NATIONAL MULTIFAMILY HOUSING COUNCIL

NATIONAL APARTMENT ASSOCIATION

OPPORTUNITY ZONES

Enacted as part of tax reform legislation in 2017, Opportunity Zones are designed to provide tax incentives for investments in distressed communities. Under the new program, Governors have designated approximately 8,800 qualified low-income census tracts nationwide as Opportunity Zones. Up to 25 percent of a state's qualified census tracts may qualify as Opportunity Zones, with each state having to designate a minimum of 25 Zones

Now that Opportunity Zones have been designated, real estate developers and others may establish Opportunity Funds that will be eligible for two tax incentives:

First, taxpayers may defer 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 five 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.

An Opportunity Fund is a corporation or partnership that holds at least 90 percent of its assets in Opportunity Zone property. Opportunity Fund capital may be used in conjunction with non-Opportunity Fund capital to finance an investment.

To make the Opportunity Zones program as effective as possible, NMHC/NAA encourage the Treasury Department to ensure:

- Multifamily housing is a qualified investment for Opportunity Funds;
- Multifamily properties receiving other tax benefits, including Low-Income Housing Tax Credits, Historic Tax Credits and New Markets Tax Credits, that are necessary to make a development viable are qualified investments for Opportunity Funds. It is often only a combination of incentives that make the difference between a project being able to move forward as opposed to never breaking ground;
- Properties of all sizes are able to receive Opportunity Fund financing;
- Opportunity Funds have sufficient time to deploy capital;
- LLCs and REITs can set up Opportunity Funds;
- Land be a qualified investment if sufficiently improved; and
- Infrastructure improvements, including sewers and broadband, be considered a qualified investment.

NMHC/NAA Viewpoint

Treasury should issue regulations making Opportunity Zones as effective as possible by: (1) specifically allowing investments in multifamily housing to qualify for tax incentives; (2) allowing Opportunity Zone tax incentives to work in conjunction with other development provisions; and (3) enabling multifamily developments of all sizes to qualify for tax incentives.

Tax incentives available to Opportunity Zone investments have the potential to unleash significant production of multifamily housing and workforce housing in particular.