December 21, 2021

The Honorable Nancy Pelosi
Speaker of the House
U.S. House of Representatives
Room H-305, The Capitol
Washington, DC 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
Room H-204, The Capitol
Washington, DC 20515

The Honorable Charles Schumer
Majority Leader
United States Senate
Room S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
Room S-230, The Capitol
Washington, DC 20510

Dear Speaker Pelosi, Minority Leader McCarthy, Majority Leader Schumer, and Minority Leader McConnell:

In the short time since their enactment, Opportunity Zones have created jobs and spurred billions of dollars in new investment in economically struggling communities across the country. As the end of year approaches, the undersigned organizations write to request that Congress act now to extend the expiring deadlines for the Opportunity Zone tax incentives.

Opportunity Zones channel investment and help stimulate economic growth in low-income communities by filling a critical gap in the landscape of placed-based tax incentives. The decentralized design of Opportunity Zones allows more investors and stakeholders to participate in the market and invest in qualifying projects that generate economic opportunity and improve the built environment in high-need communities.

As a result, the bipartisan Opportunity Zone tax incentives have created a legal framework drives capital where it is most needed and prioritized by States and local communities. The incentives defer and reduce the capital gains burden on investors that redeploy prior gains to new opportunities in distressed neighborhoods and then exempts the gain on those new, long-term investments if they are maintained for at least 10 years, thus rewarding patient capital.

Private sector opportunity funds promote the pooling of capital that helps mobilize investment from disparate sources to support jobs and growth. The opportunity fund structure results in a business model where local entrepreneurs with knowledge and expertise often will partner with outside investors, creating a new cadre of businesses leaders for the community. In the context of real estate, start-ups, and other operating businesses, projects financed through opportunity funds are an economic multiplier and a catalyst for permanent, lasting job creation. Opportunity funds have financed affordable, workforce, and senior housing; grocery-anchored retail centers; and office buildings that allow new and growing businesses to gain a presence and create jobs in long-neglected neighborhoods. Other examples of productive activities in Opportunity Zones include the rehabilitation of dilapidated buildings into new hotels that boost local tax revenue and serve as a magnet for jobs, visitors, and economic activity in the surrounding area.

In the short time since their inception, Opportunity Zones have demonstrated extraordinary potential to improve communities. In 2020, the Council of Economic Advisors estimated that Opportunity Funds had raised $75 billion in private capital in the first two years following the incentives' enactment, including $52 billion that would not have otherwise been raised. The Council projected this capital could lift one million people out of poverty and decrease poverty in Opportunity Zones by 11 percent. More recently, the GAO estimated that 6,000 opportunity funds with more than 18,000 partners or shareholders invested $29 billion in Opportunity Zones in 2019 alone.

Unfortunately, delays in the rulemaking process and the onset of the COVID-19 pandemic have short-circuited the full impact of Opportunity Zones. The final Opportunity Zone regulations were issued just four months (December 2019) before COVID-19 caused a national economic lockdown that severely affected taxpayers' ability to launch new real estate projects and other businesses.

Under the Opportunity Zone statute, the tax benefits associated with Opportunity Zone investments are gradually diminishing, and a significant Opportunity Zone tax incentive will expire at the end of this year. After December 31, 2021, investors will no longer qualify for the 10 percent basis step-up that applies to prior gain if they maintain their new Opportunity Zone investment for at least 5 years. This basis step-up can result in a 10 percent reduction in the capital gains tax owed on gain that is rolled into an opportunity fund.[1] Another tax benefit of investing in an Opportunity Zone is that the tax on the prior gain is deferred until the end of 2026. The economic value of this tax deferral benefit is gradually declining as 2026 draws nearer. The net effect of the approach of these statutory dates is that less capital investment will flow to economically struggling communities.

In order to encourage investment in Opportunity Zones, we urge you to extend the deferred gain recognition date by two years, through the end of 2028. A two-year extension would encourage more Opportunity Zone investment by allowing investors to continue to qualify through 2023 for the 10 percent step-up in the basis of their prior investment if the gain is invested for at least 5 years. It would also provide added incentive by lengthening the deferral period for gain that is rolled into an Opportunity Fund.

Combined, these changes would help address the shortfall in new investment and job creation resulting from the pandemic and ensure that Opportunity Zones continue to act as a catalyst for economic development in struggling communities. At the same time, Congress should continue working on improvements to the Opportunity Zone tax incentives to ensure they achieve their objectives, such as enhanced information reporting, data collection, and transparency, as well as lowering the substantial improvement threshold to cover a broader range of real estate rehabilitation and redevelopment projects. Bipartisan and well-intentioned proposals to improve the Opportunity Zone law have been introduced in both Chambers and should be considered by the tax-writing committees.

[1] An additional 5 percent basis step-up that applies to investments held for at least 7 years expired at the end of 2019.

Thank you for your consideration of these recommendations. If you or your staff have any questions, please contact Ryan McCormick, Senior Vice President and Counsel of The Real Estate Roundtable, at rmccormick@rer.org or (202) 639-8400.

Sincerely,

American Hotel & Lodging Association
American Seniors Housing Association
Asian American Hotel Owners Association
Associated Builders and Contractors
CCIM Institute
Erie Downtown Development Corporation
ICSC
Institute for Portfolio Alternatives
Institute of Real Estate Management
Latino Hotel Association
National Apartment Association
National Association of Black Hotel Owners, Operators and Developers
National Association of Home Builders
NAIOP, the Commercial Real Estate Development Association
National Association of REALTORS®
National Multifamily Housing Council
Novogradac & Company LLP
Opportunity Zones Working Group
REALTORS® Land Institute
Society of Industrial and Office REALTORS®
SoLa Impact
The Real Estate Roundtable