

A New Tool for Economic Development: Opportunity Zones

By *Madison Whalen*

What is a qualified Opportunity Zone?

The recently enacted **Tax Cuts and Jobs Act of 2017** created the “Opportunity Zone Program” aimed at driving private investment to rural and urban low-income communities. The goal of the program is to spur business, infrastructure, and housing investment to low-income areas throughout the country. When an area is designated as a “qualified Opportunity Zone,” those willing to invest within the zone will be afforded certain tax incentives. This model allows investors to aggregate their resources into an “opportunity fund,” increasing the magnitude of investments going to low-income Opportunity Zones.

What are the tax benefits of investing in an Opportunity Zone?

Investor incentives include:

1. A temporary tax deferral for capital gains reinvested in an opportunity fund;
2. 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 Opportunity Zone fund is held by the taxpayer for at least five (5) years, and by an additional 5% if the investment is held for at least seven (7) years, excluding up to 15% of the original gain from taxation; and,
3. If the investment is held for ten (10) years, a permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Zone fund.

Where are the Opportunity Zones located in Ohio?

Each state’s governor must designate (subject to approval from the U.S. Treasury) the locations of the Opportunity Zones throughout the state. On March 22, 2018, Governor Kasich submitted Ohio’s list of 320 recommended Opportunity Zones, which span seventy-three (73) counties, to the U.S. Treasury.

A map of Ohio’s nominated Opportunity Zone locations can be found here:

https://www.development.ohio.gov/bs/bs_censustracts.htm

The U.S. Treasury has thirty (30) days to approve the requested Opportunity Zones or provide feedback, with the possibility of an optional thirty (30) day extension.

How do I take advantage of the tax incentives afforded by Opportunity Zones?

You can absolutely take advantage of the tax incentives provided by Opportunity Zones. After the U.S. Treasury approves Ohio’s nominated Opportunity Zones, the next step is to create a “Qualified Opportunity Fund,” to invest in any of the designated Opportunity Zones and receive significant tax benefits. The Internal Revenue Service (IRS) is currently working on guidance, including the certification of Opportunity Funds and eligible investments in Opportunity Zones, and you can affect those decisions.

Please contact any of the listed Roetzel attorneys if you are interested in:

- Working with the IRS to provide recommendations or comments regarding eligible investments for qualified Opportunity Funds;
- Obtaining a complete list of parcels Ohio recommended become Opportunity Zones; or,
- Creating an opportunity fund and learning about the potential tax benefits you can take advantage of in an Opportunity Zone.

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