

A New Zone of Opportunity – Worth the Investment

By Patrick T. Fitzgerald

It's no secret that last December, President Donald Trump was undertaking significant efforts to have the Tax Cuts and Jobs Act of 2017 ("Act")



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passed by Congress. Like other major federal legislation reform efforts that had come before it, the Act included certain

provisions establishing new (or revising existing) programs that many simply were not aware of, or with which they did not have time to become familiar. Meanwhile, the legislation was being aggressively pushed through Congress. Once passed, it isn't uncommon for the provisions and programs tied to that legislation to garner significant attention, and the new Opportunity Zone Program for community development is no exception.

Unlike many demographic communities throughout the nation, distressed, low-income urban and rural communities nationwide are still recovering from the Great Recession, and, in many areas, have been struggling economically for decades. The Opportunity Zone Program has been designed to stimulate investment in communities that require such investment the most by increasing long-term private investments in housing, infrastructure and business development. Accomplishing that goal means providing tax incentives, such as a deferral or reduction in capital gains, to those who invest in Opportunity Zones through a "Qualified Opportunity Fund." Congress expects the Qualified Opportunity Funds to serve as the investment vehicle that will promote economic development within those census tracts that receive Opportunity Zone designation.

If a state opts into the Opportunity Zone Program, certain low-income census tracts in that state are eligible for Opportunity Zone designation – a limited number of which must be nominated by the state's Governor. Eligibility to be nominated and ultimately designated as an Opportunity Zone rests on whether a census tract is either (1) a "low-income

community," or (2) under certain circumstances, contiguous to a designated "low-income community." Not surprisingly, the legal definitions of those terms do not readily identify the census tracts that qualify as an Opportunity Zone, but certain tools and resources have been made available to assist states and communities in determining Program eligibility.

Like most other states, New York is opting into the Opportunity Zone Program by nominating eligible census tracts. With

roughly 2,100, Governor Andrew Cuomo has engaged Empire State Development, New York State Homes and Community Renewal, and the various Regional Economic Councils to identify eligible census tracts for Opportunity Zone designation. For New York State, that process must be completed by April 20, 2018.

Undoubtedly, along with census track designation will come investors, real estate developers and municipalities looking to the Opportunity Zone Program to spur economic and development activity

in those designated communities. As a result, those communities – and the stakeholders invested in their success – can be optimistic that the Opportunity Zone Program will not only aid their recovery, but expedite their resurgence from the Great Recession.

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