



# Tax Cuts & Jobs Act – Opportunity Zones

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# Opportunity Zone Program

The Opportunity Zone Program was created by Congress in the Tax Cuts and Jobs Act of 2018 to encourage economic development in distressed communities by providing tax benefits to investors.



# Opportunity Zones

**Definition:** An Opportunity Zone (OZ) is a low-income census tract (LIC) that is designated by the governor of each state or territory in which it is located.

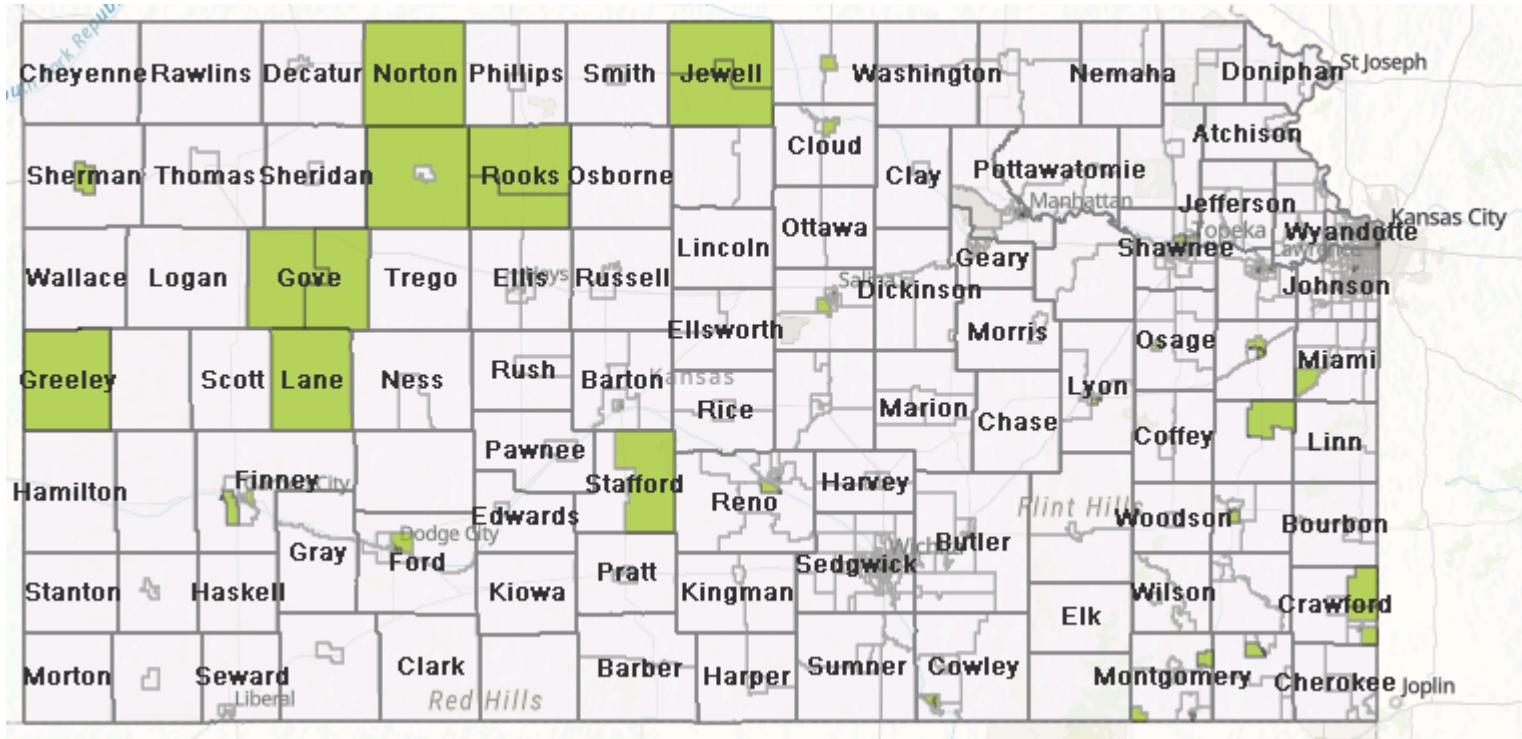
- 74 tracts approved by Treasury in May 2018 for Kansas.
- Designations will stay in place for 10 years.

# Designated Qualified Opportunity Zones

Kansas counties in which Opportunity Zones are currently located:

- Allen
- Crawford
- Greeley
- Miami
- Rooks
- Anderson
- Douglas
- Jewell
- Montgomery
- Saline
- Atchison
- Finney
- Johnson
- Norton
- Sedgwick
- Barton
- Ford
- Labette
- Osage
- Shawnee
- Butler
- Franklin
- Lane
- Reno
- Sherman
- Cloud
- Gove
- Leavenworth
- Republic
- Stafford
- Cowley
- Graham
- Lyon
- Riley
- Wyandotte

# Opportunity Zone Mapping - Kansas



# Opportunity Zones: Mechanics

Taxpayers can defer capital gain by investing in a QOZ, similar to a §1031 exchange, with rules being more favorable:

- Capital gain can be deferred from the sale of any property, not just real estate (ordinary gain may not be deferred) → 180-day time limit
- Sale **MUST** be to an unrelated party
- Only the gain portion of the amount realized can be deferred and the basis portion is taken back as tax-free cash

# Opportunity Zones: Mechanics

Taxpayers may invest in an opportunity zone, :

- Invest through an **opportunity zone fund**, which can be structured as:
  - Tax partnership (LLC or LP)
  - Private equity fund
- Set up their own **opportunity zone fund**.
  - **Individual project.**
  - **Developer.**

# Restrictions on Permissible Investments

## Property must be:

- Acquired by **purchase**, not from a related party (20% threshold)
- **Originally used** or **substantially improved** by the OZ fund
  - **Substantial improvement** – greater spend on improvement than acquisition during a 30-month period



# Restrictions on Permissible Investments

**Real estate** must be developed new or substantially improved

- Acquiring a rental property in an OZ and continue to operate as is – **NOT OK**
- Acquiring a plot of land for \$1 million and spending \$2 million developing a brand new building – **OK**
- Acquiring a dilapidated building for \$2 million and spending \$3 million renovating the building – **OK**
- Acquiring an office building for \$1 million and spending \$500,000 on renovations – **NOT OK**
- **Liquor store, massage parlor, gambling-NOT OK**

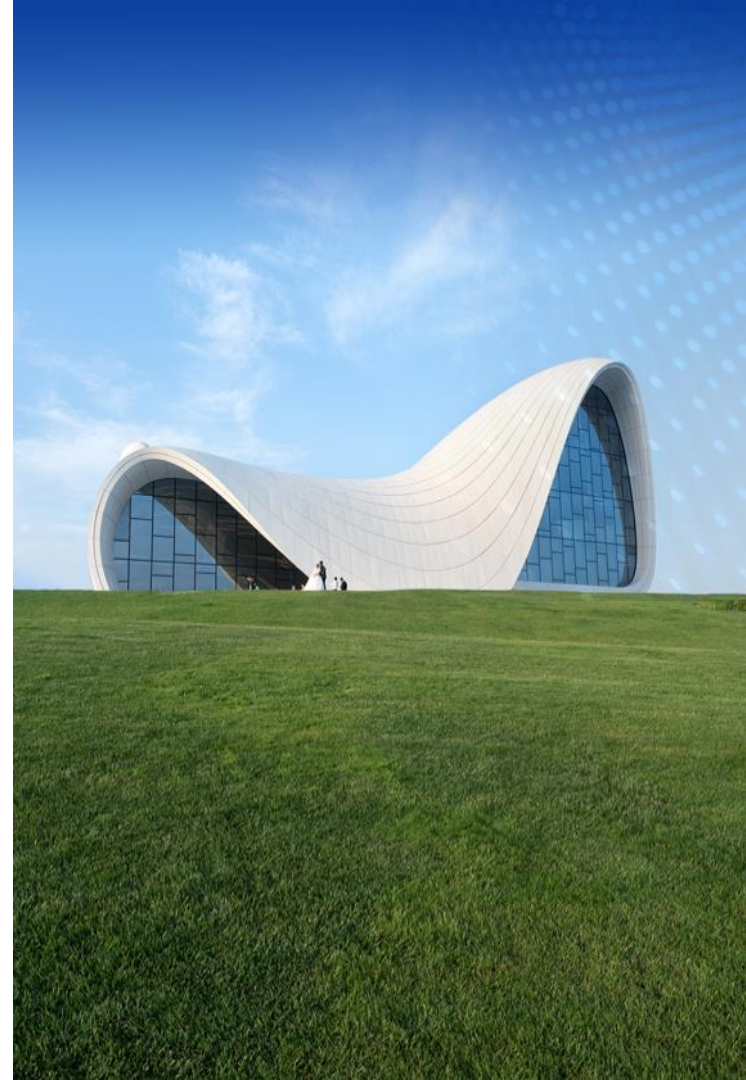
# Opportunity Funds

**Definition:** An investment vehicle that is organized as a corporation or partnership in order to invest in Opportunity Zone property.

- Must invest at least **90%** of assets as **equity** in qualified Opportunity Zone property
- Opportunity Zone property includes stock, partnership interests, and business property
- Must self-certify on their tax return

# Eligible Investments

- Business investments
  - Investments in new stock issuance for corporations and ownership interests in partnerships and LLCs
- Investments in real estate
  - Must include ownership interest of new construction or assets that will be **substantially improved** within 30 months of acquisition by Opportunity Fund
- New equipment and other assets



# Investing Incentives

- **Immediate** benefit:
  - Deferral of capital gains
  - Tax not paid until the earlier of the date of sale or December 31, 2026
- If invested for **5 years**:
  - 10% of deferred capital gain is forgiven
- If invested for **7 years**:
  - Additional 5% of deferred capital gain is forgiven (total of 15%)
- If invested for **10 years**:
  - Exemption from tax on capital gains on Opportunity Fund Investment (Not original capital gain)

# Strengths

Straightforward

New  
Investor  
Class

Local

Flexible

Potential

# Possible Weaknesses

Lack of  
Oversight

Lack of Impact  
Incentives

Future of Other  
Tax Incentives

Business  
Displacement

# Forthcoming Regulations

- Certification of Opportunity Zone funds
- Rules ensuring an Opportunity Zone fund can reinvest return of capital from its investments
- Anti-abuse rules

## Unanswered Questions

- Will a fund be able to pool money and deploy it into several investments over a protracted period of time, or will all funds need to be single-investment funds?
- How will the Opportunity Zone tax benefits interact with current gain deferral options such as §1031? Or §1202?
- How will the law impact current programs LIHTC and NMTC?



# Traps for the Unwary

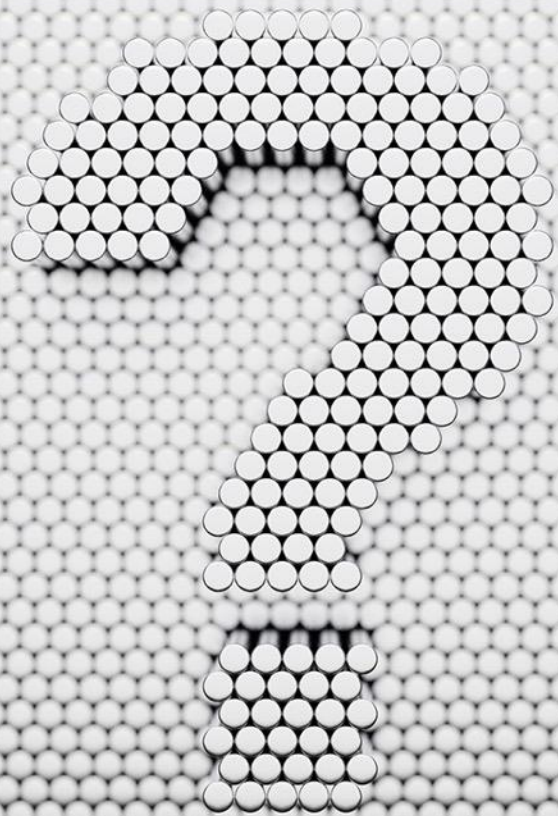
- Administrative requirements and investor reporting?
- Community projects may not meet investor criteria?
- Compliance requirements/deadlines-hard or soft?

# Next Step for Opportunity Zone Communities

- Develop strategy for identifying potential investment areas
- Make opportunities known to investors

# Next Steps

- **Line up your team**
  - Legal.
  - Accounting.
- **Develop a plan**
  - Business plan.
  - Investment plan.
- **Projects**
  - Investor requirements.





# Thank you