

OPPORTUNITY ZONES

NMHC/NAA Viewpoint

The economy has changed since Opportunity Zones were originally designated. Congress should enable states to recertify and/or redesignate Opportunity Zones while establishing new investment deadlines to attract additional capital. Finally, Congress should modify rules to incentivize the rehabilitation of existing multifamily

Enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Under the program, Governors have designated over 8,700 qualified low-income census tracts nationwide as Opportunity Zones. Opportunity Zone designations remain in effect through 2028. Real estate developers and others may establish Opportunity Funds to construct and rehabilitate multifamily property that will be eligible for two tax incentives:

First, taxpayers may defer taxes on capital gains that are reinvested in Opportunity Funds to the earlier of the date an investment in an Opportunity Fund is disposed of or December 31, 2026. Notably, gains deferred for five years are eligible for a 10-percent basis step up, while gains deferred for seven years are eligible for an additional 5-percent basis step up.

Second, post-acquisition capital gains on investments held in Opportunity Funds for at least 10 years may be permanently excluded from income.

While taxpayers may continue to invest capital gains in Opportunity Funds through June 28, 2027, it is already too late to meet requirements for a step up in basis attributable to newly deferred capital gains. In addition, the economy has changed since Opportunity Zones were originally designated.

Opportunity Zones can be a helpful tool to incentivize housing production and, thereby, assist in addressing the nation's housing affordability crisis. However, to fully maximize the potential of Opportunity Zones, Congress should:

- Enable States to recertify and/or redesignate Opportunity Zones to account for current economic realities and changes since Zones were originally designated; and
- Establish new investment deadlines so that taxpayers are incentivized to receive both a longer deferral period and the potential for a 10 percent or 15 percent basis increase with respect to reinvested capital gains.

While Opportunity Zones are beneficial for new multifamily development, developers may find it difficult use Opportunity Zone benefits to rehabilitate existing properties. To qualify for Opportunity Zone benefits for renovations, the basis of an existing asset must be doubled excluding land. Although property that is added to and improves an asset can count toward this threshold, doubling the basis can still be a high hurdle. Accordingly, Congress should reduce the basis increase necessary to qualify a multifamily rehabilitation project for Opportunity Zone purposes.

Tax incentives available to Opportunity Zone investments have the potential to unleash significant production of multifamily housing and workforce housing in particular. They are a critical tool in helping boost housing supply and addressing the nation's housing affordability crisis.