# *White House Approves a Tax Rule Meant to Help Distressed Areas*

Senator Tim Scott, Republican of South Carolina, left, pushed for the inclusion of opportunity zones in the tax bill that President Trump signed into law last year. The zones are meant to increase investment in distressed communities.CreditCreditTom Brenner/The New York Times

**By Jim Tankersley**

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WASHINGTON — The Treasury Department is poised to outline new rules stemming from the $1.5 trillion tax overhaul last year that are aimed at giving investors confidence to pour billions of dollars into distressed economic areas across the United States.

Investment banks, venture capitalists and real estate developers have been eagerly awaiting guidance for so-called opportunity zones, a sort of domestic tax haven that was created under the Republican tax bill that President Trump signed into law in December. The zones are devised to attract capital to urban, suburban and rural areas where investment has lagged after the Great Recession — like broad sections of Detroit and Stockton, Calif. — by allowing investors to avoid some taxes when they fund projects there.

Treasury is expected to outline criteria on Friday that would allow a wide variety of projects to qualify for the preferential tax treatment, including seed capital for start-up businesses in areas ultimately identified as opportunity zones.

The rules would permit investors to avoid paying capital gains taxes. An investor who rolls unrealized capital gains — assets such as stocks that have grown in value but have not yet been taxed on those gains — into a special fund dedicated to investing in opportunity zones can eventually avoid up to 15 percent of the taxes otherwise owed. The investor never pays taxes on any gains the fund accrues in its investments in the opportunity zones, provided that investment is held longer than 10 years.

A looming question has been the types of projects that would qualify. Proponents of the zones have said the right type of structure could help drive money into distressed communities, generating economic growth and jobs. But critics have warned that the details could simply hasten gentrification of areas that were already attractive places to invest and serve as a tax shelter for wealthy investors.

"There's just a lot of unknowns" with the regulations, said Scott Goodman of Farpoint Development, based in Chicago. His company is taking the lead on a 100-acre lakefront project in a designated opportunity zone on the city's South Side, which could grow to a $3 billion investment over the next decade.

"However they write it, we hope they write it in a way that's flexible enough so that it can really maximize the benefits to the communities," he said. "It needs to be clear enough that investors say, yeah, I get it, I'm comfortable investing in these communities."

Governors designated eligible census tracts as opportunity zones earlier this year, choosing from a list of areas in their states that met the law's criteria for investment starvation, and Treasury has approved those designations. Many investment banks and real estate developers have already begun to invest in those designated communities, betting that the projects they have chosen will qualify under the coming regulations.

But officials at Treasury and the White House have sparred over how strictly to write the rules governing the zones and the funds that invest in them. Some Treasury employees initially pushed a version that others in the Trump administration feared would effectively limit the qualifying projects to only certain types of real estate.

The proposed rules are an outgrowth of a high-stakes fight between Treasury and the White House Office of Management and Budget, which culminated in a move by Mr. Trump to hand more authority over tax regulations to the budget office. The decision ended a several-decades practice of the White House leaving tax regulation to Treasury.

Under the new process, the bureau's Office of Information and Regulatory Affairs has the authority to review — and request changes to — tax regulations that are deemed economically significant.

For several years, Republicans and Democrats in Congress, who were urged on by the tech mogul Sean Parker and a think tank he supports, the Economic Innovation Group, championed opportunity zones. Senator Tim Scott, Republican of South Carolina, added the zones into last year's tax overhaul, which provided sizable tax cuts for businesses and individuals. Independent analyses have found that the bulk of the dollars from the cuts will flow to the highest-earning Americans.

The zones were an unheralded part of the tax law. But they have since attracted widespread interest. Civic and state leaders have drawn up plans to maximize their potential. Law firms have formed new practices devoted to navigated the regulations governing them. Investors from Silicon Valley to Wall Street have begun to raise funds devoted to projects in the zones.

"We have conversations about opportunity zones every single day" with people who want to invest or raise their own funds, said Margaret Chinwe Anadu, the head of the Urban Investment Group at Goldman Sachs, which has already made investments this year in zones in Queens, Brooklyn and Orange, N.J. "This has become a significant amount of how we think about our economic development work."

Steven Mnuchin, the Treasury secretary, said in recent weeks that he expected the zones to attract $100 billion in investment.

How much the provisions costs taxpayers, in terms of foregone federal revenue, depends on how much money is invested and held in the zones. The congressional Joint Committee on Taxation predicted the provisionwould reduce tax revenue by $1.6 billion over 10 years, which implies a modest amount of investment. Mr. Mnuchin's prediction, if true, would yield a substantially higher revenue loss.

Some investors say they would be moving faster, and investing more money, if Treasury had detailed earlier the rules for how the zones will work. The law, they said, leaves huge questions unanswered, including what it means for "substantially all" of the investment to be in a zone, as the law requires. Investors are also unsure whether they need to keep their money in a single asset — like a new housing complex — for 10 years to qualify for the most generous tax benefits, or whether they can buy and sell assets inside a zone, or multiple zones, over that period.

Steve Glickman, a co-founder of the Economic Innovation Group, recently left the think tank to start Develop L.L.C., an advisory group for investors in opportunity zones. He said several of his clients "have had to turn away major investors and projects, because of the regulatory uncertainty in the marketplace right now."

John Lettieri, the president and chief executive of the Economic Innovation Group, said the Trump administration's understanding of the central issues that the regulations needed to address had improved, which he expected the draft version to reflect. "The key to making this an impactful tool is versatility," he said. "That's what unlocks the kinds of creativity and entrepreneurial uses everyone hopes to see."

The regulations, as approved by Office of Information and Regulatory Affairs after about three weeks of review and change, will clear up many questions, but not the ones that the law purposely leaves ambiguous. Chief among them, said Ms. Anadu of Goldman Sachs, is how to ensure that the investments driven by the law will actually help distressed communities prosper.

"There's a real difference between capital invested in low-income communities, and capital invested in a thoughtful way in line with local priorities," she said.
***Correction:*** *October 18, 2018*

*An earlier version of this article misstated the surname of a principal at Farpoint Development. He is Scott Goodman, not Goldman.*