RESOURCE MANAGEMENT AGENCY
COUNTY OF TULARE
AGENDA ITEM

AGENDA DATE: March 13, 2018

Public Hearing Required	Yes	☐	N/A	☒
Scheduled Public Hearing w/Clerk	Yes	☐	N/A	☒
Published Notice Required	Yes	☐	N/A	☒
Advertised Published Notice	Yes	☐	N/A	☒
Meet & Confer Required	Yes	☐	N/A	☒
Electronic file(s) has been sent	Yes	☒	N/A	☐
Budget Transfer (Aud 308) attached	Yes	☐	N/A	☒
Personnel Resolution attached	Yes	☐	N/A	☒
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	☐	N/A	☒

CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010

SUBJECT: Consider the list of census tracts preliminarily recommended for designation by the Governor for federal Opportunity Zones.

REQUEST(S):

That the Board of Supervisors:

1. Receive a presentation pertaining to the federal Opportunity Zones; and
2. Provide direction to staff regarding recommended census tracts.

SUMMARY:

Opportunity Zones offer favorable capital gains treatment for taxpayers who invest in designated high poverty and high unemployment communities. The federal tax bill passed at the end of December 2017 allows the Governor to designate eligible census tracts as Opportunity Zones. Investments made through opportunity funds in these zones allowed to defer or eliminate federal taxes on capital gains. The program allows the Governor to designate up to 25 percent of eligible census tracts. Eligible tracts must meet certain criteria using 2011-15 data:

1. Poverty rates of at least 20 percent.
2. Median family incomes of no more than 80 percent of statewide or metropolitan area median income.

The Governor may designate up to 879 tracts as Opportunity Zones. 3,516, census tracts in 54 California counties qualify under one or both federal criteria.

On March 2, 2018, the Department of Finance held a teleconference to roll out the preliminary list of census tracts recommended by the Governor. The Department of Finance will receive comments and recommendations on the Governor's recommended list until 5:00 p.m. on Thursday, March 15, 2018. The Department of Finance is looking for two types of comments: (1) Keep or reject a tract currently recommended for designation; and (2) Suggestions to include qualified tracts not currently recommended. Department of Finance staff is clearly encouraging replacements, rather than additions.

The Chairman of the Board of Directors for the Tulare County Economic Development Corporation ("EDC") has called a special board meeting for Wednesday, March 14, 2018 from 7:30 to 8:30 a.m. The primary purpose of the special meeting will be to discuss and consider approval of a final list of census tracts to be nominated by the Governor for the federal Opportunity Zone program. The state has indicated collaborative submissions will be strongly considered. Therefore, the EDC is wanting countywide participation.

All jurisdictions can also provide independent comments and suggestions to the Department of Finance.

The following link is to an interactive qualified opportunity zone census tracts map:

https://cafinance.maps.arcgis.com/apps/webappviewer/index.html?id=bef0addba84d42dda250466e207b17f0

FISCAL IMPACT/FINANCING:

There is No Net County Cost to the General Fund.

LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:

The County's five-year strategic plan includes Economic Well Being and Quality of Life initiatives. The designation of Opportunity Zones within Tulare County could result in additional investments in the County's disadvantaged communities.

ADMINISTRATIVE SIGN-OFF:

Michael Washam
Associate Director

Reed Schenke, P.E.
Director

Cc: Auditor-Controller
County Counsel
County Administrative Office (2)

Attachment(s): Attachment 1 – Department of Finance (PowerPoint)
Attachment 2 – Map of Eligible Census Tracts in Tulare County
Attachment 3 – Opportunity Zones Fact Sheet

BEFORE THE BOARD OF SUPERVISORS
COUNTY OF TULARE, STATE OF CALIFORNIA

IN THE MATTER OF CONSIDER THE LIST OF CENSUS TRACTS PRELIMINARILY RECOMMENDED FOR DESIGNATION BY THE GOVERNOR FOR FEDERAL OPPORTUNITY ZONES	)))))	**Resolution No. ____________**

UPON MOTION OF SUPERVISOR _______________, SECONDED BY SUPERVISOR ____________________, THE FOLLOWING WAS ADOPTED BY THE BOARD OF SUPERVISORS, AT AN OFFICIAL MEETING HELD MARCH 13, 2018, BY THE FOLLOWING VOTE:

AYES:
NOES:
ABSTAIN:
ABSENT:

ATTEST: MICHAEL C. SPATA
COUNTY ADMINISTRATIVE OFFICER/
CLERK, BOARD OF SUPERVISORS

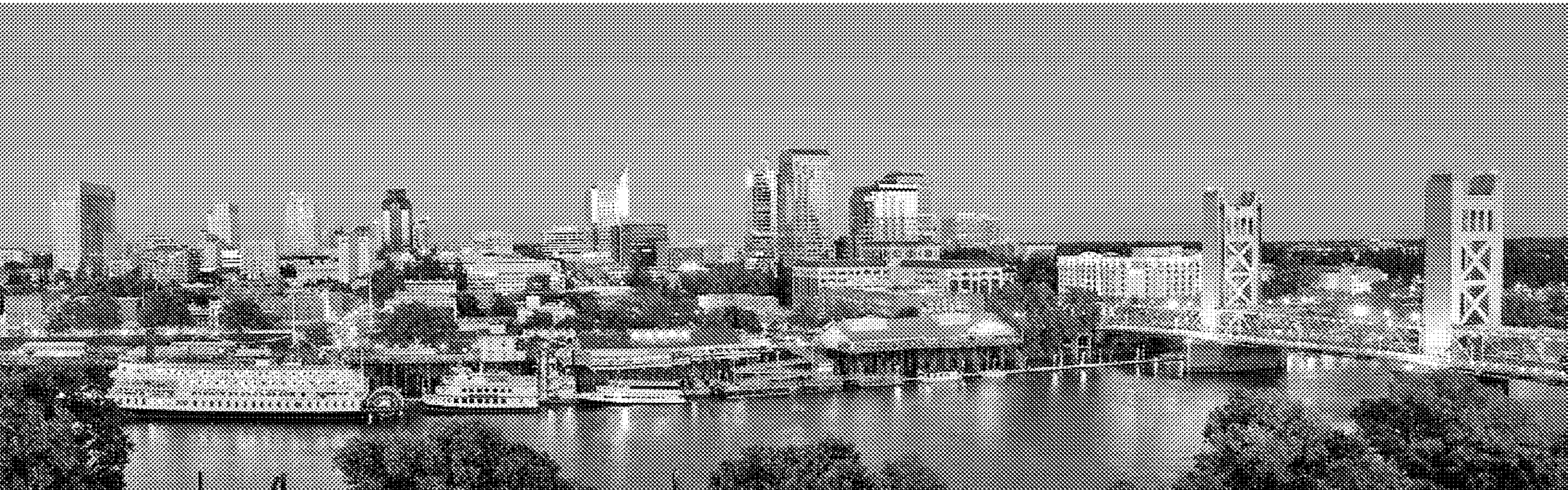
BY: ________________________________
Deputy Clerk

* * * * * * * * * * * * * * * * * *

1. Received a presentation pertaining to the federal Opportunity Zones; and
2. Provided direction to staff regarding recommended census tracts.

Attachment "1"

Department of Finance (PowerPoint)



California's Proposed Opportunity Zones

Department of Finance

March 2, 2018

Opportunity Zones

The federal tax bill passed at the end of December 2017 allows the Governor to designate eligible census tracts as Opportunity Zones. Investments made through opportunity funds in these zones would be allowed to defer or eliminate federal taxes on capital gains. The program allows the Governor to designate up to 25 percent of eligible census tracts. Eligible tracts must meet certain criteria using 2011-15 data:

1. Poverty rates of at least 20 percent.

OR

2. Median family incomes of no more than 80 percent of statewide or metropolitan area median family income.

FEDERAL CRITERIA

3,516 census tracts in **54** California counties qualify under one or both federal criteria.

The Governor may designate up to **879** tracts as Opportunity Zones. Some tracts may be selected that do not meet the federal criteria **IF:**

1. The tract is adjacent to a designated tract **and** its median income does not exceed 125 percent of the designated tract.
2. The tract meets the federal criteria using 2012-16 data (additional justification required).

No more than 5 percent of tracts designated as Opportunity Zones may be eligible adjacent tracts

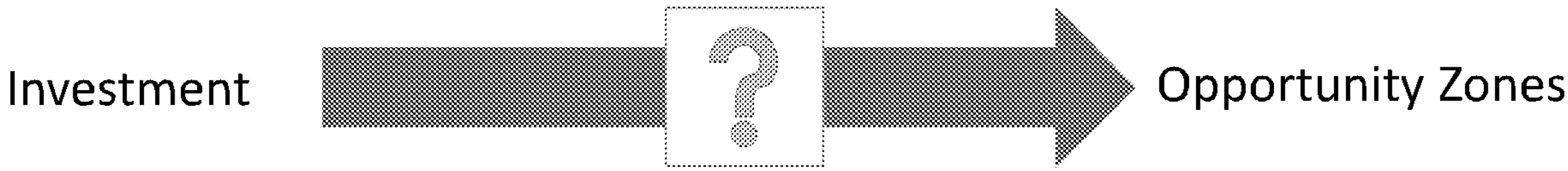
Census tracts are designed to capture around 4,000 people, and more than **3 million Californians** would be potentially located in one of these areas.

Investing in Opportunity Zones

Potential Economic Development Impacts

- Intended to attract long-term investments to disadvantaged areas, as measured by poverty and median income
- Opportunity funds investing must be focused on these types of areas (maintain 90 percent in Opportunity Zones)

INVESTING IN OPPORTUNITY ZONES



Investments in opportunity funds would be allowed to defer or reduce capital gains.

Gains on investments held for 10 years or more would incur no federal tax liability.

If investments were held for 5 years, 10 percent of gains would be excluded, and 15 percent for 7 years.

Investors would still incur regular California capital gains tax liabilities from any sales or exchanges of capital assets.

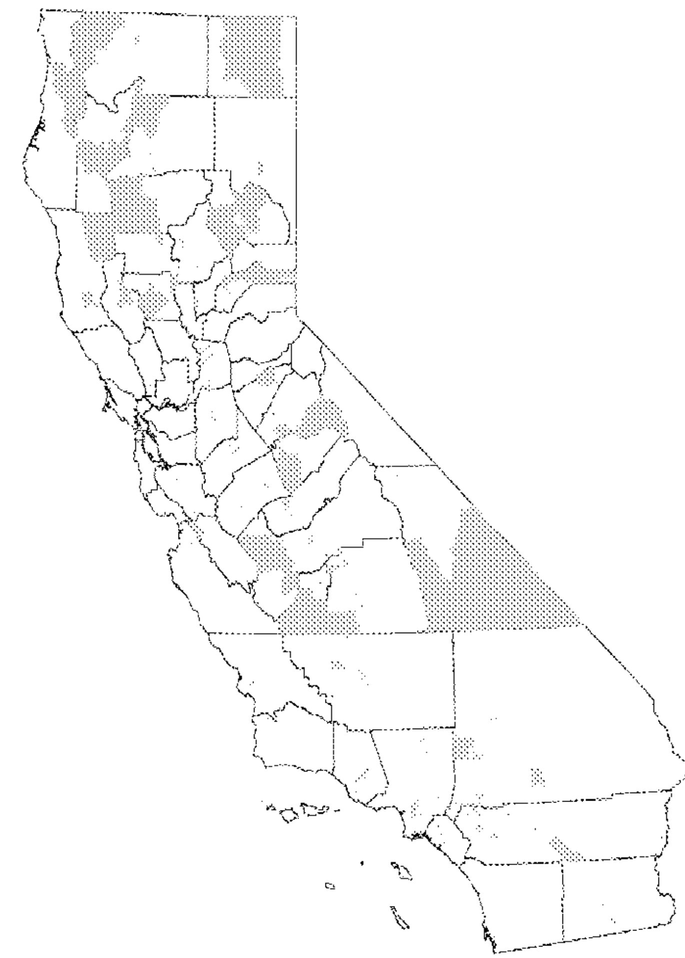
California Thresholds

Areas with Business Activity – at least **30 business establishments** in each tract as defined by EDD.

Tracts must have a **poverty rate** of at least **20 percent**.

These designation criteria cover 51 of 54 eligible counties with eligible tracts.

Recommended Opportunity Zone Census Tracts



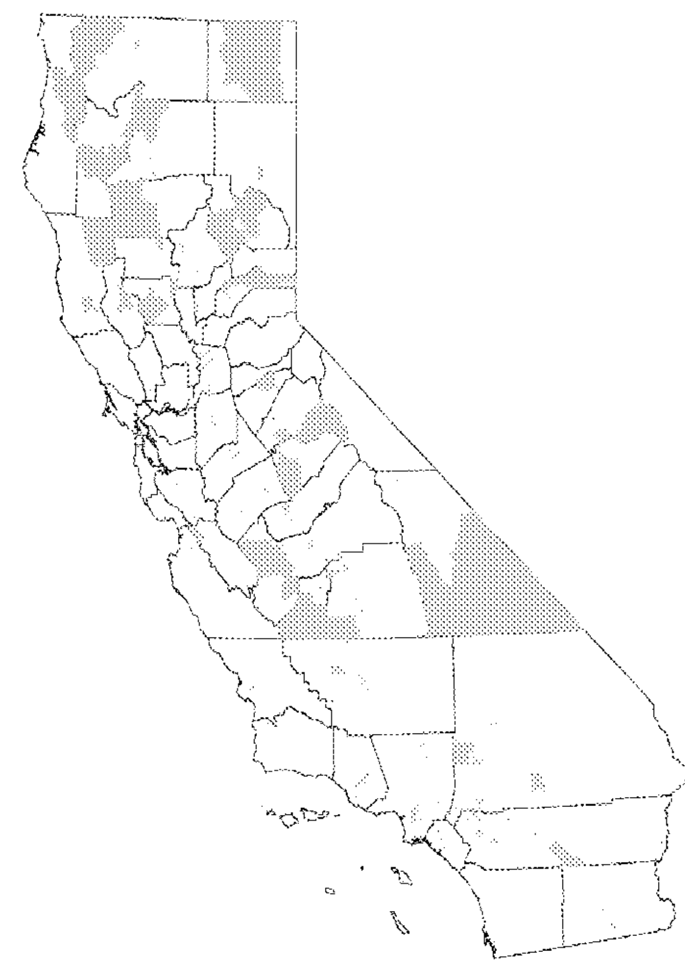
CALIFORNIA THRESHOLDS
Geographic Diversity

Every county has at least two eligible tracts designated.

Tracts must be in the top **30 percent by poverty** of all tracts in the county (if more than two).

These designation criteria ensure 54 of 54 counties with eligible tracts.

Recommended Opportunity Zone Census Tracts



THRESHOLD SELECTION RATIONALE

- Requiring a minimum number of business establishments helps identify those that are zoned for business to encourage more investment. If a higher number of establishments per tract is required, more rural areas will be eliminated.

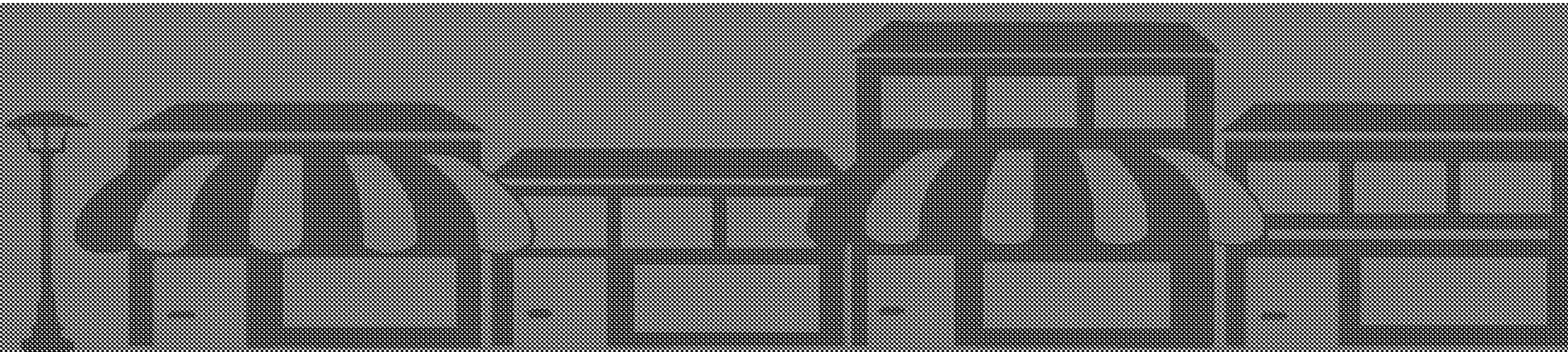
- Raising the minimum poverty threshold to 25 percent would result in tracts in only 46 counties.

- If statewide (rather than county) thresholds are set, urban areas would represent a higher proportion of tracts; Southern California would also have a disproportionate number of eligible tracts.

Overlapping Programs

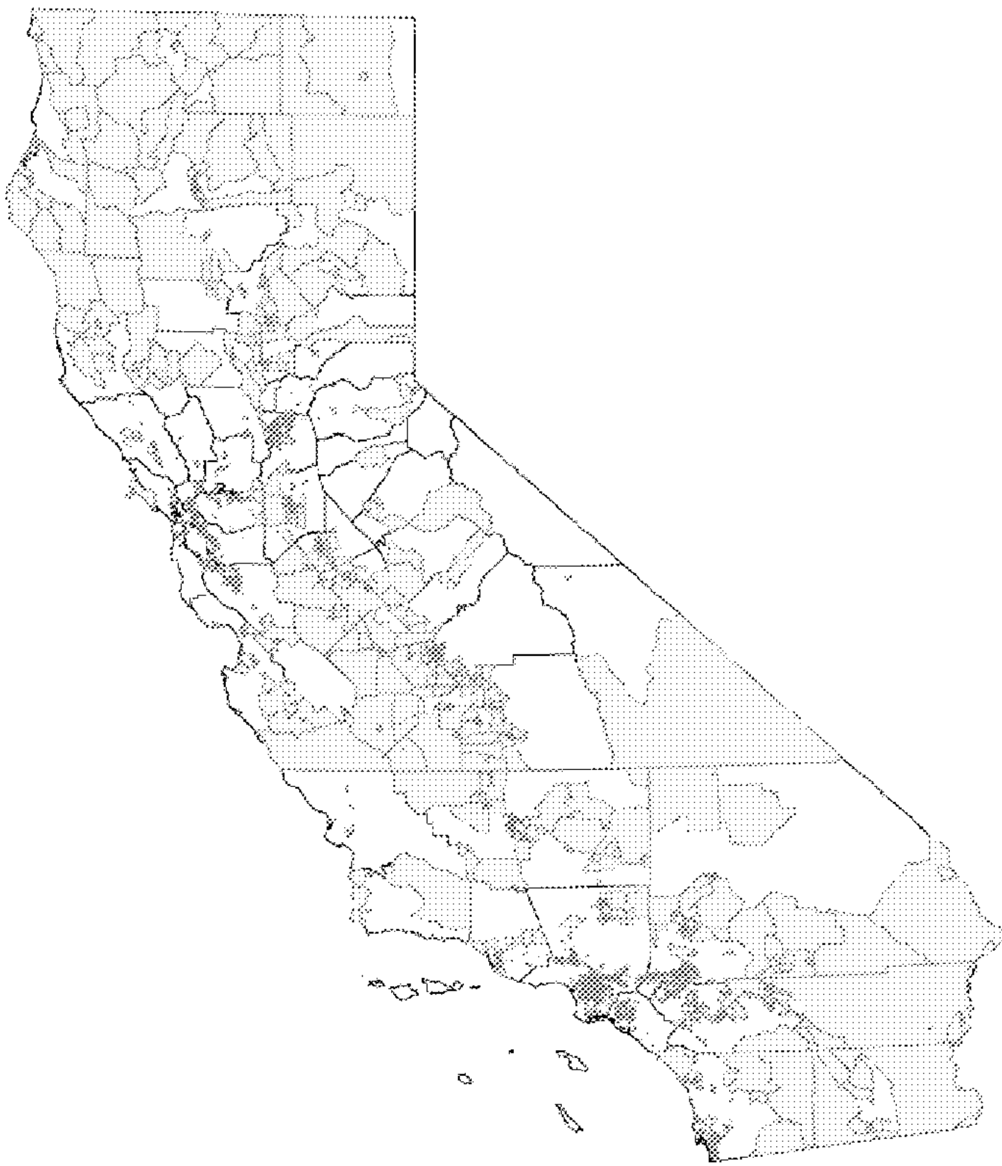
66 percent of recommended tracts overlap with disadvantaged areas identified in Senate Bill 535 from 2012, which helps direct money from California's cap and trade program.

98 percent of recommended tracts overlap with disadvantaged communities identified in Assembly Bill 1550 from 2016, which also helps direct money from California's cap and trade program.

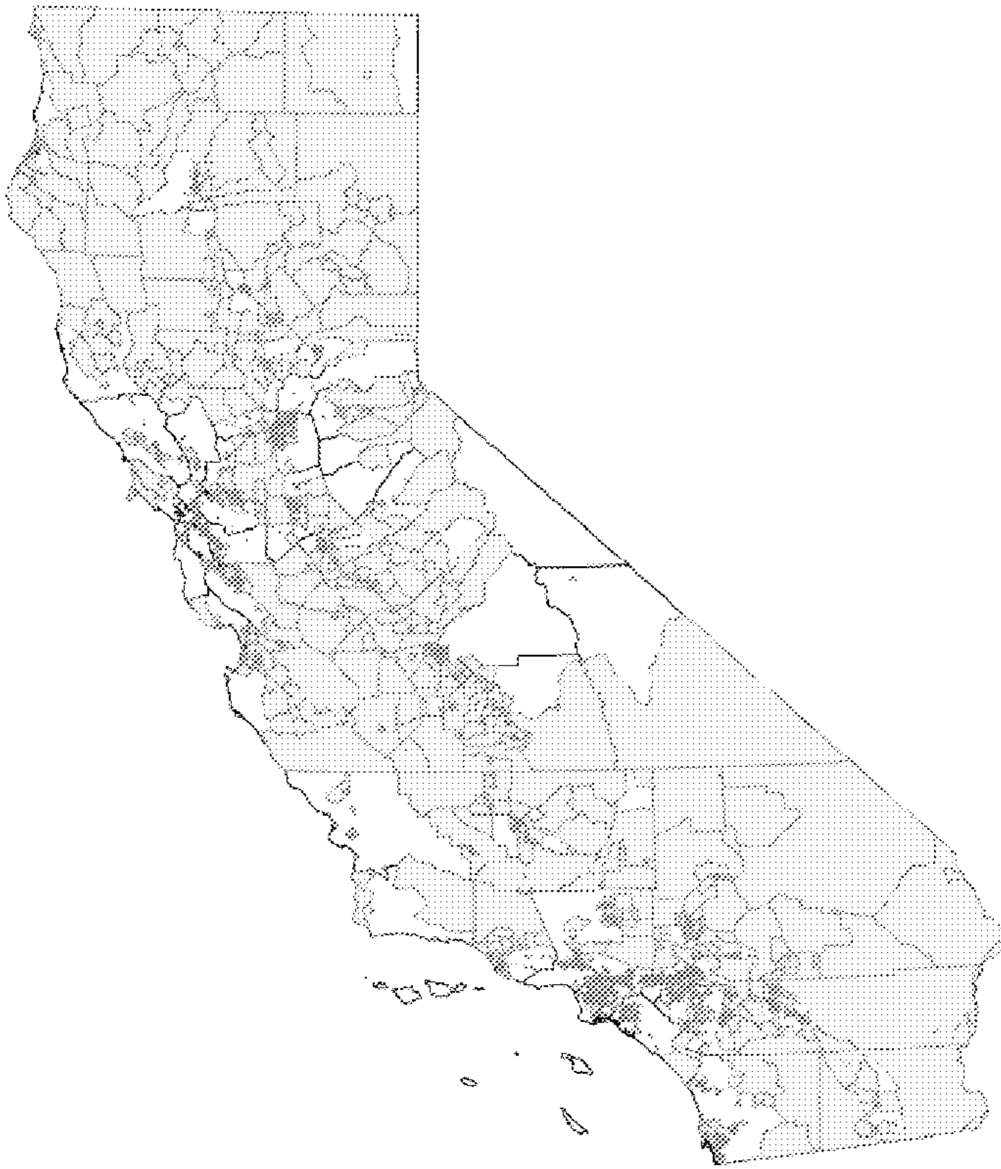


ELIGIBLE AND RECOMMENDED TRACTS

Eligible Census Tracts Using 2011-15 Data (yellow)



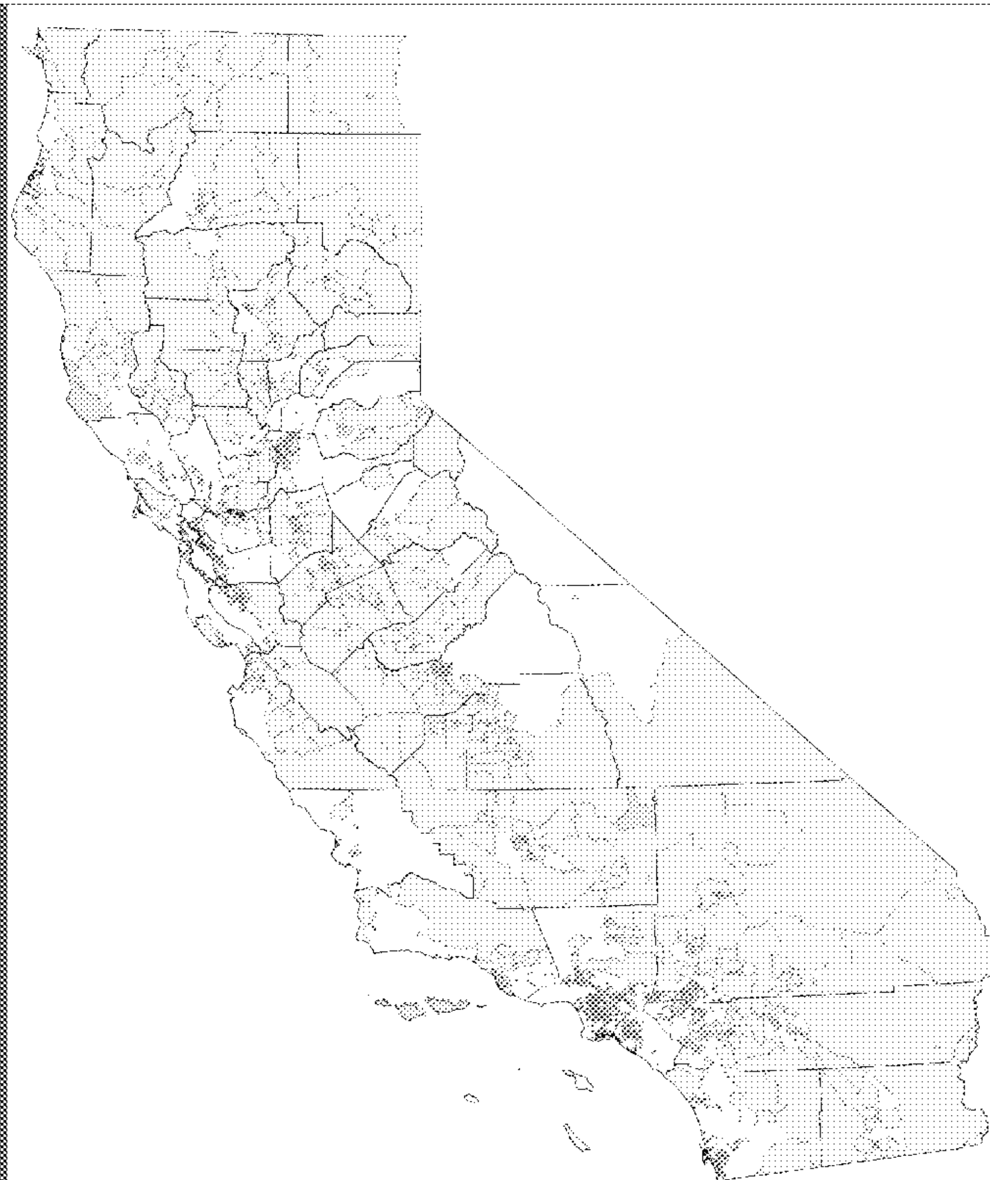
Eligible Census Tracts Using 2011-15 Data (Yellow) Eligible Contiguous Tracts (grey)



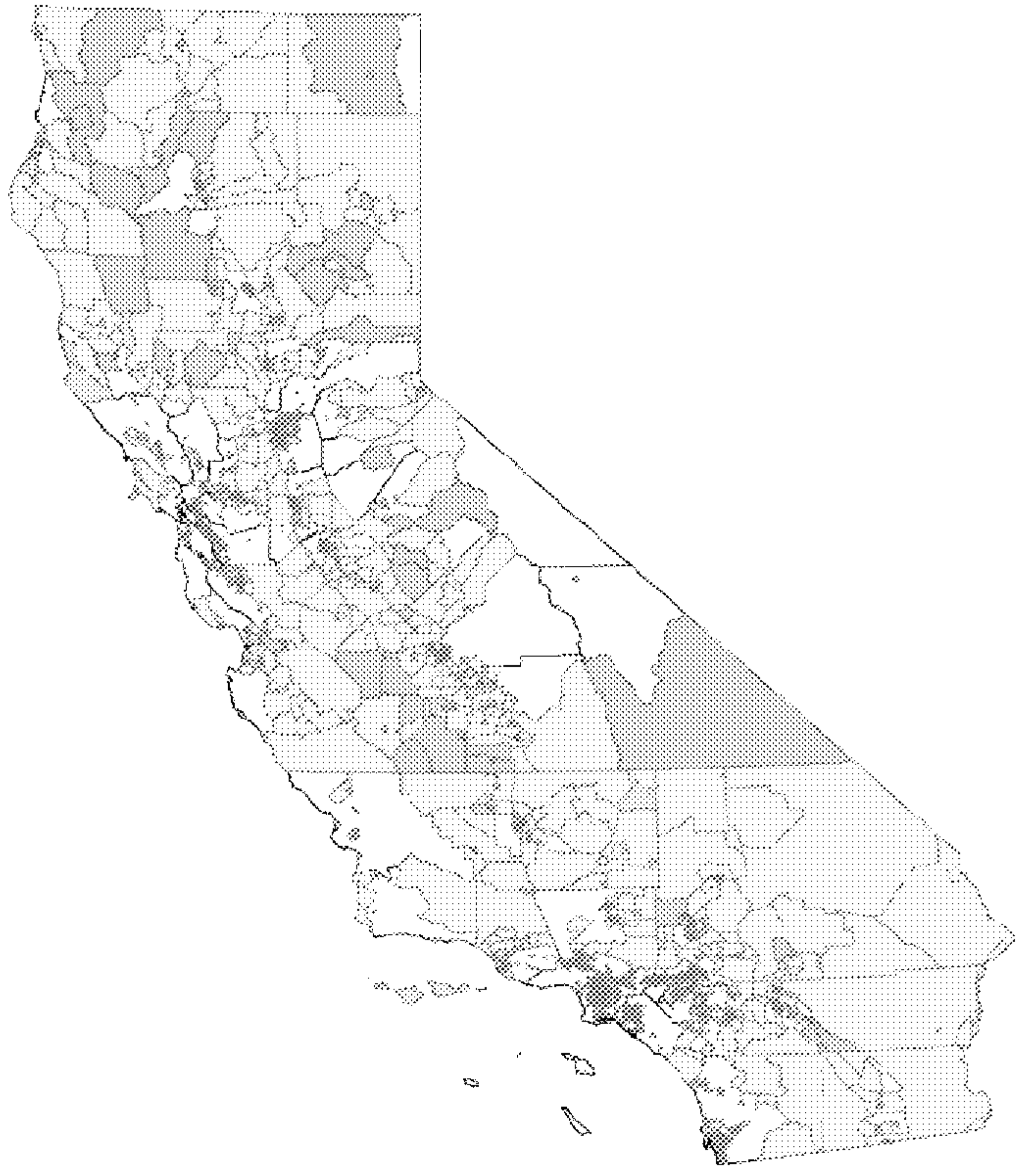
ELIGIBLE CENSUS TRACTS USING 2011-15 DATA (YELLOW)

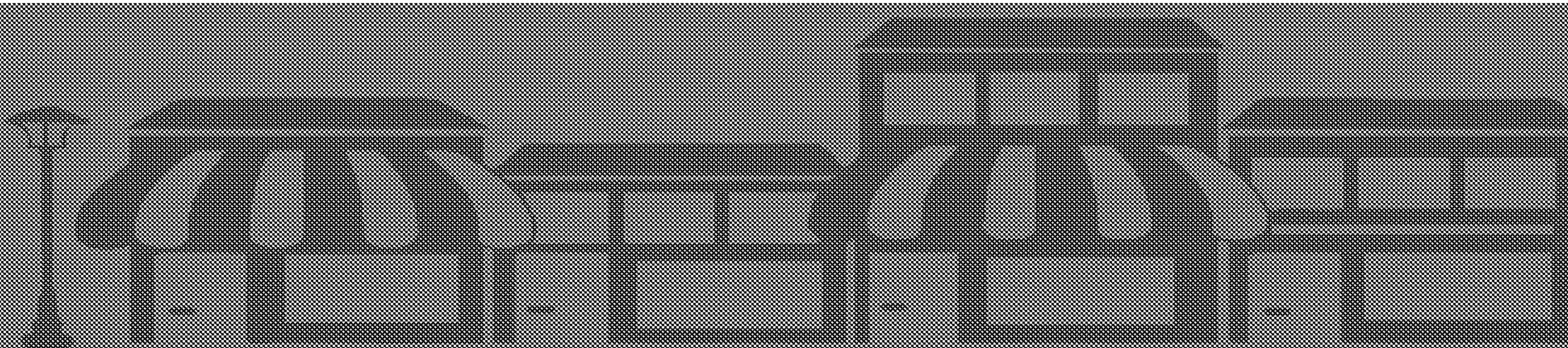
ELIGIBLE CONTIGUOUS TRACTS (GREY)

ADDITIONAL ELIGIBLE TRACTS USING 2012-16 DATA (ORANGE)



Preliminary Recommended Census Tracts (green)





PUBLIC COMMENT AND FEEDBACK

Public Comment - Two Types of Feedback

Please follow the instructions on the website! Comments submitted on other forms or incorrectly filled out forms will not be considered. If you previously submitted a comment in another form, please do so again using the form provided as soon as possible (and before March 15).

Type 1: Keep or reject a tract currently recommended for designation.

- Including a justification is encouraged, but optional.

Public Comment - Two Types of Feedback

Type 2: Suggestions to include qualified tracts not currently recommended.

- Suggestions of replacements, rather than additions, are strongly encouraged.
- Including a short justification, including why a replacement is warranted, is required.
- If a tract is only qualified under 2012-16 criteria, or as an adjacent tract, a justification of those factors must be included.

Timeline

Website and feedback form will be live **March 2**.

All requests and justifications must be submitted by 5pm, **March 15**.

Resources Available During Comment Period

1. A look-up tool to provide tract information given an address.
2. A listing of all eligible tracts including recommended tracts, and tracts that may be included by the contiguous or 2012-2016 criteria.
3. A static map showing all eligible tracts that may be included by all criteria.
4. An interactive map displaying the eligible tracts and additional information concerning selection criteria.

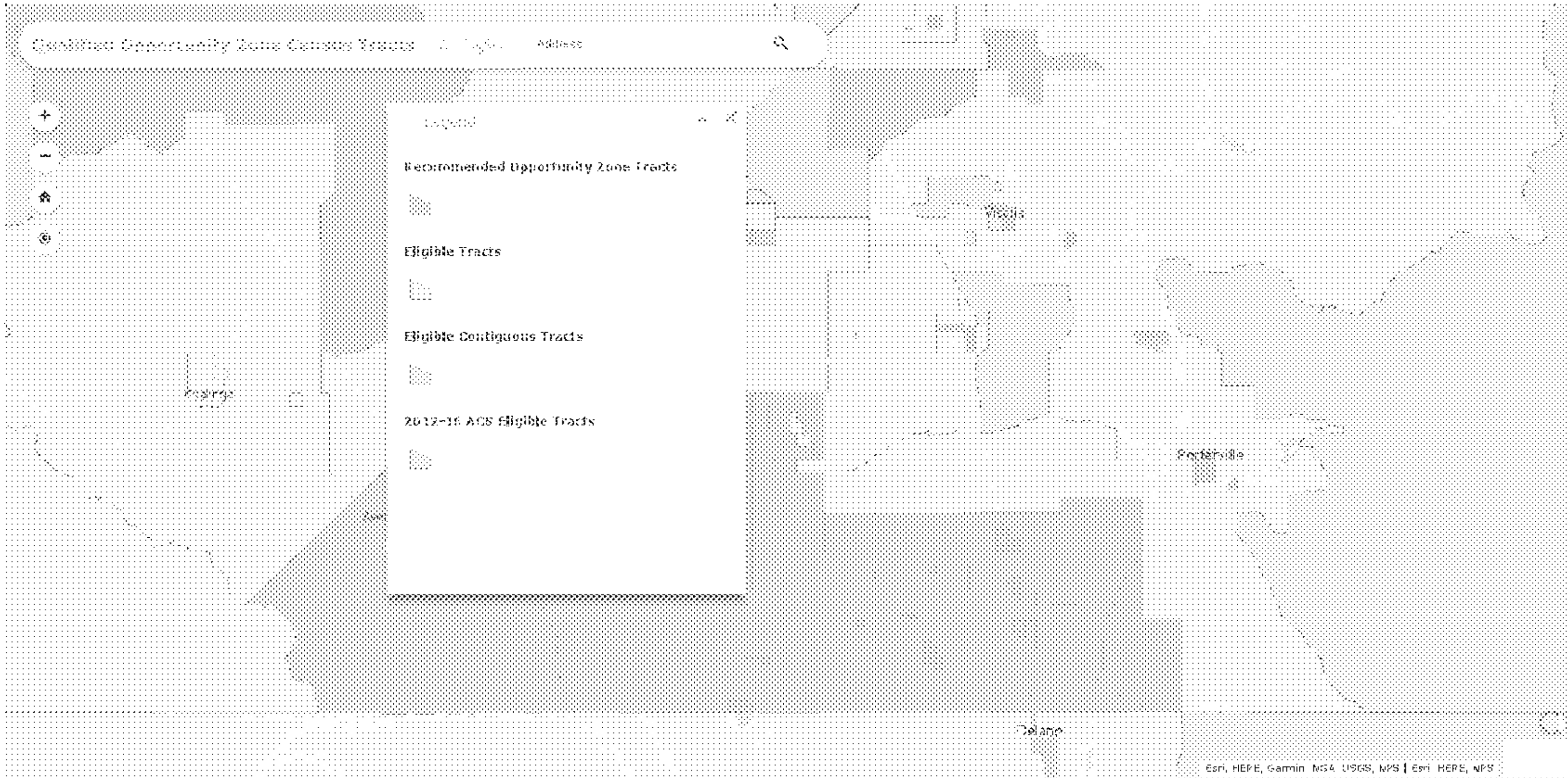
Contact Information

To Comment:

For information on economic development:
or

Attachment "2"

Map of Eligible Census Tracts in Tulare County


Address
Legend
Recommended Opportunity Zone Tracts
Eligible Tracts
Eligible Contiguous Tracts
2012-16 ACS Eligible Tracts
Visalia
Porterville
Delano
Esri, HERE, Garmin, NGA, USGS, NPS | Esri, HERE, NPS
6mi

Attachment “3”

Opportunity Zones Fact Sheet

OPPORTUNITY ZONES: A NEW INCENTIVE FOR INVESTING IN LOW-INCOME COMMUNITIES

The Opportunity Zones program offers three tax incentives for investing in low-income communities through a qualified Opportunity Fund [1]:

Temporary Deferral

A temporary deferral of inclusion in taxable income for capital gains reinvested into an Opportunity Fund. The deferred gain must be recognized on the earlier of the date on which the opportunity zone investment is disposed of or December 31, 2026.

Step-Up In Basis

A step-up in basis for capital gains reinvested in an Opportunity Fund. The basis is increased by 10% if the investment in the Opportunity Fund is held by the taxpayer for at least 5 years and by an additional 5% if held for at least 7 years, thereby excluding up to 15% of the original gain from taxation.

Permanent Exclusion

A permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This exclusion only applies to gains accrued after an investment in an Opportunity Fund.

Figure 1. Incentives Offered by the Opportunity Zones Program

How does a capital gain of $100 reinvested in 2018 perform over time?

**Note: Assumes long-term federal capital gains tax rate of 23.8%, no state income tax, and annual appreciation of 7% for both the O-Fund and alternative investment.*

The Opportunity Zones program is designed to incentivize patient capital investments in low-income communities nationwide. All of the underlying incentives relate to the tax treatment of capital gains, and all are tied to the longevity of an investor's stake in a qualified Opportunity Fund, providing the most upside to those who hold their investment for 10 years or more.

The figure above and table below illustrate how an investor's available after-tax funds compare under different scenarios, assuming various holding periods, annual investment appreciation of 7%, and a long-term capital gains tax rate of 23.8% (federal capital gains tax of 20% and net investment income tax of 3.8%). For example, after 10 years an investor will see an additional $44 for every $100 of capital gains reinvested into an Opportunity Fund in 2018 compared to an equivalent investment in a more traditional stock portfolio generating the same annual appreciation. Table 1 and the examples that follow provide additional information on the tax liabilities and differences in the after-tax annual rates of return.

Table 1. How Investing in an Opportunity Fund Compares to a Traditional Stock Portfolio

Scenario: A Capital Gain of $100 is Reinvested in 2018

Holding Period	Appreciation Rate	Investment in a Stock Portfolio		Investment in an Opportunity Fund		Difference in After-Tax Annual Rate of Return
		Total Tax Liability	After-Tax Funds Available	Total Tax Liability	After-Tax Funds Available	
5 Years	7%	$31	$100	$31	$109	1.9%
7 Years	7%	$35	$111	$35	$126	1.8%
10 years	7%	$41	$132	$20	$176	3.0%

Example 1: Investor holds the O-Fund stake for 10 years

Susie has $100 of unrealized capital gains in her stock portfolio. She decides in 2018 to reinvest those gains into an O-Fund that invests in distressed areas of her home state, and she holds that investment for 10 years. Susie is able to defer the tax she owes on her original $100 of capital gains until 2026. Further, the basis is increased by 15% (effectively reducing her $100 of taxable capital gains to $85). Thus, she will owe $20 (23.8% of $85) of tax on her original capital gains when the bill finally comes due. In addition, since she holds her O-Fund investment for at least 10 years, she owes no capital gains tax on its appreciation. Assuming that her O-Fund investment grows 7% annually, the after-tax value of her original $100 investment in 2028 is $176. Susie has enjoyed a 5.8% effective annual return, compared to the 2.8% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2028: ***$20***
After-tax value of investment in 2028: ***$176***
Effective after-tax annual return on $100 capital gain in 2018: ***5.8%***

Example 2: Investor holds the O-Fund stake for 7 years

As in Example 1, in 2018 Susie rolls over $100 of capital gains into an O-Fund. She holds the investment for 7 years, selling in 2025. As in Example 1, she temporarily defers the tax she owes on her original capital gains and steps-up her basis by 15%, so that in 2025 she will owe $20 (23.8% of $85) of tax on her original capital gains. Unlike Example 1, however, Susie will owe capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2025 Susie will owe $15 (23.8% of $61) of tax on the O-Fund investment's capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 3.3% effective annual return compared to the 1.5% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2025: ***$35***
After-tax value of investment in 2025: ***$126***
Effective after-tax annual return on $100 capital gain in 2018: ***3.3%***

Example 3: Investor holds the O-Fund stake for 5 years

As in Example 1, in 2018 Susie rolls over $100 of capital gains into an O-Fund. She holds the investment for 5 years, selling in 2023. As in Example 1, she can temporarily defer the tax she owes on her original capital gains, but her step-up in basis is only 10%, so that in 2023 she will owe $21 (23.8% of $90) of tax on her original capital gains. As in Example 2, Susie enjoys no exemption from capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2023 Susie will owe $10 (23.8% of $40) of tax on the O-Fund investment's capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 1.8% effective annual return on her initial capital gains compared to the -0.1% effective annual return an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2023: ***$31***
After-tax value of investment in 2023: ***$109***
Effective after-tax annual return on $100 capital gain in 2018: ***1.8%***

For more information visit eig.org/opportunityzones
or email john@eig.org

1. A qualified Opportunity Fund is a privately managed investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (the vehicle must hold at least 90 percent of its assets in such property). Governors (or the Mayor in the case of the District of Columbia) may designate 25 percent of their state's low-income census tracts as qualified opportunity zones, subject to certification by the U.S. Secretary of the Treasury. Low-income census tracts are defined in Internal Revenue Code Section 45D(e). If the number of low-income census tracts in a state is less than 100, then a Governor may designate a total of 25 tracts. Qualified opportunity zone property includes any qualified opportunity zone business stock, any qualified opportunity zone partnership interest, and any qualified opportunity zone business property. Only taxpayers who roll over capital gains of non-zone assets before December 31, 2026, will be able to take advantage of the special treatment under the provision.