Congress to remove unfair and discriminatory barriers to the issuance of tribal tax-exempt bonds.
- Promote continued investment for the benefit of current and future generations as opposed to consumption. Such investments should include education/schools including financial education, infrastructure development, housing, and health care.
- Encourage individuals and families to invest as well as consume. Study the factors associated with individual and community growth and enhancement as opposed to destructive, ego-centric anti-social acts that can come with sudden wealth.
- In making investments, allocate some portion to Indian country—a rising tide floats all ships. If tribes invest all of their profits outside of Indian country, overall business and economic growth and development will be retarded there.