

Opportunity Zone Reporting & Reform Act

Detailed Summary

Information Reporting

The proposal requires information reporting from both Opportunity Funds and their investors. Qualified Opportunity Funds (QOFs) are required to report identifying information, amount and composition of assets, names and taxpayer identification numbers (TINs) of investors along with the amount and dates of their investments, which zones the funds have invested in, and a variety of identifying information about the type of investments made.

Specifically, QOFs must report:

- The name, address, TIN, and website address of the fund;
- The name, address, and TIN of investors in the fund, along with the date and amount of their investments;
- The value of qualified Opportunity Zone stock, partnership interests, and business property held by the fund;
- The value of any other tangible or intangible property (including cash) held the by the fund;
- The name, address, and TIN of each corporation and/or partnership in which the fund holds stock or an interest;
- The NAICS code of any Qualified Opportunity Zones Businesses (QOZBs) conducted by the fund or any corporation or partnership in which the fund holds an interest;
- For QOZBs conducted by the fund or by a controlled corporation or partnership, the value of tangible and intangible property (including cash) and the average monthly full-time employees of the QOZB;
- For Qualified Opportunity Zone Business Property (QOZBP) held by the fund or by a controlled corporation or partnership, the Opportunity Zone in which the property is located and the date it was acquired; and
- For real property held by the fund or a controlled corporation or partnership, the square footage, number of residential units, and a breakdown of acquisition and rehabilitation costs.

Investors are required to submit an annual statement with their tax return detailing which funds they've invested in, the amount of gains invested, and the dates of any dispositions of investments.

Opportunity Funds are required to make their reports public on the internet, with sensitive information (such as investor TINs) redacted. The IRS is required to maintain a public list of all qualified Opportunity Funds.

Penalties

Penalties will be assessed on taxpayers failing to comply with the above reporting requirements. Funds or investors failing to comply with their respective reporting requirements will face a \$10,000 penalty, with exceptions for reasonable cause. Penalties are doubled for taxpayers found to be intentionally disregarding their reporting requirements.

Modifications to Prohibited Investments

The legislation addresses concerns about evasion of rules prohibiting investments in ‘sin list’ businesses¹ by applying the rules governing Qualified Opportunity Zone Businesses (QOZBs) to any trades or businesses of any fund.

The legislation also expands the application to encompass all three ‘sin lists’ in the tax code, disallowing investments in private planes, along with skyboxes and luxury boxes.

Prohibited investments are also expanded to include sports stadiums, self-storage facilities, and housing developments that are un-affordable to existing zone residents.

Zone Re-Designation

The Opportunity Zone incentive directed states to designate low-income communities as Opportunity Zones, but it also allowed states to designate communities that were not low-income if they were ‘adjacent’ to a low-income community. It also did not provide any rules to account for elements, like high college student populations, that might artificially inflate how impoverished a community looks on paper.

The legislation would immediately sunset designations of all ‘contiguous zones’ that are not low-income but, instead, adjacent to low-income communities. It would also immediately sunset any zone with a median family income that is more than 120 percent of U.S. median family income, unless the zone has a poverty rate above 20 percent and an enrolled college student population below 10 percent.

The legislation then allows states to designate an equal number of new zones. These new zones would remain on the same timeline as the zones originally designated in 2018, with their designations expiring at the end of 2028.

Clarification of Rules Governing Opportunity Zones

The original text of the Opportunity Zone incentive left some ambiguity as to the meaning and application of several terms and rules that govern the program. The legislation would remove this ambiguity in several instances.

The legislation would define the term ‘substantially all’ to mean ‘not less than 90 percent,’ in keeping with the meaning of the term in prior tax legislation. For QOZB property, the legislation

¹ The ‘sin list’ refers to a list of prohibited business types under Internal Revenue Code (IRC) rules for certain tax-exempt bonds, and is frequently cross-referenced for economic development tax-incentives. Opportunity Zones prohibit any ‘sin list’ business under IRC §144(c)(6)(B). There are two additional ‘sin lists’ under IRC §144(a)(8)(B) and §147(e).

would clarify that leased property must meet the original use or substantial improvement tests, that property acquired through a related-party lease is disallowed, and that, in determining whether property has been ‘substantially improved,’ taxpayers must account for the value of land.

The legislation would also clarify that the geographic boundaries of Opportunity Zones are set at the time of their designation.

Report by Government Accountability Office

The proposal directs the Government Accountability Office to report on the effectiveness of the Opportunity Zone program after five and ten years. The study is to take into account indicators of economic growth, program cost, and compare outcomes of designated Opportunity Zones to those areas that qualified but were not designated.