APPROVED In Open Session
Manatee County Board of County Commissioners

Manatee County Government Administrative Center
First Floor, Commission Chambers
9:00 a.m. - March 20, 2018

3/20/18

REVISED March 20, 2018 - Regular Meeting
Agenda Item #55

Subject
Opportunity Zone Designations

Briefings
None

Contact and/or Presenter Information
Geraldine Lopez, Redevelopment & Economic Opportunity Department Director -- Ext 3937

Action Requested
Identification of preferred eligible Manatee County low-income census tracts for possible designation as Opportunity Zones by the Governor.

Enabling/Regulating Authority
The Tax Cuts and Jobs Act (H.R. 1 December 22, 2017); 26CFR 601.601

Background Discussion

As a result of the 2017 Tax Cuts and Jobs Act, eligible communities have the opportunity to become a Qualified Opportunity Zone where investors will receive tax incentives designed to drive long-term capital to rural and low-income urban communities throughout the nation. The Opportunity Zones program will allow U.S. investors to receive a temporary tax deferral and other tax benefits when they reinvest unrealized capital gains into Opportunity Funds for a minimum of five years. The Funds would then be invested in Opportunity Zone Projects designed to improve local economies. This program would be another important tool in the economic and community development toolbox.

The Act generally allows for 25 percent of a state's low-income community population census tracts to be designated as qualified Opportunity Zones. In Florida, there are more than 1700 potential zones, and more than 400 contiguous eligible zones. Manatee County has 37 eligible tracts including 11 contiguous eligible tracts. There are 67 counties, but selections are not required to be made proportionately.

The application process is started at the state level but administered by the U.S. Department of Treasury. There is no formal application process and the law gives flexibility for the Governor to choose which communities to nominate. From conversations with the State Department of Economic Opportunity (DEO), selections originally were to be made by the Governor by March 21, but is now extended one month until April 21.

For the Board's consideration, a proposed list of eligible census tracts and location priorities is attached. With the understanding that only 25% of Manatee County census tracts may be chosen, staff limited the selections to those locations that could be further leveraged through existing programs and investment opportunities or as a focus area for County initiatives. These include census tracts with HUD R/ECAP designation, CDBG Eligibility, TIF districts (SWTIF and FIG), Urban Corridor designations, manufacturing and industry sites, Palmetto and Bradenton CRAs, anchor institutions, Port-related opportunities, and appropriate land use and zoning.

This link provides more information on eligible communities:
https://www.enterprisecommunity.org/opportunity360/opportunity-zone-eligibility-tool

More information on the program can be found here: https://www.enterprisecommunity.org/policy-and-advocacy/policy-priorities/opportunity-zones-program

County Attorney Review
Not Reviewed (No apparent legal issues)

Explanation of Other

Reviewing Attorney
N/A

Instructions to Board Records
N/A

Cost and Funds Source Account Number and Name
N/A

Amount and Frequency of Recurring Costs
N/A

Attachment: Manatee County Opportunity Zone Priorities-Sorted.pdf
Attachment: Opportunity Zones Policy Brief.pdf
Attachment: rp-18-16.pdf

Manatee County Proposed Opportunity Zone Priorities										
Tract Type	**Tract Number**	**Jurisdiction**	**CRA**	**Home Rule TIF**	**HUD Designated R/ECAP**	**Anchor Institutions**	**CDBG Eligible Area**	**County Designated Urban Corridor Incentive**	**County Designated Manuf District Overlay**	**Comment**
Eligible	12081000106	Manatee County		x	Samoset		x	x		Samoset R/ECAP / MidTown, 15th St E Urban Corridor
Eligible	12081000305	Manatee County	(former)	x	Oneco		x	x		Oneco R/ECAP, 15th St E Urban Corridor
Eligible	12081000306	Manatee County	(former)	x	Oneco		x	x		Oneco R/ECAP, US 41 Corridor / Tamiami Trail
Contiguous	12081000803	Manatee County		x	Samoset Adacent	x	x	x		Adjacent R/ECAP, US 301 Corridor, 15th St E Urban Corridor
Eligible	12081000105	Manatee County	(former)	x			x	x		Mall/ MidTown, US 41 Urban Corridor, Tamiami Trail
Eligible	12081000202	Manatee County		x	Oneco & Samoset Adjacent		x	x		FLU, Vacant Land; 15th St E Urban Corridor, Ajacent to 2 R/ECAPs
Eligible	12081001602	Manatee County		x		x	x		x	Port Manatee Seaport, Manufacturing related, PDEZ, US 41 Corridor / Tamiami Trail
Contiguous	12081001601	Manatee County				x				US 41 Corridor / Tamiami Trail
Eligible	12081000703	Manatee County (+ Partial City of Bradenton)	(city)	x		x	x	x	x	US 41 Urban Corridor, Tamiami Trail, US 301 Corridor, City overlap
Eligible	12081001502	Manatee County (+ Partial City of Palmetto)	(city)			x	x			Convention Center, US 301 Corridor, City overlap
Eligible	12081000604	Manatee County	(former)	x			x	x		US 41 Corridor / Tamiami Trail
Eligible	12081000201	Manatee County					x	x		US 41 Urban Corridor
Eligible	12081000304	Manatee County			Oneco Adjacent		x			US 41 Urban Corridor, Tamiami Trail, Adjacent to R/ECAP

POLICY FOCUS

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Opportunity Zones Program:

An Early Overview of Program Details and What's Ahead

By Rachel Reilly Carroll | January 2018

AT A GLANCE:

- Each governor is authorized to designate a certain number of Opportunity Zones into which private investment can flow through Opportunity Funds.
- Opportunity Funds are a new class of investment vehicles authorized to aggregate and deploy private investment into Opportunity Zones.
- U.S. investors are eligible to receive a temporary tax deferral and other tax benefits when they rollover unrealized capital gains into Opportunity Funds for a minimum of five years.
- Opportunity Funds are authorized to invest in Opportunity Zone Property:
  - Stock in a domestic corporation
  - Capital or profits interest in a domestic partnership
  - Tangible property used in a trade or business of the Opportunity Fund that substantially improves the property.
- Governors have 90 days from the date of enactment (December 22, 2017) to submit Opportunity Zone recommendations to Treasury.
- Treasury has not released guidance on the process for certifying Opportunity Funds.
- Enterprise anticipates the Opportunity Zones Program will be fully implemented by Q4 2018 or Q1 2019. Many factors could influence this timeline. Look for additional coverage on Enterprise's blog.

OVERVIEW

Originally introduced in the Investing in Opportunity Act (IIOA), the Opportunity Zones Program was enacted as part of the 2017 tax reform package (Tax Cuts and Jobs Act). The program is designed to drive long-term capital to rural and low-income urban communities throughout the nation, and uses tax incentives to encourage private investment in impact funds.

BACKGROUND

In 2015, the Economic Innovation Group (EIG) – a bipartisan public policy firm – developed the Opportunity Zone concept, which was conceived as a systematic approach to helping address the uneven economic recovery and persistent lack of growth that have left too many American communities behind. The concept was introduced in the Investing in Opportunity Act (IIOA) during the 114th Congress, and reintroduced in the 115th Congress by Senators Tim Scott (R-S.C.) and Cory Booker (D-N.J.) and Congressmen Pat Tiberi (R-Ohio) and Ron Kind (D-Wis.), gaining nearly 100 congressional cosponsors in 2017.

This is the first new community development tax incentive program enacted since the Clinton administration, providing an opportunity for mainstream private investors to support businesses and distressed communities. The expectation is that Opportunity Funds will ease the execution of "impact investments" for investors, and tax benefits derived from these investments will incent participation in the Opportunity Zones Program.

DEFINITIONS

Here are high-level definitions of key terms. Each is discussed in further detail below.

Opportunity Zone: A census tract which has been designated as eligible to receive private investments through Opportunity Funds.

Opportunity Fund: Private investment vehicle, certified by the Treasury, to aggregate and deploy capital in Opportunity Zones for eligible uses defined as Opportunity Zone Property.

Opportunity Zone Property: Asset types eligible for investment under the Opportunity Zones Program.

PROGRAM DETAILS

Opportunity Zones Program

The Opportunity Zones Program has been introduced as an innovative approach to unlocking long-term private investment to support low-income urban and rural communities in every U.S. state and territory.

Investors are eligible to receive certain tax benefits on unrealized capital gains reinvested in Opportunity Zones through pooled Opportunity Funds. The program is designed to minimize cost and risk to the taxpayer. Investors bear the risk on all their originally deferred capital gains, minus a modest reduction for long-term holdings, regardless of whether subsequent investments have increased or decreased in value. Neither tax credits nor public-sector financing is involved.

Opportunity Zones

The program uses low-income community census tracts as the basis for determining areas eligible for an Opportunity Zone designation. [Section 45D(e)].

- Low-income census tracts are places with an individual poverty rate of at least 20 percent and median family income no greater than 80 percent of the area median.
- A census tract that is not a low-income community may be designated as a qualified Opportunity Zone if the tract is contiguous with the low-income community designated as a qualified Opportunity Zone, and the median family income of the tract does not exceed 125 percent of the median family income of the low-income community contiguous with the tract. Up to 5 percent of the population census tracts designated as Opportunity Zones may qualify under this exemption.
- Per state/territory, up to 25 percent of the total number of census tracts that qualify as an Opportunity Zone can be designated as an Opportunity Zone.

Governors will determine which low-income community census tracts qualify as an Opportunity Zone. This approach was intended to help ensure local needs and opportunities are being met as well as to encourage concentration of capital in targeted, geographically contiguous areas in each state or territory.

- Governors have 90 days (Determination Period) from the date of enactment to submit a list of designated census tracts for approval.
  - Treasury must approve or provide feedback within 30 days of the governor's submission (Consideration Period).
  - Both the Determination Period and Consideration Period can be extended for a period of 30 days.
  - Opportunity Zone designations last for a period of 10 years (Designation Period).

Opportunity Funds

Opportunity Funds are a new class of investment vehicles (organized as a corporation or a partnership) that specialize in aggregating private investment and deploying that capital in Opportunity Zones to support Opportunity Zone Property.

- A minimum of 90 percent of Opportunity Fund assets must be invested in Opportunity Zones.
- Opportunity Funds are envisioned as a market solution for investors who lack the information and wherewithal to execute investments in rural and low-income urban communities.
- The statute does not limit the number of funds that can be created, nor does it provide instruction on the nature of investments (i.e., risk/return profile).
- Pooling capital through a fund structure provides an opportunity for a broad array of investors throughout the country to engage in the program.

Opportunity Zones Property

Opportunity Funds invest in Opportunity Zone Property, which are defined as:

- Qualified opportunity zone stock – any stock in a domestic corporation
- Qualified opportunity zone partnership interest – any capital or profits interest in a domestic partnership
- Qualified opportunity zone business property – tangible property used in a trade or business of the qualified opportunity fund that substantially improves the property

Incentives for Activating Passive Holdings

The Opportunity Zones Program provides an incentive for investors to reinvest unrealized capital gains into Opportunity Funds in exchange for a temporary tax deferral and other benefits tied to long-term holdings. With trillions of dollars in unrealized capital gains sitting on the sidelines in stocks and mutual funds, U.S. investors can now roll passive holdings of capital into investments in distressed communities.

No upfront subsidy is provided to investors; all incentives are linked to the duration of the qualified investment. The provision has two main tax incentives to encourage investment:

- Allows for the temporary deferral of inclusion in gross income for capital gains that are reinvested into Opportunity Funds.
  - Investors can roll existing capital gains into Opportunity Funds with no up-front tax bill.
  - If investors hold their Opportunity Fund investments for five years, the basis of their original investment is increased by 10 percent (meaning they will only owe taxes on 90 percent of the rolled-over capital gains). If investors hold for seven years, the basis increases by a further 5 percent.
  - Investors can defer their original tax bill until December 31, 2026 at the latest, or until they sell their Opportunity Fund investments, if earlier.
- Excludes from taxable income capital gains on Opportunity Fund investments held for at least 10 years. In other words, after settling their original tax bill, patient investors in Opportunity Funds will face no capital gains taxes on their Opportunity Zone investments.

STEPS TOWARD IMPLEMENTATION

As explained below, there are currently multiple efforts happening in tandem as the administration and states work to implement the Opportunity Zones Program, including: 1) designating Opportunity Zones, 2) providing guidance on Opportunity Fund certification, and 3) finalizing the law.

Designating Opportunity Zones

Each governor is authorized to designate a certain number of Opportunity Zones into which private investment can flow through Opportunity Funds. Governors have 90 days from the date of enactment (December 22, 2017) to submit a list of designated census tracts for approval, although they can request a 30-day extension. Once approved, these designations will remain in place for 10 years.

Currently, governors are awaiting guidance from Treasury regarding the process for submitting recommended designations. It is anticipated that this guidance will be delivered in the coming weeks (late January/early February 2018).

Providing Guidance on Opportunity Fund Certification

Once the zones are designated, Treasury will turn its focus to providing guidance on Opportunity Fund certification. The statute outlines two requirements regarding structure and intent of these funds: 1) must be organized as a corporation or a partnership and 2) invest a minimum of 90 percent of assets in Opportunity Zones. Given the straightforward nature of statute requirements, it is unclear whether additional qualifications will be considered. It is anticipated that the process for certification will analogue that of a Community Development Entity (CDE). The timeline for the availability of the guidance is not yet known.

Finalizing the Law

In addition to providing guidance on the processes for submitting Opportunity Zone designations and certifying Opportunity Funds, the Treasury must follow formal administrative procedures to finalize the law, which will dictate ongoing administration of the Opportunity Zones Program. The process typically goes as follows:

- Treasury will propose a structure for implementing the new rule, after which it will issue a notice of proposed rule-making and will request public comments on the proposal.
- The comment period typically lasts from 30 to 60 days. Upon reviewing the comments and making any necessary changes to the rule, Treasury will issue a final rule that formalizes the program.

Final Implementation: Q4 2018 - Q1 2019

Given the scope of activities noted above, Enterprise anticipates implementation in Q4 2018 or Q1 2019. A number of factors could influence this timeline, so stay tuned for additional coverage of the implementation of the Opportunity Zones Program on Enterprise's blog.

QUESTIONS

Please contact Rachel Reilly Carroll if you have any questions.

26 CFR 601.601: Rules and regulations.
(Also Part 1, §§ 45D, 1400Z-1, 1400Z-2.)

Rev. Proc. 2018-16

SECTION 1. PURPOSE

This revenue procedure provides guidance to the Chief Executive Officers of any State, any possession of the United States, and the District of Columbia regarding the procedure for designating population census tracts as Qualified Opportunity Zones for purposes of §§ 1400Z–1 and 1400Z–2 of the Internal Revenue Code (Code).

SECTION 2. BACKGROUND

.01 Enactment. Section 13823 of "An Act to provide for reconciliation pursuant to titles II and V of the concurrent resolution on the budget for fiscal year 2018," P.L. 115–97, which was enacted on December 22, 2017, amended the Code by adding §§ 1400Z–1 and 1400Z–2 to the Code.

.02 Tax incentives. Section 1400Z–2 of the Code allows the temporary deferral of inclusion in gross income for certain realized gains to the extent that corresponding amounts are timely invested in a qualified opportunity fund. Investments in a qualified opportunity fund may also be eligible for additional tax benefits.

.03 Qualified Opportunity Fund. Section 1400Z-2(d)(1) of the Code provides that a qualified opportunity fund is an investment vehicle that is organized as a partnership or a corporation for the purpose of investing in Qualified Opportunity Zone property.

.04 Designations, in general. Section 1400Z–1 of the Code allows the Chief Executive Officer (CEO) of each State to nominate a limited number of population census tracts to be designated as Qualified Opportunity Zones (QOZs). For purposes of §§ 1400Z–1 and 1400Z–2 and this revenue procedure, the term "State" means any State, any possession of the United States, and the District of Columbia.
See §§ 1400Z–1(c)(3) and 7701(a)(10) of the Code. Under § 1400Z–1(c)(1), a population census tract is eligible for designation as a QOZ if it satisfies the definition of "low-income community" (LIC) in § 45D(e) of the Code.

.05 Tracts Contiguous with LICs. In addition, under § 1400Z–1(e) of the Code, a tract that is not an LIC is eligible for designation if both of the following conditions are met:

(1) The non-LIC tract is contiguous with an LIC that is designated as a QOZ (the contiguous LIC QOZ need not be in the same State.); and

(2) The median family income of the non-LIC tract does not exceed 125 percent of the median family income of that contiguous LIC QOZ.

.06 Determination Period and Extension. Pursuant to § 1400Z–1(b)(1)(A) and (c)(2)(B) of the Code, the CEO of the State in which a tract is located may nominate the tract to be a QOZ, and any such nomination must be made no later than March 21, 2018. Under § 1400Z-1(b)(2), however, the State CEO may request, and receive, a 30-day extension of this deadline.

.07 <u>Consideration Period and Extension</u>. In general, not later than the end of a 30-day period beginning on the date that the Secretary of the Treasury (Secretary) receives notice of a nomination, the Secretary may certify the nomination and designate the nominated tract as a QOZ. Under § 1400Z-1(b)(2) of the Code, however, the State CEO may request, and receive, a 30-day extension of the Secretary's deadline.

.08 <u>Qualified Opportunity Zone</u>. Section 1400Z-1 of the Code defines a QOZ as any population census tract (either a nominated LIC or a nominated non-LIC, contiguous census tract) that is designated as a QOZ.

.09 <u>Number of Designations</u>.

(1) In general, § 1400Z-1(d)(1) of the Code provides that the number of population census tracts in a State that may be designated as QOZs may not exceed 25 percent of the number of population census tracts in the State that are LICs. If the number of LICs in a State is not evenly divisible by 4, the 25 percent limitation is determined by rounding the fractional quotient up to the next whole number. For example, if a State contains 197 LICs, the maximum number of designations is 50, even though 25 percent of 197 is 49.25.

(2) Section 1400Z-1(d)(2) of the Code further provides that, notwithstanding the 25 percent limitation, if a State contains fewer than 100 LICs, then a total of 25 tracts may be designated.

(3) Section 1400Z-1(e)(2) of the Code provides that not more than 5 percent of the tracts designated in a State may be non-LIC, contiguous tracts designated under § 1400Z–1(e)(1). Thus, designations under § 1400Z-1(d)(1) and (d)(2) may include a limited number of non-LIC contiguous tracts. If the number of designated QOZs in a

State is not evenly divisible by 20, the 5 percent limitation is determined by rounding the fractional quotient up to the next whole number. For example, suppose that State B has 80 LICs. Under § 1400Z-1(d)(2), State B is allowed to nominate 25 tracts for QOZ designation because State B has fewer than 100 LICs. If State B nominates all 25 of the QOZs allowed, then of the 25 nominated tracts, only 2 (5 percent of 25 or 1.25, rounded up to 2) nominated tracts may be non-LIC contiguous tracts. But if State B nominated only 18 LICs, then it could nominate only 1 (5 percent of 19 or 0.95, rounded up to 1) additional non-LIC contiguous tract.

SECTION 3. IDENTITY OF LICs AND OF THE CONTIGUOUS TRACTS THAT ARE ALSO ELIGIBLE FOR DESIGNATION AS QOZs

.01 Based on the 2011-2015 American Community Survey (ACS) 5-Year data from the Census Bureau, a public, on-line resource (Information Resource) identifies over 41,000 population census tracts that are eligible for designation as a QOZ:

(1) 31,680 population census tracts that are LICs eligible for designation as QOZs; and

(2) 9,453 non-LIC population census tracts that are eligible for designation if a particular LIC contiguous to the non-LIC tract is designated as a QOZ.

.02 This Information Resource includes detailed mapping, which makes it possible to see the exact location of every tract and to view a variety of demographic information for each eligible tract.

.03 In the case of each tract described in section 3.01(2) of this revenue procedure, the Information Resource includes one or more LIC tracts on whose designation as a QOZ the non-LIC tract's eligibility depends.

.04 The Information Resource can be accessed at https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx.

.05 In the fall of 2017, the Census Bureau released the 2012–2016 ACS 5-Year data. Because of the March 21, 2018, deadline for State CEOs to nominate tracts for designation as QOZs, the maximum aggregate number of designations in a State is determined on the basis of the 2011–2015 ACS, as reflected in the Information Resource described above.

.06 In addition, the Information Resource is a “safe harbor.” That is, if the Information Resource identifies a census tract as being either an eligible LIC or an eligible non-LIC contiguous tract, a State CEO’s nomination of that tract will not fail to be certified on the grounds that the tract is no longer eligible under more recent census data.

.07 On the other hand, in many cases, if a tract is eligible under the most recent available ACS 5-Year data, the tract is eligible to be nominated for designation. If the Information Resource, however, does not identify the tract as eligible, the nomination must be accompanied by an analysis demonstrating that eligibility, including appropriate supporting data from that ACS.

SECTION 4. SCOPE

This revenue procedure applies to the CEO of any State that desires to nominate for designation as QOZs population census tracts that are either LICs that qualify under § 1400Z–1(c)(1) of the Code or non-LIC contiguous tracts that qualify under § 1400Z-1(e)(1) of the Code.

SECTION 5. PROCEDURE

.01 A Nomination Tool, which can be accessed online, has been developed for the benefit of State CEOs that are making nominations of census tracts for designation as QOZs.

.02 Further information on the nomination process under § 1400Z-1 of the Code, including how to access the on-line Nomination Tool and how to request an extension of the determination period, will be sent individually to all State CEOs.

SECTION 6. EFFECTIVE DATE

This revenue procedure is effective on February 8, 2018.

SECTION 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Erika Reigle of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure contact Erika Reigle at (202) 317-7006 (not a toll free call). For further information regarding the Information Resource, contact the CDFI Fund Help Desk at (202) 653–0421 (not a toll-free call).


Manatee County Proposed Opportunity Zone Priorities
Priority Elligible Tracts
Priority Contiguous Tracts
Eligible Tracts (Treasury Designation)
Eligible Contiguous Tracts (Treasury Designation)
Major Roads
12081001602
12081001601
12081001502
12081000703
12081000604
12081000105
12081000106
12081000803
12081000201
12081000202
12081000304
12081000305
12081000306