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Opportunity Zones Program

Frequently Asked Questions

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1) *What is the Opportunity Zones Program?*

   Opportunity Zones are a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide. Its stated purpose is to encourage entrepreneurship and expansion capital for distressed areas. The Opportunity Zones program provides a tax incentive for investors to re-invest their unrealized capital gains into Opportunity Funds that are dedicated to investing into Opportunity Zones.

2) *Who determines the Opportunity Zones?*

   The Governor of each state and territory nominates the Opportunity Zones, which are based on census tracts, and submits these to the Treasury Department for approval. Since the program is similar to the New Markets Tax Credit Program, it uses the same eligibility criteria for determining low-income census tracts, which currently are calculated using the data from the 2011-2015 American Community Survey.

3) *How many Opportunity Zones can Hawaii have?*

   Hawaii is authorized to designate 25 census tracts as Opportunity Zones. Hawaii has 99 census tracks that meet the low-income eligibility requirement from which the state can designate not more than 25 percent as qualified Opportunity Zones according to the program.

   Census tracts that are contiguous with low-income communities may also be designated as qualified Opportunity Zones if they are below 125% of the medium family income of the qualifying census tract. Only 5% of the census tracts nominated can be from contiguous tracts. Two (2) of the 25 zones nominated are qualified contiguous census tracts.

4) *How do investors invest in Opportunity Zones?*

Opportunity Funds are the private sector investment vehicles that invest in Opportunity Zones.

U.S. investors currently hold trillions of dollars in unrealized capital gains in stocks and mutual funds alone—a significant untapped resource for economic development. The fund model will enable a broad array of investors to pool their resources in Opportunity Zones, increasing the scale of investments going to underserved areas.

5) *Why would investors invest in Opportunity Funds?*

Benefits to investors include:

A **temporary tax deferral** for capital gains reinvested in an Opportunity Fund. The deferred gain must be recognized on the earlier of the date on which the Opportunity Zone investment is sold or December 31, 2026.

A **step-up in basis** for capital gains reinvested in an Opportunity Fund. The basis of the original investment is increased by 10% if the investment in the qualified opportunity zone fund is held by the taxpayer for at least 5 years, and by an additional 5% if held for at least 7 years, excluding up to 15% of the original gain from taxation.

A **permanent exclusion from taxable income of capital gains** from the sale or exchange of an investment in a qualified Opportunity Zone Fund, if the investment is held for at least 10 years. (Note: this exclusion applies to the gains accrued from an investment in an Opportunity Fund, not the original gains).

6) *Who establishes and certifies the Opportunity Funds?*

The creation of the Opportunity Funds will be private sector driven. Funds can self-certify.

7) *What type of investments can the Opportunity Funds make?*

Real estate based investments will be highly desirable because of the strong potential for appreciation.

Venture capital funds for investment into innovative companies may be stimulated.

The investments must be equity investments. Specifically, eligible purposes include stock, partnership interest, and business property.

8) *How do the communities designated as Opportunity Zones benefit?*

It is hoped that this program will lead to neighborhood and business district re-vitalization as well as encourage entrepreneurship in the Opportunity Zones.

Examples:
--Gentrification of distressed areas.
--New housing developments.
--Expansion funding for businesses.
--New developments in underdeveloped areas, e.g., shopping centers, manufacturing plants, business offices.

9) *What is the State's role in this program?*

This is a federal program that uses the federal tax code for investor incentives. The State's role is to nominate the census tracts for the program and then according to the guidance we have received from the National Governors Association (NGA), to market and be a source of information for the program such as through outreach and state economic development websites.

10) *How were the recommended Opportunity Zones selected?*

a) Meet the eligibility criteria for determining low-income census tracts or qualified contiguous census tracts, which currently are calculated using the data from the 2011-2015 American Community Survey (same criteria as for New Market Tax Credit Program).

b) Overlap with the Enterprise Zones Program and Transit Orient Development (TOD) Zones.

   In the guidance from the NGA, it was strongly emphasized to overlay the Opportunity Zones Program with other economic development initiatives in the state since the programs should re-enforce each other.

c) Locations that will provide most opportunities for private sector investment and development.