



Opportunity Zones

June 13, 2018



Agenda

- **Background**

- Invest in Opportunity Act
- Tax Incentive Components
- Overview of structure – how it works
- Opportunity Funds
- Strategies to Attract Investments

- **What's Next for States and Communities**

- Current State of Play
- Strategies to prevent or mitigate displacement
- Emerging examples

- **Additional Resources**

Opportunity Zones Background

- **Enacted in tax reform (Tax Cuts and Jobs Act)**
 - Investing in Opportunity Act, bipartisan support (114th, 115th Congress)
 - Senators Scott and Booker, Congressmen Tiberi and Kind
 - Economic Innovation Group
- **Tax benefits** to encourage individuals and corporations to invest in distressed communities – Opportunity Zones
 - IRS will oversee, not a tax program
 - No reporting requirements, state oversight, or investment mandates
- **Opportunity Fund** vehicle could reduce transactional friction and connect investors to overlooked but credit-worthy investment opportunities
- **Equity investments in businesses and real estate**
 - Intent was to spur economic growth and job creation

Tax Incentives for Investors

- **Alternative to paying capital gains tax**
- **Three benefits when earnings are rolled into Opportunity Fund:**
 - Temporary tax deferral
 - Recognized at exit or 12/31/2026 - whichever comes first
 - Step-up in basis
 - 5-year minimum = 10% reduction in tax liability of rolled over gain
 - 7-year minimum = 15% reduction in tax liability of rolled over gain
 - Gains on investment in Opportunity Fund permanently excluded from taxable income
 - 10-year minimum

Overview of Structure

Private Capital:
Investment
income subject to
capital gains tax
~ \$6 trillion market

**Investment
Vehicle:**
Opportunity Fund

Eligible Investments

Capital or profits
interest in a
domestic
partnership

Stock in a domestic
corporation

Tangible property
used in a trade or
business of the
Fund (substantial
improvement)

Opportunity Fund

Any investment vehicle organized as a corporation or a partnership for the purpose of investing in Qualified Opportunity Zone Property (Other than another QOF).

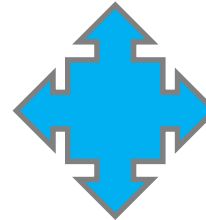
Readily Identifiable Investment Types in Opportunity Zones



Commercial Real Estate
Development and
Renovation in Opportunity
Zones



Opening New
Businesses in
Opportunity Zones



Expansion of
Existing Businesses
into Opportunity
Zones



Large Expansions of
Businesses already
within Opportunity
Zones

Need for IRS and Treasury guidance and legislative tweaks, including:

- Amount of time Opportunity Funds have to deploy capital into the zones,
- Ability to recycle capital returned to a fund back into Opportunity Zones without penalty to its investors,
- Manner in which certain definitions are applied in the statute (ex. gain vs capital gain)

Investment Requirements and Exclusions

- Investments must occur within **Opportunity Zones** - distressed census tracts (same basis as NMTC QCTs) or contiguous tracts.
- Can't be a "sin businesses" analogous to NMTC program apply.
 - A private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

Strategies to Attract Investments

Getting Started:

- Think regional, you can benefit (jobs, investment) from an Opportunity Zone within commuting distance
- Understand the investor motives
 - Temporary Deferral
 - Step Up In Basis
 - Permanent Exclusion
- Profile (mock up) a potential investor scenario to present to your clients and the investor

Begin Engagement:

- Raise awareness of Opportunity Zones with your networks (banks, developers, property owners, business networks)
- Raise awareness with local entrepreneurs and growth companies
- Develop relationship with local universities, trade schools, business incubators for longer term investment strategy
- Discuss with local planners and developers how these investments might fit into ongoing pipelines of their work

Strategies to Attract Investments

Preparation Activities:

- Inventory your local assets, i.e. land, shovel ready sites, infrastructure, buildings, etc.

Have your demographics/numbers down pat

- Elevator speech, written material, website, social media
- Investor day in your area (shark tank pitches)

Pair Incentives:

- Discuss and promote add on incentives from the local, regional, state partners
 - Reduced/abated taxes, waivers of fees, tax increment financing, workforce development training
 - Stay informed and stay connected with your peers in region/state. Benefits may not be direct to you immediately but think long term

Combining with Other Tax Incentives



Current State of Play

- **Finalizing Opportunity Zone Designations**

- All eligible nominations received by 4/20 deadline
- Nomination processes - including local engagement and input - varied widely
- Treasury has approved nominations for 46 states, 5 territories, Washington, D.C.
 - Pending: Florida, Nevada, Pennsylvania, and Utah (6/18 deadline)
 - All approved tracts listed on [CDFI Website](#) and viewed on [Enterprise's Mapping Tool](#)

- **Guidance on Implementation of Law**

- Opportunity Funds, Self-Certification: IRS [Q&A](#) states that no IRS approval is needed to create an Opportunity Fund and additional legal guidance is forthcoming.
- Need for IRS and Treasury guidance and legislative tweaks, including:
 - Amount of time Opportunity Funds have to deploy capital into the zones,
 - Ability to recycle capital returned to a fund back into Opportunity Zones without penalty to its investors,
 - Manner in which certain definitions are applied in the statute (ex. gain vs capital gain)

What's Next for States, Cities and Communities

- Key moment for local stakeholders—mayors, county executives, community leaders—to get involved to ensure that Opportunity Zone investments will:
 - Foster equitable and inclusive economic development and
 - Expand access to opportunity for existing residents and local businesses
- Harness existing tools and create new tools and strategies to:
 - Protect residents and business owners from displacement and are aligned with local priorities and community needs
 - Attract investment in Zones where private capital would otherwise not flow
 - Ensure transparency and monitoring of investments

Recommendations and Guidance - Opportunity Funds

- On May 17, 2018, Enterprise CEO Terri Ludwig testified before the Joint Economic Committee on Opportunity Zones and shared some of the excitement and concerns we're hearing on the ground.
- Our recommendations:
 - Promote the **transparency** of Opportunity Fund activities by collecting transaction-level data so that the public and Congress can evaluate the program's effectiveness; and
 - Ensure accountability and **prevent abuse**, specifically by issuing federal guidance to prevent investments that would disproportionately harm low-income residents and local businesses.
- Guidance needed to answer the follow questions:
 - What exactly can Opportunity Funds invest in? What's prohibited?
 - What data will fund managers be required to submit?
 - What happens when an investor exits a deal?
 - Can Opportunity Funds be paired with other investment dollars?

Prevent Displacement, Ensure Inclusive Benefit

- Engage existing residents and businesses in planning
- Proactive approach to protecting and creating affordable homes and commercial space
 - 27% of residents in Opportunity Zones pay more than half of their income on housing. How can states and mayors begin planning and direct resources to ensure the subsidized affordable housing stock is preserved.
- Strategies:
 - Zoning laws and regulations
 - Linkage fees
 - Local hiring requirements, local tax incentives
 - Property tax relief tied to community benefits
 - Preservation – targeted to unregulated, rent-stabilized affordable housing
 - Prevention – tenant protections: eviction prevention, rent controls and tenant first-right-of-refusal policies
 - Community land trusts; land banks
 - Housing trust funds
 - Homebuyer (down payment) assistance
 - Foreclosure mitigation

Strategies to Prevent or Mitigate Displacement

Policies and tools that help prevent displacement of residents and businesses:

- Inclusionary zoning
- Linkage fees
- Local hiring requirements
- Property tax relief
- Preservation – specifically buying unregulated, rent-stabilized (i.e. naturally occurring) affordable housing
- Prevention –
 - tenant protections: eviction prevention, rent controls and tenant first-right-of-refusal policies
 - Rapid re-housing
- Community land trusts; land banks
- Housing trust funds
- Homebuyer (down payment) assistance
- Foreclosure mitigation

Strategies to Prevent or Mitigate Displacement

Strategies:

- Can states certify Opportunity Funds created in their state?
- Can governments create state- or city-run Opportunity Funds?
- Can they require investments to stay in the locality or state?
- How can states leverage the role of CDFIs and other local community intermediaries to promote financial literacy, increase homeownership, develop project pipelines, manage, underwrite, etc.?
- How can states align Opportunity Funds with proven development programs such as LIHTC or NMTC deals?
- How can states build tax incentives or create tax or regulatory relief for social impact projects and other equitable growth investments?
- What specific business considerations should inform policy, such as land use, planning and social impact?

Examples of Emerging Strategies

- California – [AB3030](#) would add certain projects (namely affordable housing) financed by Opportunity Funds to list of those exempt from certain requirements under the California Environmental Quality Act
- Missouri - [SB590](#) modifies state Historic Preservation Tax Credit to set aside credits for projects redeveloped inside Opportunity Zones
- Several states currently considering preferential treatment of state capital gains in Opportunity Zones (no legislation proposed as of yet, but discussions ongoing for 2019 legislative sessions)
 - Encourages investment in Opportunity Funds
 - Incentivizes investors to keep capital local / where they have tax liability.

Additional Resources

CDFI Fund, Treasury - [Opportunity Zones Resource Page](#)

Economic Innovation Group - [Opportunity Zones Landing Page](#)

Council of Development Finance Agencies – [Resource Page](#)

Enterprise Community Partners - [Opportunity Zones Information Page](#)

Letter to Treasury on Opportunity Zones Implementation

Updated Opportunity360 Maps

New Podcast: Opportunity Zones – Promises and Pitfalls

Blog Posts: tax benefits for investors, letter to Treasury, etc.

Additional Information and Reading

Sign-up for Breaking News!

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www.OpportunityZonesInfo.org



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