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Gavel to Gavel: Proposed Opportunity Zone bill extends tax benefits

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A bipartisan group of legislators recently introduced H.R. 5761, the “Opportunity Zones Transparency, Extension and Improvement Act.” The bill has been referred to the House Way and Means Committee, where it awaits further action.

Most notably, if enacted, the proposed legislation would:

— Extend the gain deferral and investment period for two years. The deferral and investment period is currently set to expire on Dec. 31, 2026, and the legislation would extend that to Dec. 31, 2028. For some investors, this could result in obtaining an otherwise unavailable basis adjustment (up to 15%) in their deferred gains and resulting tax decrease when the deferral period ends. The bill’s co-sponsors explained that it took the Treasury Department nearly two years to issue final regulations administering Opportunity Zones and that investors were understandably hesitant to participate in the program until the regulations were finalized. This extension is meant to add an equal amount of time to the program to allow communities and investors to fully utilize the tool as Congress intended.

— Expand information reporting requirements. The proposed legislation would expand the information reporting requirements for Qualified Opportunity Funds (QOFs), Qualified Opportunity Zone Businesses (QOZBs) and investors. In addition, the proposed legislation introduces penalties for failure to comply with these reporting requirements.

— Provide Additional Structuring Flexibility. The legislation would allow for QOFs to be organized as a “fund of funds” that may, subject to certain requirements, invest in other QOFs,

which had previously been disallowed. This would ease some of the existing structuring burden under current rules.

– Terminate Opportunity Zones that are not impoverished. The legislation would end the designation as an Opportunity Zone for any tracts with a median family income (MFI) at or above 130% of the national MFI. States would be allowed to replace any such tracts with new eligible tracts. Existing investments in these tracts that meet certain criteria would continue to qualify under the program.

If H.R. 5761 is not passed, then a qualified investment must relate to eligible gains recognized by the end of 2026 and must be made in a QOF by mid-2027. Last-minute investment in a QOF would still unlock the biggest available incentive under the program—the ability to eliminate tax on the appreciation in the investment’s value if the investment in a QOF is held for at least 10 years.

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