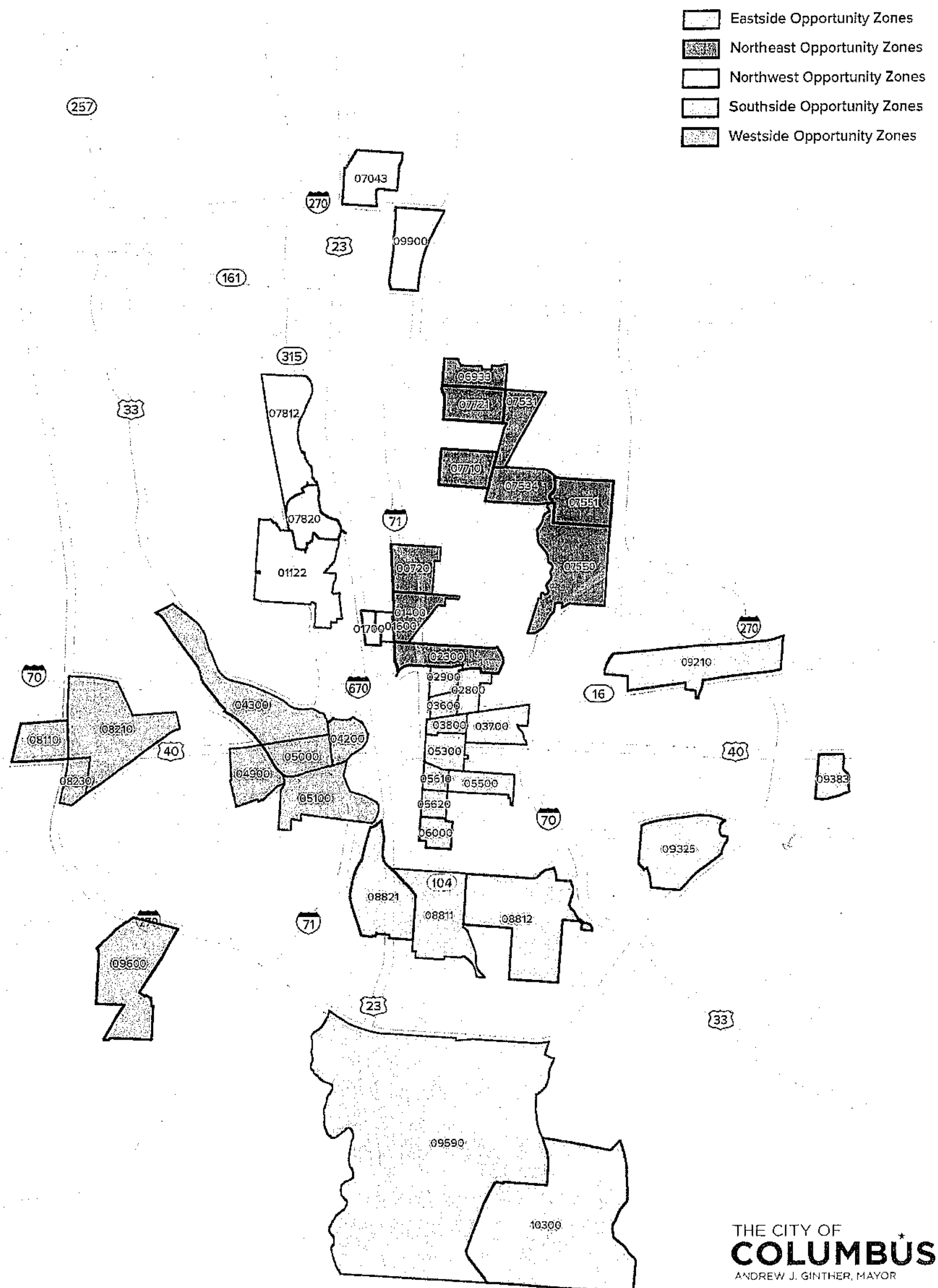
Opportunity Zone Census Tracts



03.23.2018

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THE CITY OF
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ANDREW J. GINTHER, MAYOR

DEPARTMENT OF
DEVELOPMENT

Opportunity Zones Frequently Asked Questions- IRS

Q. What is an Opportunity Zone?

A. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the state and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation authority to the Internal Revenue Service.

Q. Who created Opportunity Zones?

A. Opportunity Zones were added to the tax code by the Tax Cuts and Jobs Act on December 22, 2017.

Q. Have Opportunity Zones been around a long time?

A. No, they are new. The first set of Opportunity Zones, covering parts of 18 states, were designated on April 9, 2018.

Q. What is the purpose of Opportunity Zones?

A. Opportunity Zones are an economic development tool—that is, they are designed to spur economic development and job creation in distressed communities.

Q. How do Opportunity Zones spur economic development?

A. Opportunity Zones are designed to spur economic development by providing tax benefits to investors. First, investors can defer tax on any prior gains until the earlier of the date on which an investment is sold or exchanged, or December 31, 2026, so long as the gain is reinvested in a Qualified Opportunity Fund. Second, if the investor holds the investment in the Opportunity Fund for at least ten years, the investor would be eligible for an increase in basis equal to the fair market value of the investment on the date that the investment is sold or exchanged.

Q. What is a Qualified Opportunity Fund

A. Qualified Opportunity Fund is an investment vehicle that is set up as either a partnership or corporation for investing in eligible property that is located in an Opportunity Zone and that utilizes the investor's gains from a prior investment for funding the Opportunity Fund.

Q. Do I need to live in an Opportunity Zone to take advantage of the tax benefits?

A. No. You can get the tax benefits, even if you don't live, work or have a business in an Opportunity Zone. All you need to do is invest in a Qualified Opportunity Fund.

Q. I am interested in investing in an Opportunity Zone. Is there a list of Opportunity Zones available?

A. Yes. The current list of approved Opportunity Zones can be found at Opportunity Zones Resources. This list will continue to be updated as more Opportunity Zones are approved. A complete list of approved Opportunity Zones will be published later this spring after all Opportunity Zones have been nominated, certified and designated.

Q. How does a taxpayer become certified as a Qualified Opportunity Fund?

A. To become a Qualified Opportunity Fund, an eligible taxpayer self certifies. (Thus, no approval or action by the IRS is required.) To self-certify, a taxpayer merely completes a form (which will be released in the summer of 2018) and attaches that form to the taxpayer's federal income tax return for the taxable year. (The return must be filed timely, taking extensions into account.)

Q. I sold some stock for a gain in 2018, and, during the 180-day period beginning on the date of the sale, I invested the amount of the gain in a Qualified Opportunity Fund. Can I defer paying tax on that gain?

A. Yes, under § 1400Z-2(a)(1) of the Internal Revenue Code, you may elect to defer the tax on some or all of that gain. If, during the 180-day period, you had invested in one or more Qualified Opportunity Funds only an amount that was less than your entire gain, you may still elect to defer paying tax on part of the gain, up to the amount that you invested in that way.

Q. How do I elect to defer my gain on the sale of the stock?

A. You may make an election to defer the gain, in whole or in part, when filing your 2018 Federal Income Tax return in 2019 (that is, you may make the election on the return on which the tax on that gain would be due if you do not defer it).

Q. I sold some stock on December 15, 2017, and, during the required 180-day period, I invested the amount of the gain in a Qualified Opportunity Fund. Can I elect to defer tax on that gain?

A. Yes, as long as it was invested in the 180-day period, under § 1400Z-2(a)(1) of the Internal Revenue Code, you may elect to defer the tax on that gain. A deferral election may be made on your 2017 Federal Income Tax return. Information about the sale of your stock is required to be included in that return using IRS Form 8949. Precise instructions on how to use that form to elect deferral of the gain for your 2017 return will be forthcoming shortly.

Q. Can I still elect to defer tax on that gain if I have already filed my 2017 tax return?

A. Yes. You may elect to defer the gain, but you will need to file an amended 2017 return. As part of that amended return, you will follow the election procedure described in the answer to the preceding question.

Q. I have comments that I would like to make on § 1400Z-2. How can I share those comments with the IRS?

A. Please send all comments to CC.ITA.Section.1400@irscounsel.treas.gov.

Q. How can I get more information about Opportunity Zones?

A. Over the next few months, the Treasury Department and the Internal Revenue Service will be providing further details, including additional legal guidance, on this new incentive. More information will be available at Treasury.gov and IRS.gov.

Disclaimer

These FAQs are not included in the Internal Revenue Bulletin, and therefore may not be relied upon as legal authority. This means that the information cannot be used to support a legal argument in a court case.

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July 2018

OPPORTUNITY **ZONES**

An Innovative Investment Vehicle to Defer Gains and Significantly Reduce Taxes

Background

Investment in a Qualified Opportunity Zone is a new program intended to connect private investment capital to low-income communities nationwide. This concept was originally presented in a bipartisan bill, the "Investing in Opportunity Act," the provisions of which were incorporated into the Tax Cuts and Jobs Act enacted on December 22, 2017.

According to The Economic Innovation Group, more than half of America's most economically distressed communities contained both fewer jobs and businesses in 2015 than they did in 2000, and new business formation is near a record low. The average distressed community saw a 6% decline in local businesses during the prime years of the national economic recovery. Meanwhile, U.S. investors currently hold $2.3 trillion in unrealized capital gains, representing a huge untapped resource for economic development. Opportunity Zones will incentivize investors to use some of this capital in distressed areas in exchange for significant tax benefits.

Overview

Taxpayers investing capital gains from the sale or exchange of property in a **Qualified Opportunity Fund** may take advantage of *three significant opportunities*:

1. *A **temporary deferral** of taxable income from capital gains from the sale or exchange of property reinvested in the Qualified Opportunity Fund until the Fund is sold or until December 31, 2026, whichever is earlier,*
2. *A **step up in basis** related to the deferred gain if the Qualified Opportunity Fund investment is held for more than five years, which could ultimately reduce that deferred gain by up to 15%, and*
3. *A **permanent elimination of capital gains tax** on appreciation of the investment held within the Qualified Opportunity Fund if it is held for 10 years or more.*

Alone or in combination, these three provisions significantly enhance a taxpayer's return on investment.

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Capital Gains Invested in Opportunity Zones

Taxpayers may elect to defer paying tax on capital gains from the sale or exchange of property, if such capital gains are invested in a Qualified Opportunity Fund, which invests at least ninety percent of its assets in **qualified opportunity zone property**. For this purpose, "qualified opportunity zone property" is property which is **qualified opportunity zone stock** (i.e., stock in a domestic corporation that is a qualified opportunity zone business during "substantially all" of the applicable holding period, and the stock is acquired after December 31, 2017, at its original issue in exchange for cash), **qualified opportunity zone partnership** (i.e., any capital or profits interest in a domestic partnership that is a qualified opportunity zone business during "substantially all" of the applicable holding period, and the interest is acquired after December 31, 2017, in exchange for cash), or **qualified opportunity zone business property** (i.e., tangible property used in the trade or business of a qualified opportunity zone business if the original use of the property commences with the qualified opportunity fund or the fund "substantially improves" the property, and the property acquired is by purchase after December 31, 2017).

A "qualified opportunity zone business" is a trade or business in which:

- *Substantially all of its tangible property, owned or leased, is qualified opportunity zone business property;*
- *At least 50 percent of its total gross income is derived from the active conduct of its business;*
- *A substantial portion of its intangible property is used in the active conduct of its business;*
- *Less than five percent of the average of its aggregate unadjusted bases of the property is attributable to nonqualified financial property; and*
- *No portion of its proceeds is used to provide (including the provision of land for) any 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.*

The deferral period ends on the earlier of the date when the taxpayer sells its investment in the Qualified Opportunity Fund, or December 31, 2026, at which time the taxpayer must include the amount of the deferred rollover gain in its gross income.

The taxpayer's basis in the investment is initially deemed to zero, but increases as the holding period of the investment reaches certain milestone periods:

- *For investments held for five years, the taxpayer's basis is increased by 10% of the amount of deferred gain.*
- *For investments held for seven years, the taxpayer's basis is increased an additional 5% of the amount of deferred gain. Total basis increase after holding the investment for seven years is 15%.*
- *For any taxpayer that holds its investment beyond the maximum deferral date (i.e., December 31, 2026) and for a minimum of 10 years, the taxpayer's basis in its investment shall be equal to the fair market value of the investment on the date it is sold or exchanged, resulting in no additional recognized gain on the appreciation of the investment while held in the Fund.*
- *For investments held fewer than five years, the gain is deferred until the date of sale; however, no portion of the gain is excluded.*
- *Taxpayers seeking to maximize their increase in basis (i.e., increase their basis from zero to 15 percent of the deferred gain amount) must invest in a Qualified Opportunity Fund before December 31, 2019.*

The Treasury Department has approved Opportunity Zones in each state. Taxpayers should review these locations for both current and future investments, as we have found that many of these Zones are areas where development and investments are planned or currently taking place. The following link provides the map of the approved Opportunity Zones:
https://www.enterprisecommunity.org/resources/opportunity-zone-eligibility-map-tool

At this time further guidance related to specifics of this program have not been issued by Treasury, but are expected to be released yet this summer.

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