# *H.R. 1 Opportunity Zone Provisions*

In with the new, out with the old

Brownstein

# *Changes to Existing Opportunity Zones*

- Ends the designation period for the initial qualified opportunity zones on December 31, 2026, rather than December 31, 2028.[1]
- The Opportunity Zones Transparency, Extension, and Improvement Act grandfathered existing investments in tracts that sunset early.  No such relief is provided in this bill.

[1] 1400Z-1(f) currently provides that a designation as a qualified opportunity zone shall remain in effect for the period beginning on the date of the designation and ending at the close of the 10th calendar year beginning on or after such date of designation.  The initial zones (other that 2 zones in Puerto Rico) were designated on June 20, 2018.  See Notice 2018-48, Notice 2019-42.

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# *Designation Of New Opportunity Zones*

- Allows for designation of additional qualified opportunity zones.
- New zones in effect from January 1, 2027 through December 31, 2033.
- Designations are under rules similar to those for the designation of zones in 2018.

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# *More Restrictive Income Limits For New Zones*

- New opportunity zone census tracts must have either:
  - a poverty rate of at least 20 percent, or
  - median family income which does not exceed (i) 70 percent (from 80 percent) of the greater of metropolitan area median family income or statewide median family income (for a metropolitan area census tract)  or (ii) 70 percent of statewide median family income (for a nonmetropolitan area census tract ).
- 125% median family income limit.
  - the median family income must be less than 125 percent of the metropolitan area median family income (for a nonmetropolitan census tract, the median family income must be less than 125 percent of statewide median family income).
- Contiguous tracts which do not otherwise qualify as low-income communities are not eligible.

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# *Required Designation of Rural Area Opportunity Zones*

- 25% of the number of low-income communities in each state may be designated as qualified opportunity zones.
- Not less than the "applicable percentage" of the total number of designated zones in a State is required to be of low-income communities which are comprised entirely of a rural area.
- The applicable percentage, for any calendar year during which a designation is made, is the greater of 33 percent or the percentage of the United States population living within a rural area for the preceding calendar year.[2]
- A rural area, as defined in the Consolidated Farm and Rural Development Act, is a city or town that has a population of fewer than 50,000 inhabitants or any urbanized area contiguous and adjacent to such a city or town.
- If a State does not have enough low-income communities that are comprised entirely of a rural area to meet the applicable percentage requirement, then all low-income communities that are comprised entirely of a rural area must be designated.

[2]Based on 2020 census data, approximately 20% of the U.S. population live in a rural area.

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# *Additional Incentives In New Opportunity Zones*

- Deferral of Gain
  - — In the case of capital gains invested after December 31, 2026 recognition of gain is deferred to December 31, 2033.
  - — Capital gains invested prior to January 1, 2027 is recognized on December 31, 2026.
- Basis Step Up
  - — Provides basis step-up of 10% (30% in the case of investments in a qualified rural opportunity fund) for investments held at least five years before December 31, 2033.
- Ordinary Income Eligible Investment.
  - — Allows investment of up to $10,000 of ordinary income in a qualified opportunity fund. $10,000 limit is an aggregate limit over the life of the opportunity zone program.
- Reduced substantial improvement requirement
  - — In the case of property in a qualified opportunity zone comprised entirely of a rural area, the substantial improvement threshold is reduced from 100% of additions to basis to 50%.

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# *Qualified Rural Opportunity Funds*

- Benefit:  30% basis step-up for investments held for 5 years prior to December 31, 2033.
- Requirements
  - — Qualified Opportunity Fund that holds at least 90 percent of its assets in qualified opportunity zone business property which is either:
    - qualified opportunity zone business property substantially all of the use of which, during substantially all of the fund’s holding period for such property, is in a qualified opportunity zone comprised entirely of a rural area; or
    - qualified opportunity zone stock, or a qualified opportunity zone partnership property interest, in a qualified opportunity zone business in which substantially all of the tangible property owned or leased is qualified opportunity zone business property and substantially all the use of which is in a qualified opportunity zone comprised entirely of a rural area.

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# *Information Reporting Requirements*

- Significant reporting requirements included.
- Similar to reporting requirements in The Opportunity Zones Transparency, Extension, and Improvement Act.
- Reporting provisions could be stricken under the Byrd rule

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# *Thank You*

Gregory W. Berger
Brownstein Hyatt Farber Schreck, LLP
675 15th Street, Suite 2900
Denver, CO 80202
303.223.1158 tel
GBerger@BHFS.com