



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

H.B. 727

132nd General Assembly
(As Introduced)

Rep. Schuring

BILL SUMMARY

- Authorizes a nonrefundable income tax credit for certain investments in an Ohio opportunity zone.
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CONTENT AND OPERATION

Opportunity zone investment credit

The bill authorizes an income tax credit for taxpayers that make certain investments in Ohio opportunity zones, to enhance existing federal and Ohio tax benefits for investments in any opportunity zone. Recently enacted federal law authorizes states to designate economically distressed census tracts meeting certain criteria as an "opportunity zone."¹ Federal income tax incentives are available for a taxpayer who reinvests otherwise-taxable capital gains in an "opportunity zone fund" — an investment fund that holds at least 90% of its assets in property, stock, or ownership interests that benefit opportunity zones. Specifically, federal law authorizes the deferral of federal income tax on the reinvested gains until the investment is sold or exchanged from the opportunity zone fund, provided the funds are reinvested within 180 days of the sale that creates the gain. Moreover, if the investment is held in that fund for five years, the investment's basis is increased by 10% of such deferred gain (effectively a 10% decrease in tax on the original gain). If held for at least seven years, the basis is increased by 15%. If held for ten years, not only is the basis increased by 15%, but any capital gains accrued while the investment was held in the opportunity zone fund is exempt from tax.²

¹ 26 United States Code (U.S.C.) 1400Z-1. A map of opportunity zones designated in Ohio is available at https://development.ohio.gov/bs/bs_censustracts.htm.

² 26 U.S.C. 1400Z-2.

The federal deferral and reduction in capital gain taxes flows through directly to the Ohio income tax so that Ohio tax on a capital gain reinvested in an opportunity zone fund is deferred or reduced to the same degree, because Ohio law incorporated the federal law.³ The federal and Ohio tax benefits are available regardless of where the zone is located.

The bill offers a new income tax credit that would provide an additional Ohio income tax benefit for reinvesting gains in funds that invest entirely in Ohio-designated zones. To qualify for the credit, a taxpayer must reinvest capital gains in an opportunity zone fund that in turn invests 100% of its assets in opportunity zones in Ohio (referred to in the bill as a "qualifying Ohio opportunity zone fund"). The credit equals 10% of any qualifying Ohio opportunity fund investment of at least \$250,000 in a taxable year. The credit is nonrefundable, and any unused credit may not be carried forward and claimed in subsequent taxable years.⁴

The bill specifies rules governing whether an opportunity zone fund's assets are in an Ohio-designated zone for the purposes of the credit. The credit's 100% Ohio-investment threshold is the average of a fund's opportunity zone holdings measured midway through the fund's taxable year and on the last day of the taxable year. In the case of assets in the form of tangible property, "substantially all" of the property's use must be in the zone for "substantially all" of the fund's holding period of the property. In the case of assets in the form of stock or partnership interests in a business, substantially all of the business' tangible property must be used in the Ohio zone for substantially all of the fund's holding period of the stock or interest. These qualifications are expressed in terms similar to those in federal law governing whether a fund's investments qualify for the federal opportunity zone tax benefit.⁵

HISTORY

ACTION	DATE
Introduced	08-29-18

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³ See S.B. 22 of the 132nd General Assembly, incorporating the Tax Cuts and Jobs Act, which enacted the opportunity zone tax benefit.

⁴ R.C. 5747.74, 5747.02, and 5747.98.

⁵ See 26 U.S.C. 1400Z-2(d)(2)(B), (C), and (D).

