

No Time to Wait, Why Investors Should be Looking at OZ Funds Right Now

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The U.S. Congress recently made the Opportunity Zone (OZ) program permanent, which is reason to celebrate. In a few short years the OZ legislation has proven itself to be one of the [most successful](#) economic development programs ever. There are now plenty of reasons why investors should want to commit to OZ's today, before the new legislation takes effect in 2027.

Created by the 2017 Tax Cuts and Jobs Act OZs have [already drawn over \\$100 billion](#) in capital for community revitalization, ranging from affordable housing to broadband fiber. Building on this success, the One Big Beautiful Bill Act (OBBBA) made the OZ program permanent and [added a slew of investor-friendly enhancements](#), which take effect in January 2027. The new program is exciting, but investors looking to maximize their benefits shouldn't wait.

The original OZ program provided three main benefits for investors who deferred capital gains into a Qualified Opportunity Fund (QOF):

- **Deferred gains:** The original capital gains can be deferred until the end of 2026.
- **Partial exclusion:** A 10-15% exclusion of deferred capital gains was available in the early years of the program, phasing out to 0% today.
- **Full exemption:** A complete exemption from capital gains on the new investment, if the investment is held for at least 10 years

Here are five reasons why it's an opportune time to invest now in Opportunity Zones before the new program begins.

Benefit #1 – The Potential for a Reduction in Deferred Gains

Despite the phasing out of the 10-15% partial exclusion, investors in Opportunity Zone funds still have meaningful potential for reducing their deferred tax liabilities before the end of 2026. This is because the IRS regulations calculate tax liabilities on the deferred gain in 2026 as the lesser of two amounts: 1) the original deferred capital gain, or 2) the reduced fair market value (FMV) of the OZ fund at the end of 2026. (See Internal Revenue Code (IRC) Section 1400Z-2(b)(2)(B)(i) and clarified in Treasury Regulation § 1.1400Z2(b)-1(e)).

For example, an investor puts \$1 million into an OZ fund today. Due to the time it takes for real estate projects to be built and stabilized and for new companies to grow, the fund might show scant appreciation in value before the end of 2026. During the same timeframe, there will be fund formation expenses, along with several years of management fees and administrative costs, which can also reduce the FMV). If these factors reduce the FMV from \$1 million to \$850,000 by

the end of 2026, the deferred tax liability could potentially be based on the \$850,000 amount rather than the full \$1 million, resulting in a significant deferred tax savings for the investor. *(Investors must consult with their tax advisor on the treatment of this situation. See discussion of fund valuation process in the offering documents.)*

While not the objective of any Fund Manager, a reduced FMV may present a significant tax advantage. After construction and stabilization, these projects may increase in value after 2026, allowing investors to realize significant long-term capital gains tax-free. This effectively mimics the cost basis step-up tax benefits of the program's early years. Few OZ investors and their financial advisors are aware of the FMV benefit, however, the IRS has a right to challenge valuations, so investors should verify that funds get third-party appraisals that support a fund's marks. (While some Funds receive third party valuations, most Funds are valued by their Manager or General Partner, which may present conflicts.) As always, investors should also consult their tax advisors to understand how this provision might apply.

Benefit #2 – An Option if You Already Have Capital Gains

For investors who have already realized capital gains, the options are more limited, the current OZ program is an option, but the new program may only be eligible for investments made after January 1, 2027. While some might have the flexibility to strategically delay asset sales until late 2026 or 2027, for most investors today, the decision is straightforward. *(K-1 gains realized in 2026 may be eligible for inclusion in OZ 2.0 starting in 2027. This is not tax advice, please discuss with your tax advisor.)*

Benefit #3 – Last Chance for Certain Prime Zones

Existing zone designations will be phased out at the end of 2026, making way for governors to designate thousands of new zones to take effect on January 1, 2027. While existing zones with projects already underway will likely be grandfathered in through 2028, investing in a fund today presents a unique window to ensure the ability to invest in some of the most attractive census tracts. Examples include census tracts such as Long Island City, Gowanus and the majority of Puerto Rico which were originally designated as OZs but may no longer be eligible due to rising income and lowered income eligibility in the OZ 2.0 framework.

Benefit #4 – Bonus Depreciation

While the OZ program enhancements take effect in 2027, Congress saw fit to renew several of the affiliated benefits ahead of time, most notably bonus depreciation.

The OBBBA tax bill renewed 100% bonus depreciation retroactively back to January 2025, meaning that eligible OZ investors can take advantage of this benefit immediately. Here is an example: An OZ fund invests in a new \$100 million building, of which \$30 million is eligible for

bonus depreciation. This bonus depreciation is a potential tax deduction that may be used to offset ordinary income or interim capital gains at the fund level, or it may be passed through to investors as potential deductions.

Under a typical investment outside an OZ fund, these bonus depreciation offsets would result in a deduction but would also be subject to depreciation recapture, leading to a larger capital gain liability upon exit. However, the unique advantage of an OZ fund is that investors may take the maximum depreciation benefits today with no recapture down the road because their cost basis steps up to the selling price upon a qualified exit after 10 years. Bonus depreciation is a complex topic, and investors should consult their tax advisors to determine the applicability of these benefits.

Benefit #5 – Qualified Small Business Stock (QSBS)

While most OZ funds have invested historically in real estate, the new rules for Qualified Small Business Stock (QSBS) provide a significant capital gains tax exemption for investment in private companies. The tax benefits are also immediate. Effective July 4, 2025, investors can now capitalize on this benefit up to \$15 million per transaction for each investor through existing OZ funds, rather than waiting around for the 2027 program to begin.

While the Opportunity Zone program enhancements coming in 2027 are positive, the current program offers a powerful combination of near-term tax benefits and access to expiring investment opportunities that are highly compelling. For sophisticated investors looking to maximize the full range of incentives offered by the OZ program, the window to invest in the current framework is closing, and the time to act is now.

This is not investment advice, nor an offer to sell any security or investment. Prior to investing you should consult your tax and investment advisors, as well as reviewing the offering documents and risk statements. Tax information is for informational purposes and should be reviewed by your tax advisor.