Smart Growth AMERICA

May 8, 2025

The Honorable Jason Smith
Chairman, House Ways & Means Committee
1011 Longworth House Office Building
Washington, D.C. 20515

The Honorable Mike Crapo
Chairman, Senate Finance Committee
239 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard Neal
Ranking Member, House Ways & Means Committee
372 Cannon Office Building
Washington, D.C. 20515

The Honorable Ron Wyden
Ranking Member, Senate Finance Committee
221 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Crapo, Chairman Smith, Ranking Member Wyden, and Ranking Member Neal,

We, the undersigned organizations, write today to provide input on the possible extension of the Opportunity Zone (OZ) incentive in upcoming tax legislation. In the years since they were authorized, Opportunity Zones have proven to be a tool for residential development, particularly of market rate units, in designated census tracts. As part of a comprehensive suite of tax credit programs that spur development, such as the Low-Income Housing Tax Credit and the New Markets Tax Credit, the OZ program has helped developers and communities produce homes to address the housing supply crisis.

If Congress chooses to extend the OZ program in upcoming tax legislation, we believe that it should continue to be refined to facilitate high-impact projects aligned with critical national needs, such as rural housing, workforce housing, missing middle housing, affordable housing, and brownfield redevelopment. The suite of proposals included below does not intend to address every potential adjustment to the program or rewrite the OZ program. Instead, it identifies a host of adjustments that could be implemented without adding significantly more complexity for future OZ investors or significant limitations on existing investment approaches, often by deepening incentives for high-impact projects. While a number of proposals are outlined below, deeper incentives can be achieved in many ways, including by lengthening tax deferral periods, offering earlier forgiveness of tax liability on future gains, and offering higher or earlier capital gain tax liability reduction. By emphasizing the “carrot” approach and highlighting specific proposals that address urgent national needs, we seek to sharpen the OZ tool for impact.

The below proposals are grouped under four core values that we share: **1.) incentivizing affordability, 2.) improving the program to work for more communities, 3.) creating reporting standards that will help measure the impact and effectiveness of OZs in the future, and 4.)**

thinking of OZs as their own tool rather than a replacement for others. Rather than endorse one way to achieve each outcome, we include a list of options for consideration.

First, OZs 2.0 should incentivize affordability in some way. While a significant share of OZ investments tracked by a leading accounting firm Novogradac included a residential real estate component, amounting to some 198,000 new or scheduled residential units, less than 3 percent of those units self-reported as being explicitly affordable. Facilitating the development of market rate units is valuable given the overall shortage of homes in the country. However, deepening incentives for the development of affordable and workforce housing would help ensure that the share of units developed by the incentive that are affordable for people making less than the area median income better aligns with the actual number of those people living in a given Opportunity Zone.

- Investors could receive a more significant reduction in tax liability on deferred gains for projects that include dedicated units at a set level of affordability, rewarding investors based on the share of affordable units they create, as well as the depth of affordability of those units

- The substantial improvement threshold could be adjusted to improve the incentive's usability for preservation and rehabilitation projects for a select project set, such as by significantly reducing it in the case of multifamily housing properties that incorporate long term rent and income restrictions to target units to low- to moderate-income populations

Second, extension legislation should pursue adjustments aimed at helping more communities benefit from OZs 2.0. While the incentive will never be evenly utilized across all census tracts due to differing underlying market fundamentals, certain reforms could help the incentive better serve communities that received less investment in the first round of OZs, particularly rural places. This effort could include several types of adjustments, including changes to the designated universe of OZs via a fresh designation process, the addition of brownfields, or differentiated benefits or tools to help investment reach rural areas. It could also include enhanced incentive-type adjustments, such as a bonus for location-efficient redevelopment in rural downtowns or urban cores. It could also include structural adjustments to the program that, in practice, might facilitate improved outcomes in certain communities, such as feeder funds for mission-focused entities that target underserved geographies.

- Given the time that has passed since initial designation, the full universe of OZs should be updated and redesignated by governors

- Target areas such as census tracts that are predominantly brownfields or superfund sites could be given special consideration, either during designation or with an enhanced incentive

- Include a direct set of specialized tax incentives for rural places, including components such as a larger step-up in basis at the 5 and 7-year mark, and an extended timeline for development

- Provide an automatic OZ designation for rural census tracts that qualify as Duty to Serve rural areas under FHFA that impact areas of Persistent Poverty.

- Support smaller towns and rural communities with expanded technical assistance to connect OZ investors to projects outside of active urban zones through governmental and non-governmental organizations

- To drive investment into downtowns in urban and suburban areas and rural main streets across the country, Congress could allow governors to designate a set percentage of OZs within each state as "Core OZs," or "COZs," and offer a stepped-up tax benefit in these location-efficient tracts

- To help spur rural investment and investment in other underserved areas, OZs 2.0 could allow for feeder funds for mission-focused entities that will target underserved geographies, similar to CDEs in the NMTC program

Third, OZs 2.0 must have reporting requirements–either in the reconciliation bill or in a companion piece of legislation. Reporting requirements help all stakeholders better understand what the program is doing in which communities, who is doing it, at what pace, and at what cost to the taxpayer. While we recognize that reporting requirements were in the initial marker legislation and that reconciliation rules led to their being thrown out of the 2017 tax package, we write to re-emphasize the need for reporting requirements. If they are once again not eligible for inclusion in the reconciliation bill, they must be passed as a free-standing bill or in another vehicle.

Lastly, OZs 2.0 are one tool of many, not a replacement for other tools. Opportunity Zones, New Market Tax Credits, Low-Income Housing Tax Credits, and other proposals, such as the Neighborhood Homes Investment Act, all provide unique and necessary tools that support different types of investments. For example, Opportunity Zones function well as an economic development tool— generally attracting market rate investments into communities that have historically been under-resourced. However, as a market-based tool, the incentive as currently structured does not generally support asset classes—including community facilities and affordable housing—that don't appreciate in value over the 10 year period. While implementing the reforms described above could help the OZ incentive fund different asset types, the approach, objectives, and outcomes are fundamentally different from other tools. If Congress wants to improve the tax code to incentivize more targeted community investments while also building the range of homes the country needs, from starter homes for first-time buyers to affordable rentals for seniors and veterans, communities and developers need all of the tools in the toolbox.

By pursuing the reforms outlined above, we believe the Opportunity Zone incentive can be enhanced to help boost housing supply and better deliver high-impact projects, including affordable housing, in a broader range of communities. As impact-focused or mission-driven stakeholders in the housing development space, we appreciate your ongoing efforts to pass tax legislation that addresses the urgent need for housing across the country and your consideration of our views.

Sincerely,

Smart Growth America
Center for Community Progress
Community Opportunity Alliance
Grounded Solutions Network
Habitat for Humanity
Housing Assistance Council
Living Cities
Local Initiatives Support Corporation (LISC)
LOCUS
National Association of Counties
National Community Reinvestment Coalition
National Housing Conference
National Neighborworks Association
Greater Ohio Policy Center