National Trust *for* Historic Preservation®
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December 27, 2018

CC:PA:LPD:PR (REG-115420-18)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Re: Historic Preservation and Investing in Qualified Opportunity Funds

To Whom It May Concern:

As the Treasury Department continues to provide guidance associated with implementation of Opportunity Zones as authorized by the Tax Cuts and Jobs Act of 2017, the National Trust for Historic Preservation appreciates the opportunity to comment on ways to ensure the success of this new initiative and demonstrate how historic preservation can assist distressed communities develop and reach community and economic revitalization goals.

The National Trust for Historic Preservation was chartered by Congress in 1949 as a private nonprofit organization for the purpose of furthering the historic preservation policies of the United States and facilitating public participation in the preservation of our nation's heritage. *See* 54 U.S.C. § 312102(a). With more than one million supporters around the country, the National Trust works to protect significant historic sites and to advocate historic preservation as a fundamental value in programs and policies at all levels of government. The National Trust is also designated by Congress as a member of the Advisory Council on Historic Preservation, which works with other federal agencies to ensure compliance with Section 106 of the National Historic Preservation Act. *Id.* §§ 304101(8), 304108(a).

The National Trust believes there is unprecedented potential for Opportunity Zones to align public and private resources both to revitalize neighborhoods for low- and moderate-income residents while maintaining community identity and to demonstrate to investors how historic rehabilitation projects spur local job creation, expand housing opportunities, promote small business development, and contribute to capital formation. With the creation of the White House Opportunity and Revitalization Council, the more than 8,700 neighborhoods in our rural areas, suburbs, and inner cities included in designated Opportunity Zones can become part of an important partnership with the federal government. Together they can ensure the estimated $100 billion in private investment expected to flow to these communities over the next decade will indeed identify market and community-based solutions to economic development challenges.

Ambitious Urban Renewal programs of the mid-20th Century saw little value in preserving historic buildings and neighborhoods. As a result, important elements of our history were lost, and neighborhood identity was destroyed. With a limitless amount of investment that could flow to Opportunity Zones in neglected communities and minimal federal oversight over project selection and investment plans, the potential to repeat the failures of the past remain. It is encouraging, however, that the Opportunity Zone initiative supports investment horizons of sufficient duration to provide distressed communities the time needed to ensure long-term sustainable growth.

A proven economic development solution to revitalizing many different types of communities is the federal historic tax credit (HTC). Over the last four decades, the HTC has become the federal government's most successful incentive to transform abandoned and underutilized historic buildings into economically productive community assets. The significant majority of HTC projects in metropolitan areas are located in economically distressed neighborhoods and more than half of all HTC investments are housing projects. Since 1978, the HTC has generated a cumulative investment of $144.6 billion in historic and core urban areas resulting in the creation of more than 2.5 million jobs and $158 billion in Gross Domestic Product.[1] The HTC also effectively targets rehabilitation for communities that need it the most. In FY17, 50 percent of all rehabilitation projects occurred in low- and moderate-income census tracts and 79 percent were in "economically distressed areas."[2] When used in combination with HTCs and other economic development incentives, the impact of Opportunity Zone capital can be greatly magnified.

The Department of Treasury and the Housing and Urban Development-led White House Opportunity and Revitalization Council should assist communities in establishing guidelines and help prepare them to deploy a mix of layered and complementary tax incentives, public funding, as well as private investment. Opportunity Zone funding should strive to reach appropriate economies of scale and urban typologies that are consistent with the existing infrastructure and neighborhoods it is trying to assist. Investment in only those projects that promise the highest returns will do little to support neighborhood preservation and revitalization. Instead guidance should facilitate conformity with community development plans, including survey of historic buildings, zoning and planning review, and engaged public participation.

An ongoing and critical area of assessment is determining how to efficiently pair existing federal incentives with Opportunity Zone funds to maximize investor interest and achieve other important federal policy objectives. Guidance on ways to optimize use of federal resources, such as HTCs, Low-Income Housing Tax Credits, and New Market Tax Credits, in combination with Opportunity Zone funding will help ensure that residents living within Opportunity Zones will see new prosperity without an accompanying and unsustainable increase in the cost of housing. Encouraging a preference for those Opportunity Funds that successfully integrate multiple development incentives is more likely to produce an appropriate balance of affordable, workforce, and market rate housing.

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[1] Annual Report on the Economic Impact of the Federal Historic Tax Credit for FY17, Rutgers University, Edward J. Bloustein School of Policy and Planning, and the National Park Service, Technical Preservation Services, p. 5
[2] Stet.

The Department of Treasury states in its notice of proposed rulemaking that it is soliciting comments on the proposed regulations and all aspects of the definition of "substantial improvement." The preservation community has long supported policy changes to Section 47 of the Internal Revenue Code that would make it easier for historic rehabilitation projects to satisfy substantial rehabilitation requirements. Like Opportunity Zone requirements, HTC projects are similarly required to meet an investment threshold of 100 percent of adjusted basis before tax credits are issued. To increase the number of adaptive reuse projects financially eligible to meet the substantial rehabilitation threshold, the National Trust supports amending Section 47 of the Internal Revenue Code to require an investment of 50 percent of adjusted basis. Legislation introduced in the House and Senate over multiple sessions of Congress consistently demonstrates strong bipartisan support for this policy change[3]. Lowering the threshold for investment in historic tax credit projects in Opportunity Zones would help ensure the adaptive reuse of historic buildings is an attractive option for investors.

In developing a matrix to measure the impact of Opportunity Zones, future guidance should emphasize the demonstrable benefits of historic rehabilitation. The National Trust believes the most successful community development outcome includes the preservation of historic properties and Opportunity Funds that encourage and promote rehabilitation over demolition in designated zones. While self-certification promotes significant latitude for investment, preservation outcomes would be enhanced with a requirement that the IRS require information documenting how investments will be made before certification or make it clear the department reserves the ability to suspend tax deferment should the risk of displacement or the loss of community character appear too great. As a starting point, reporting requirements for investments in Opportunity Zones should be incorporated into future regulations to ensure accurate assessment of the incentive's impact.

The National Trust is committed to working with the Department of Treasury and the White House Opportunity and Revitalization Council to ensure Opportunity Zone investments are focused on projects that will provide the most benefit to low income neighborhoods and their residents while preserving the historic character of these communities.

Thank you again for the opportunity to comment.

Sincerely,

David J. Brown

David J. Brown
Executive Vice President and Chief Preservation Officer

[3] The Historic Tax Credit Improvement Act of 2017, H.R. 1158 / S.425, 115TH Congress