

Innovation and Responsiveness: Opportunity Zones

Jeanne Milliken Bonds, Federal Reserve Bank of Richmond

Jeanne.Bonds@rich.frb.org

Rocky Mount, NC

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Opportunity Zones

- Created as part of the Tax Cuts and Jobs Act of 2017
- Opportunity Zones are low-income census tracts
- The same definition of a “low-income community” that is used by Treasury CDFI Fund’s New Markets Tax Credit (NMTC) program is the basis for defining eligible Opportunity Zone census tracts.
- States designated up to 25% of low income census tracts as “Opportunity Zones” (A list of all zones, as well as a mapping tool, is available: [CDFI Fund](#))

The Policy Goals

The policy goal of the Opportunity Zone tax incentive

- **Drive long-term private sector investments**
- **Designed to channel more equity capital into overlooked markets**
- **Reinvest realized capital gains into distressed communities**
- **First new national community investment program in more than 15 years**
- **May scale to the largest economic development program in the country**

Benefits of the Incentives

- Taxpayers can get capital gains tax deferral for investing in Qualified Opportunity Funds
 - Capital gains deferral
 - Partial forgiveness
 - Forgiveness of additional gains
- The Opportunity Funds invest in qualified Opportunity Zone property

Qualified Opportunity Funds

- An investment vehicle taxed as a corporation or a partnership for the purpose of investing in Qualified Opportunity Zone Property
- Must hold at least 90 percent of its assets in the QOZP
- Entity will self-certify using IRS form 8996 (currently still a DRAFT)

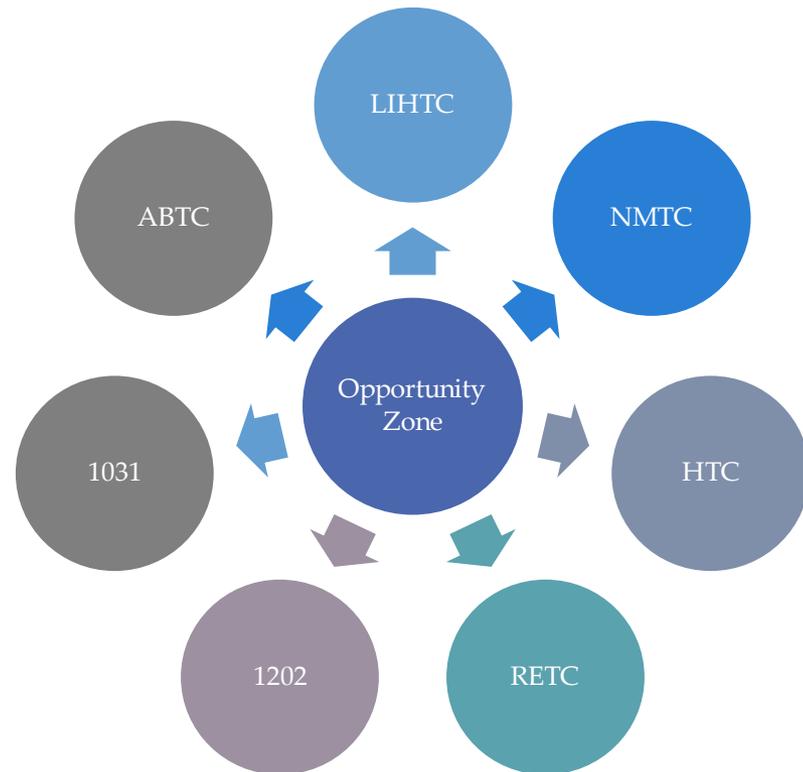
8996 <small>Form</small> <small>(December 2018)</small> <small>Department of the Treasury</small> <small>Internal Revenue Service</small>		Qualified Opportunity Fund <small>Go to www.irs.gov/Form8996 for the latest information.</small> <small>Attach to your tax return. See instructions.</small>		<small>OMB No. 1545-0123</small> <small>Attachment</small> <small>Sequence No. 996</small>
Name			Employer identification number	
Part I General Information and Certification				
1 Type of taxpayer: <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership				
2 Is the taxpayer organized for the purpose of investing in qualified opportunity zone property (other than another qualified opportunity fund)?				
<input type="checkbox"/> No. STOP. Do not file this form with your tax return.				
<input type="checkbox"/> Yes. Go to line 3.				
3 Is this the first period the taxpayer is a Qualified Opportunity Fund?				
<input type="checkbox"/> Yes. By checking this box, you certify that by the end of the taxpayer's first qualified opportunity fund year, the taxpayer's organizing documents include a statement of the entity's purpose of investing in qualified opportunity zone property and the description of the qualified opportunity zone business. See instructions.				
<input type="checkbox"/> No. Go to Part II.				
4 If "Yes" on line 3, list the first month in which the fund chooses to be a Qualified Opportunity Fund.				
Part II Investment Standard Calculation				
5 Total qualified opportunity zone property held by the taxpayer on the last day of the first 6-month period of the taxpayer's tax year. See instructions if Part I, line 3 is "Yes"				
				5
6 Total assets held by the taxpayer on the last day of the first 6-month period of the taxpayer's tax year. See instructions if Part I, line 3 is "Yes"				
				6
7 Divide line 5 by line 6.				
				7
8 Total qualified opportunity zone property held by the taxpayer on the last day of the taxpayer's tax year				
				8
9 Total assets held by the taxpayer on the last day of the taxpayer's tax year				
				9
10 Divide line 8 by line 9.				
				10
Part III Qualified Opportunity Fund Average and Penalty				
11 Add lines 7 and 10.				11
12 Divide line 11 by 2.0. See instructions if Part I, line 3 is "Yes"				
				12
13 Is line 12 equal to or more than .90?				
<input type="checkbox"/> Yes. Enter -0- on this line and file this form with your tax return.				
<input type="checkbox"/> No. The fund has failed to maintain the investment standard. Complete Part IV to figure the penalty. Enter the penalty from line 8 of Part IV on this line, and file this form with your tax return.				
				13

Investment Types

- Commercial Real Estate Development and Renovation
- New Businesses
- Expansion of Existing Business into Opportunity Zones
- Large Expansions of Businesses in Opportunity Zones

Analysis

- Business Models
- Use with other tax incentives



Community Reinvestment Act

- Banks may create OZ Funds - individual investor capital, unrealized capital gains
- OZ Funds must make equity investments (CRA is primarily debt-driven). Banks may view this as an opportunity to couple debt and equity investments to achieve greater impact.
- Under CRA, will OZs be eligible as “areas targeted for redevelopment by federal, state, local, or tribal government?”
- Hot spots and Deserts
- Investments meeting local intent? If a bank invests in an OZ Fund, manages an OZ Fund, or otherwise seeks to couple OZ Fund investments with CRA investments, will the bank need to prove that the investment is meeting local intent?

Public Welfare Investments

- Opportunity Zone related investments and Public Welfare Investment (PWI) portfolio
- Permissible PWIs are “designed to primarily promote the public welfare.”
- Structure and intent for potential Opportunity Zone funds:
 - must be organized as a corporation or a partnership
 - must invest a minimum of 90% of assets in qualified Opportunity Zone Property. Opportunity Zone Property may include investments in qualified Opportunity Zone stock, Qualified Opportunity Zone partnership interest,” and Qualified Opportunity zone business property. It is unclear whether additional qualifications will be considered.

Economic Conditions

Opportunity Zone incentive and its potential positive and negative impacts on LMI communities

- Massive influx in capital vs incentive with few guardrails
- Gentrification
- Hot spots and Deserts
- Concentration in high-cost cities
- Unwelcome or harmful investments in communities
- Displacement of existing Community Development investments
- Lack of reporting requirements

OZ Strategies in Local Communities

Many local community stakeholders have begun conversations to both capitalize on the potential of the OZ Fund money, as well as devise strategies to mitigate possible harm.

- Possible partnerships to raise and deploy funds
- Mission-oriented institutions' sponsorship of OZ Funds
- OZ Funds paired with other impact investing products:
- Pairing OZ funds with existing CD products and tax credits
- Local government-driven funds
- Zoning Overlays



Guiding Principles for Investors and Communities

- Synergy and Balance
- Social Equity
- Impact Investing
- Partnership
- Transparency

Next Steps

- The law authorizes U.S. Treasury to define and certify Opportunity Funds designed to deploy equity investment capital in Opportunity Zones for eligible purposes.
- Treasury Guidance Request in late November requests additional guidance in several areas not covered by the Proposed Regulations and Revenue Ruling issued in October
- Additional comments regarding information that was covered in the Proposed Regulations and Revenue Ruling issued in October

Resources

- Urban Institute [Opportunity Zones Investment Score Dataset](#)
- Council of Development Finance Agencies [Opportunity Zones page](#)
- Novogradac Company [Resource Center](#) (Opportunity Funds)
- Federal Reserve [Webinar](#)

