CITY OF RICHMOND OPPORTUNITY ZONES

January 24, 2019
**Richmond’s Development Goals**

- Increasing the housing supply, including the development of affordable housing
- Developing vacant and underutilized parcels
- Mixed-use, transit oriented development
- Green, sustainable development and housing (i.e. ZNE, solar, EV charging stations)
- Mixed-income housing at mid to high density along major corridors
- Incorporate anti-displacement components in to developments
Affordable Housing Developments in Richmond 2018

26 total affordable housing developments
99% of units in these developments (3,295) are affordable to Low and Very Low Income households (<60%-80% [Area Median Income - AMI])

Source: City of Richmond: California Rent Program

Dots represent developments available to rent as of 2/27/2018 and do not include developments planned or under construction
Map does not include apartment complexes with Below Market Rate (BMR) Units in otherwise market-rate developments
ZONING IN OPPORTUNITY ZONE

Key:

RL2 = Single family Low Density Residential
RM1 = Multifamily Residential
CM-2 = Commercial Mixed-Use, neighborhood
CM-5 = Commercial Mixed-Use, Activity Center
LW = Live-Work
PR = Parks and Recreation
PCI = Public, Cultural, and Industrial
Examples of current projects incorporating Richmond’s Development Goals

- BART Retail Space (food hall & Co-biz space)
- 12th & Macdonald
- Metro Walk Phase II
- Richmond Housing Renovation Program
- Miraflores
- Yellow Brick Road
- LifeLong Medical (Harbour Ave & Bissell Ave)
CROSSWALKS TO EQUITABLE DEVELOPMENT

- Richmond’s **General Plan 2030**
- Updated **Zoning and Subdivision Ordinance** (RMC 15.04).
- **Richmond Build & Literacy for Every Adult Promise (LEAP)**
- **Richmond Promise**
- **Kids First**
- **Free Solar for Qualifying Richmond homes**
- **Health in All Policies (HiAP)**
- **Climate Action Plan (CAP)**
- Projects are subject to the Richmond Municipal Code (RMC) including:
  - **Business and Opportunity Ordinance**
  - **Local Employment Program Ordinance**
  - **Living Wage Ordinance**
  - **One-Percent for Public Art on Private Projects Program**
  - **Inclusionary Housing Ordinance** (RMC 15.04.603)
  - **Richmond Fair Rent, Just Cause for Eviction and Homeowner Protection Ordinance** (RMC 11.100)
To view the publication online visit, http://www.ci.richmond.ca.us/DocumentCenter/View/47673/SF-Business-Times---Richmond-10122018
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CITY OF RICHMOND OPPORTUNITY ZONE WEBSITE:
HTTP://WWW.CI.RICHMOND.CA.US/3617/DESIGNATED-OPPORTUNITY-ZONES
Opportunity Zones

Kevin Wilson
Novogradac & Company LLP
Tax Benefits of the Opportunity Zone Incentive
Taxpayers can get capital gains tax deferral (& more) for making timely investments in Qualified Opportunity Funds (QOFs), which invest in Qualified Opportunity Zone Property.

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3 Tax Incentive Benefits

1. Gain Deferral
2. Partial forgiveness
3. Forgiveness of additional gains

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Period of Deferral

The period of capital gain tax deferral ends upon the earlier of:

- Dec. 31, 2026,
- or...
- EARLIER SALE

2018 - 2028
Amount Recognized

THE LESSER OF:

1. Amount of gain deferred
   or
2. The fair market value of investment in QOF interest

MINUS:

Taxpayer’s basis in the QOF interest

Note: The taxpayer’s outside basis in the Opportunity Fund is initially deemed to be zero.
**Jan. 2, 2018**
Taxpayer enters into a sale that generates $1M of capital gain

**June 30, 2018**
(Within 180 days), Taxpayer contributes entire $1M of capital gain to a Qualified Opportunity Fund

- Taxpayer is deemed to have a $0 basis in its QOF investment
- QOF Invests the $1MM in Qualified Opportunity Zone Property
June 30, 2023  
(After 5 years),  
Taxpayer’s basis in investment in QOF increases from $0 to $100k

June 30, 2025  
(After 7 years),  
Taxpayer’s basis in investment in QOF increases from $100k to $150k

Dec. 31, 2026  
$850K of the 1MM of deferred capital gains are taxed and the basis in QOF investment increases to $1MM.

June 30, 2028  
(after 10 years),  
Taxpayer sells its investment for $2.0MM. Basis in the investment is deemed to be FMV. The effect is no tax on appreciation in investment.

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**Opportunity Zone Incremental Benefit**

- **Standard After Tax IRR**
- **Total IRR**

<table>
<thead>
<tr>
<th>Year</th>
<th>4 Year</th>
<th>5 Year</th>
<th>7 Year</th>
<th>12/31/2026</th>
<th>10 Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>23.8% Tax Rate</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>Standard After Tax IRR</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>Incremental OZ Benefit</td>
<td>1.44%</td>
<td>2.08%</td>
<td>1.95%</td>
<td>1.71%</td>
<td>3.08%</td>
</tr>
<tr>
<td>OZ Investment IRR</td>
<td>7.44%</td>
<td>8.08%</td>
<td>7.95%</td>
<td>7.71%</td>
<td>9.08%</td>
</tr>
<tr>
<td>Percentage Increase</td>
<td>35%</td>
<td>32%</td>
<td>29%</td>
<td>51%</td>
<td></td>
</tr>
</tbody>
</table>

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Perishability of Incentives

Year of QOF Initial Investment

Incremental IRR

2018 2019 2020 2021 2022 2023 2024 2025

3.08% 2.96% 2.74% 2.61% 2.25% 2.09% 1.91% 1.74%

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State Tax Implications

- Opportunity Zone benefits increase if states conform to the Federal Law
- Some states piggy-back off of the current Federal Law but could decouple from OZs
  - New York decided not to decouple
  - Hawaii decided to decouple
  - North Carolina released a draft bill that would decouple
- Some states do not conform to Federal Law but could add OZs at the state level
  - Colorado is considering a bill to add the OZ benefit at the state level
- Some states do not have a state income tax (e.g. Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming).
- State Tax Implications of an single OZ transaction may include multiple states
  - State where original gain was realized
  - State (s) where the opportunity fund has nexus
- Some states are tying other State incentives to opportunity zones
  - Missouri proposed increased cap for state historic credits for properties in OZs
  - California introduced a bill to exempt projects in OZs from the CA Environmental Quality Act
State Tax Code Conformity - Corporate Income

A state’s conformity with the federal opportunity zones provisions is an important factor investors should consider. Investors in states that do conform with the federal opportunity zones provisions may receive state tax incentives similar to those available at the federal level. Conversely, investors residing in nonconforming states may be unable to defer and reduce state taxation on the initial gains invested in opportunity zones. Investors in these nonconforming states may also be required to recognize gain for state tax purposes on their eventual sale of the opportunity fund investment.

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California Governor’s Proposed Budget Calls for OZ Conformity

SACRAMENTO, Calif.—Jan. 11, 2019—California Gov. Gavin Newsom today published his 2019-2020 proposed budget summary, which would include conforming state law to federal law allowing for deferred and reduced taxes on capital gains in opportunity zones (OZs) for investments in green technology or in affordable housing, and for excluding gains on such investments in OZs held for 10 or more years. California state law currently does not conform to federal tax law regarding
Readily Identifiable Investment Types in Opportunity Zones

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

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QOZB: Excluded Businesses

Can’t be a “Sin Business”

A 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.
Additional Opportunity Zone Resources

- California Opportunity Zone website
  - https://opzones.ca.gov/
- Economic Innovation Group
  - https://eig.org/opportunityzones
- Novogradac Opportunity Zone Resource Center
- Enterprise Community Partners – Opportunity360
  - https://www.enterprisecommunity.org/opportunity360

- Novogradac Industry Alert emails
- Novogradac Opportunity Zones Working Group
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A Deeper Look at Opportunity Zones: An Opportunity for Socially Minded Investments
MISSION STATEMENT

To transform public health practice for the purpose of eliminating health inequities using a broad spectrum of approaches that create healthy communities.
The BARHII Framework
Bay Area Life Expectancy by Census Tract

Source: CA Death Statistical Master Files, 2009-2011
1. Socially responsible investors

2. Partnership with organized communities

3. Three core problems facing our Counties
   - Affordability
   - Resilience
   - Racial Equity
What is an Opportunity Zone?

• Newly created from the Tax Cuts and Jobs Act of 2017
• Designated census tracts to encourage long-term private capital investments in low-income communities
• Excited investors – tax incentive
• Concerned policy makers – accelerate displacement and climate change

Bay Area Opportunity Zones

Source: Enterprise Opportunity Zones 360 Tool
Opportunity Zones in Richmond

Interactive Map from California Department of Finance: https://cafinance.maps.arcgis.com/apps/webappviewer/index.html?id=d068b90cb97f4b429f3b180593036b7e
Life Expectancy at Birth in Richmond by Census Tract

Interactive Map from Healthy Places Index: https://map.healthyplacesindex.org/
Sea Level Rise at 2’ with a 5 Year Storm Surge

Interactive Map from https://explorer.adaptingtorisingtides.org/explorer
Earthquake Hazard for Contra Costa County

MMI Legend

Modified Mercalli Intensity
Shaking Severity Level

- 9 - Violent
- 8 - Very Strong
- 7 - Strong

This map is intended for planning only. Intensities may be incorrect by one unit higher or lower.

Map from http://resilience.abag.ca.gov/earthquakes/alameda/
Slow Burn Crises

• Urgency, high stakes, uncertainty continue
• Leadership during a sustained crises
  • Emergency phase
  • Adaptive phase

Seize the opportunity of moments like the current one
Displacement in the Bay Area

Displacement Typologies

Lower income (LI) tracts
1. Not losing LI households
2. At risk of gentrification and displacement
3. Ongoing Gentrification/Displacement

Moderate to high income (MHI) tracts
1. Advanced gentrification
2. Not losing LI households
3. At risk of exclusion
4. Ongoing Exclusion/Displacement
5. Advanced exclusion

Impacts Spending on Healthcare and Food

Low-Income Households that can comfortably afford housing are able to spend:

More on Childcare  1/3rd More on Healthy Food  5x as Much on Healthcare

See BARHII Displacement Brief for more information
Image Credit: the Noun Project—Arthur Shlain, Adrien Coquet, UNICORN, and Aneeque Ahmed
Housing Affordability Impacts on Families

2x more likely to be evicted

2x more likely to be in poor health

Image Credit: The Concord Pavilion
Opportunity Zones to Grow Community Capacity in Health Equity-Priority Areas

• Deepen investments in the urban core
• Increase revenue for strong community partners
• Maintain diversity among the region
• Create new opportunities for “suburban” areas to build generational wealth
Equity in Cannabis Permits

- City of Oakland Example
- May 23, 2017 – Cannabis permitting application process
- Part of Equity Permit Program minimizing barriers to licensing for residents who’ve been victimized by war on drugs
Anchors in Resilient Communities (ARC)

• Emerald Cities Collaborative, Health Care Without Harm, FoodService Providers
• Focused on expanding community wealth, ownership, health
  • Strengthen low- and moderate-income residents, communities of color to be resilient in face of climate and economic disruption

Report: http://files.emeraldcities.org/about/national-initiatives/anchors-for-resilient-communities/ARC_Case_Study_San_Fran-East_Bay.pdf
1. Socially responsible investors

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   - Racial Equity
Bay Area Regional Health Inequities Initiative

It is our mission to transform public health practice for the purpose of eliminating health inequities using a broad spectrum of approaches that create healthy communities.

Melissa Jones, Executive Director
MJones@barhii.org
Congress of the United States
Washington, DC 20515

Secretary Steven T. Mnuchin
Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Mnuchin:

The Opportunity Zone tax incentive, enacted into law as part of the Tax Cuts and Jobs Act of 2017 (TCJA), is intended to deliver transformational impact, including new jobs and higher wages, in low-income areas throughout the country, many of which have been left behind by the national recovery after the Great Recession. Thank you for your enthusiastic support of Opportunity Zones, and for the hard work of your staff to ensure this incentive helps expand economic opportunity for local residents of designated communities. As original cosponsors of the underlying Investing in Opportunity Act, we write to express both praise of and concerns with Treasury's proposed regulations under Code section 1400Z-2, released on October 19, 2018, and urge you to address key issues that are critical to this provision working according to congressional intent.

In deciding to include the Investing in Opportunity Act, the original legislative vehicle for Opportunity Zones, in the TCJA as enacted, Congress designed this incentive to be broadly applicable to rural and urban communities, flexible in the types of investments it encourages, and scalable, by allowing the risks and costs of investing in distressed communities to be borne by many investors together through a fund structure. Treasury's proposed regulations take an important first step towards realizing the intent of the Opportunity Zones incentive and providing clarity for community leaders and investors. However, a number of important questions remain, especially in regards to investments in operating businesses—a central goal of the underlying legislation. To that end, we write to call your attention to the following:

1. Treasury exercised its broad statutory authority to provide market clarity and encourage broad uptake of the Opportunity Zones incentive. We were pleased that the proposed rules address the amount of Opportunity Zone Business Property a business must have in order to become a Qualified Opportunity Zone Business eligible for investment from an Opportunity Fund. Treasury's proposed 70 percent threshold to meet the "substantially all" test ensures both a high standard and basic practical flexibility for local businesses and prospective investors, and should be included in the final rulemaking. The proposed regulations also provide valuable clarity on a range of issues for those looking to form or invest in Opportunity Funds, including the types of gains that are eligible for the tax benefit, partnership rules for the deferral of capital gains, the ability for Opportunity Funds to be formed as LLCs that are taxed as partnerships or corporations; and, the amount of time investors may hold their interests in Opportunity Funds.
2. We are concerned with the proposed rule requiring an Opportunity Zone business to derive 50 percent of its gross income from the active conduct of a trade or business "in the qualified opportunity zone." Since many businesses derive income from the sale of goods and services outside of a single census tract, this would significantly limit the ability for local operating businesses to qualify for Opportunity Fund investment, contrary to congressional intent. Even for those businesses who might qualify under this rule, it would impose immense new administrative burdens to track and report the location of each source of business income. As noted above, the statute already provides a tangible property test to ensure qualifying businesses are predominantly located within a designated community. Thus, Treasury should remove this added locational requirement and hew closely to the language in Code section 1397C(b)(2), as cross-referenced by Code section 1400Z-2(d)(3)(A)(ii), which simply requires that a qualifying business derive at least 50 percent of its total gross income from the active conduct of its trade or business.

3. Opportunity Funds need rules that ensure adequate time to make qualifying investments after receiving capital from their investors or from the disposition of a portfolio holding. Timing flexibility is particularly needed around initial investment and reinvestment periods, which fundamentally impact the ability to form and maintain multi-asset Funds that spread risks and costs across a portfolio of investments as Congress intended. The proposed regulations provide a working capital safe harbor period for businesses that receive Opportunity Fund investment, demonstrating Treasury's ability to address necessary timing issues. However, similar flexibility is needed for Opportunity Funds themselves—particularly for those looking to invest in a portfolio of Qualified Opportunity Zone Businesses. Congress gave Treasury explicit authority to write regulations to carry out the purposes of this provision, and we hope future regulations will further Congressional intent by addressing the basic timing flexibility needed for Opportunity Funds to provide capital to businesses in designated communities.

4. Congress tied the tax incentive to the longevity of an investor's stake in an Opportunity Fund, not to an Opportunity Fund's stake in any specific portfolio investment. This is a critical distinction, because Congress recognized that many Opportunity Funds—particularly those investing in operating businesses—would experience "churn" in their investments, as some portfolio businesses grow and seek new investment, while others are liquidated, within the lifespan of the fund. This is why we specifically directed Treasury to provide adequate time for Opportunity Funds to reinvest capital that has been returned to the fund from an underlying portfolio investment. Such fund-level activity should in no way disallow the tax benefit to the Opportunity Fund's investors, provided they do not take distributions from the fund or sell their fund interest prior to meeting the 10-year holding period. Clarifying this in the final regulations would eliminate a significant roadblock for investors, and open the door for catalytic investments in operating businesses.
5. *The Investing in Opportunity Act* included basic transparency measures and directed Treasury to produce reports on the incentive and its impacts on communities, but the provision was dropped from the TCJA for procedural reasons. Consistent with your statutory-granted authority, we urge Treasury to include in its final regulations reasonable reporting requirements, including of Fund- and transaction-level information, in order to prevent against waste, fraud, and abuse, and to ensure that the incentive is delivering impact for communities. Further, making this data available will move capital off the sidelines by connecting investors to funds and allowing community stakeholders to align local strategies and additional investments with Opportunity Fund capital.

We thank you and the dedicated staff at the Department of the Treasury for your work on drafting the Notice of Proposed Rulemaking. It marks a significant, positive step in the implementation of this incentive. We look forward to continuing to work with you and your team on finalizing regulations that will allow this tool to drive new business investment in America’s low-income communities.

Sincerely,

Tim Scott  
United States Senator

Mike Kelly  
Member of Congress

Rob Portman  
United States Senator

Cory A. Booker  
United States Senator

Ron Kind  
Member of Congress

Ted Young  
United States Senator
Congress of the United States
Washington, DC 20515

Suzan DelBene
Member of Congress

Derek Kilmer
Member of Congress

Terri A. Sewell
Member of Congress

Chris Collins
Member of Congress

Joni K. Ernst
United States Senator

Shelley Moore Capito
United States Senator

Reed Smethun
Member of Congress

Gery Conner
United States Senator

F. James Sensenbrenner Jr.
Member of Congress

Steve Stivers
Member of Congress

Jason Smith
Member of Congress