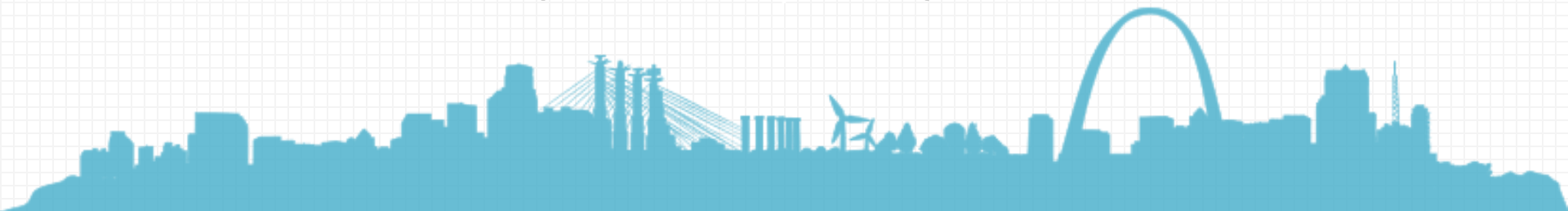


Opportunity Zones

Missouri

M I S S O U R I

Department of Economic Development



Department of Economic Development

- Presenters:
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- Website for information:
 - <https://ded.mo.gov/content/opportunity-zones>

What is an Opportunity Zone?

- Created by Public Law 115-97 – “Tax Cuts and Jobs Act of 2017” (Subchapter Z, Section 1400Z-1 and 1400Z-2)
- Zones are low income census tracts in which:
 - (1) The tract has a poverty rate of at least 20%; or
 - (2)(A) For a census tract in a metropolitan area, the tract’s median family income does not exceed 80% of the greater of (A) the metropolitan area median family income or (B) statewide median family income; or

What is an Opportunity Zone?

- (2)(B) For a census tract in a non-metropolitan area, the tract does not exceed 80% of the statewide median family income. However, in the case of a census tract located within a high migration rural county, low-income is defined by reference to 85% of statewide median family income.
 - A “high migration rural county” is any rural county that, during the 20-year period ending with the year in which the most recent census was conducted, has a net outmigration of inhabitants from the county of at least 10% of the county population at the beginning of such period.

What is an Opportunity Zone?

- An Opportunity Zone must be:
 - “nominated” by the Governor, in writing (Determination Period)
 - No later than March 22, 2018; and,
 - certified by the US Treasury (Consideration Period)
 - Prior to the end of the consideration period.

Determination period: the 90 day period beginning on the date of the enactment of the Act (the amount of time the State/Governor has to submit nominations before the deadline).

Consideration period: the 30 day period beginning on the date on which the Secretary receives notice (the amount of time Treasury has to respond to a State/Governor nomination)

What are the benefits of an Opportunity Zone?

- Provides special federal tax treatment for capital gains invested in Opportunity Zones
- Allows investor to defer paying taxes on those gains if they are invested in Funds that invest in Zones.
- The amount of deferral is increased with the amount of time the investment stays in the Fund, up to 10 years.
- May provide similar benefits to state taxes for capital gains invested in Opportunity Zones

How many Opportunity Zones may a State request?

- The number of population census tracts in a State that may be designated may not exceed the higher of:
 - 25% of the number of low-income communities in the State, or,
 - If there are less than 100 low-income communities in the State, then 25 tracts may be designated.
- Low income community is same meaning as section 26 U.S.C Section 45D(e) – (found in the federal New Markets Tax Credit statute)

How many Opportunity Zones may a State request?

- Tracts Contiguous with Low Income Communities:
 - A census tract that is not a low-income community may be designated a Zone, if:
 - The tract is contiguous with the low-income community that is designated as a Zone and
 - The median family income of the tract does not exceed 125% of the community with which it is contiguous.
 - This option is limited to 5% of the States designated tracts.

How long is an Opportunity Zone in Effect?

- The Zone is in effect from the date of its designation to the end of the 10th calendar year after the designation.

What is an Opportunity Fund?

- Any investment vehicle organized as a corporation or partnership:
 - For purpose of investing in qualified Opportunity Zone property; and
 - That holds at least 90% of its assets in qualified Opportunity Zone property.
- 90% is measured by determining the average of the percentage of qualified Opportunity Zone property held in the fund as measured:
 - On the last day of the first 6 month period of the taxable year of the fund, and
 - On the last day of the taxable year of the fund.

What is Qualified Opportunity Zone Property?

- In general, property which is:
 - Qualified Opportunity Zone stock
 - Qualified Opportunity Zone Partnership interest
 - Qualified Opportunity Zone business property.

What is Qualified Opportunity Zone Stock?

- In general, any stock in a domestic corporation, if :
 - If stock is purchased after 12-31-17 at its original issue from the corporation solely in exchange for cash
 - As of the time stock was issued the corporation was a qualified opportunity zone business, and
 - During substantially all of the Qualified Opportunity Fund's holding period for the stock, the company was a Qualified Opportunity Zone business.

What is a Qualified Opportunity Zone Partnership Interest?

- A Qualified Opportunity Zone Partnership Interest means any capital or profits interest in a domestic partnership if:
 - Such interest is acquired by the Qualified Opportunity Zone Fund after 12/31/17 from the partnership solely in exchange for cash,
 - As of the time of the acquisition, such partnership was a Qualified Opportunity Zone business, and
 - During substantially all of the qualified Opportunity fund's holding period for such Interest, the partnership qualified as a Qualified Opportunity Zone business.

What is a Qualified Opportunity Zone Business Property?

- Generally, means tangible property used in a trade or business of the Qualified Opportunity Fund, if:
 - The property was acquired by the Qualified Opportunity Zone Fund after 12/31/17,
 - The original use of the property in the Zone commences with the Fund or the Fund substantially improves the property, and
 - during substantially all of the Fund's holding period for the property, substantially all of the use of the property was in the Zone.

What is a Substantial Improvement?

- Property will be treated as substantially improved by the Fund only if:
 - During any 30 month period beginning after the date of acquisition of the property, additions to basis exceed an amount equal to the adjusted basis of the property at the beginning of the 30 month period.

What is a Qualified Opportunity Zone Business?

- Generally, means a trade or business:
 - In which substantially all of the tangible property owned or leased by the taxpayer is Qualified Opportunity Zone Property
 - Satisfies paragraphs (2), (4) and (8) of 26 U.S.C. Section 1397C(b), and
 - Is not described in section 26 U.S.C. Section 144(c)(6)(B)
- *Section 1397C(b) is the definition of Qualified Business Entity under the federal Enterprise Zone*
 - *Paragraph (2) = at least 50% of the total gross income of such entity is derived from the active conduct of such business;*

What is a Qualified Opportunity Zone Business?

- *Paragraph (4) = a substantial portion of the intangible property of such entity is used in the activity conduct of any such business;*
- *Paragraph (8) = less than 5 percent of the average of the aggregate unadjusted basis of the property of such entity is attributable to nonqualified financial property.*
- *Section 144(c)(6)(B) is a use of proceeds requirement found under the qualified redevelopment bonds definitions*
 - *No portion of the proceeds of such issue is to be 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.*

Other Considerations in Federal Law

- Rulemaking
- Treatment of property ceasing to meet qualifications
- Treatment of investments with mixed funds
- Related parties and persons
- Failure of Qualified Opportunity Fund to Maintain Investment Standard
- Partnerships
- Reasonable cause exceptions

What is missing?

- Definition of what entities can establish a Fund;
 - Process Treasury uses to certify Zones;
 - Treasury's proposed rule;
 - Complete understanding of companion impact to Missouri state taxes;
 - Other.....
-
- DED will update the website as information becomes available.

DED Role

- Governor Greitens directed DED to research and recommend which areas should be designated as Opportunity Zones in Missouri
- DED established a process for submission of proposals from Cities and Counties
- DED will make a recommendation to the Governor of Zones to nominate to the Secretary of the Treasury

City and County Proposals

- Proposals are due no later than March 2, 2018
- Proposals may be scanned and emailed to sallie.hemenway@ded.mo.gov or postmarked no later than March 2, 2018 to:

Missouri Department of Economic Development
Attn: Opportunity Zones
P.O. Box 118
301 West High Street, Suite 770
Jefferson City, MO 65102

- Proposals must be on letterhead and signed by the Chief Elected official or official representative

Proposal Content

- Name of City or County
- Census tract(s) proposed for nomination (attach map)
- Brief explanation of local decision making process to select tract(s)
- Prioritization of tracts if more than one submitted for consideration
- Description of proposed census tract(s) by current land use

Proposal Content

- Description of proposed census tract(s) by proposed land use
- Is the area in an existing redevelopment area, tax increment financing area, enhanced enterprise zone, or included in any formally recognized development plan?
- Description of recent investments made in the area
- List of all known entities that have proposed to manage an Opportunity Fund

Evaluation

- Evaluation of proposals for consideration of nomination will include, but may not be limited to:
 - Eligibility, as defined by the Federal law
 - Need, as defined by the area income, demographics, housing status, employment, unemployment.
 - Impact, as defined by opportunity for investment, recent investments, local government activities to facilitate investment, local government direct investment, evidence of formal planning.

Evaluation, continued

- Distribution, as defined as statewide distribution of designated Zones
- Impact to State budget, as defined by the number of Zones nominated
- Note: DED reserves the right to place a nomination or nominations of eligible Zones to the Treasury with concurrence of a local government without receipt of a formal proposal.

Important Dates

- **Proposals are due to DED – March 2, 2018**
- **Nominations are due from Governor to Secretary of the Treasury – March 22, 2018**
- **Consideration period for Secretary of Treasury – 30 days from Governor's nomination**

Other Tools

- Enterprise Community Partners Mapping Tool

<http://enterprise.kis.maps.arcgis.com/apps/View/index.html?appid=c04116fc2dba4849af21ea5a41b64547&extent=-138.5130,20.0733,-54.1381,52.9465>

Questions?

Thank you!

