

May 1, 2018

# ARIZONA OPPORTUNITY ZONES: 101

## ARIZONA COMMERCE AUTHORITY





# TODAY'S AGENDA

- Introductions
- Overview of Arizona Opportunity Zones & Opportunity Funds
- Moderated discussion
- Audience questions



# PANELISTS

- Moderator: Paul Hughes, VP Business Attraction
- Panelists:
  - Michael Kellis, Associate Counsel
  - Keith Watkins, Senior Vice President, Economic/Rural Development
  - Shawn Neidorf, Director, Research



# WHAT ARE OPPORTUNITY ZONES?

## Arizona Opportunity Zones:101

- Bipartisan measure tucked into the 2017 tax law meant to increase investment in low-income communities by providing tax benefits to investors who realize gains and reinvest that money in designated low-income areas known as “Opportunity Zones.”
- Each governor got to nominate 25 percent of a state’s qualifying low-income Census tracts for Opportunity Zone status. The U.S. Department of the Treasury certifies zones.
  - Arizona submitted Governor Ducey’s nominations on March 21.
  - All Arizona tracts were certified by Treasury on April 9.





# CRITERIA

## Arizona Opportunity Zones:101

- To qualify as a potential Opportunity Zone, a Census tract needed either:
  - A 20+ percent poverty rate or
  - A median family income that does not exceed 80 percent of the median for the state or MSA (whichever was higher).
- States were allowed to nominate up to 5 percent of their total tracts from among “contiguous tracts,” each of which:
  - Had to be adjacent to a qualifying tract that also was nominated and
  - Could not have a median family income that exceeded 125 percent of the adjacent qualifying tract.



# ARIZONA NOMINATIONS

## Arizona Opportunity Zones:101

- Arizona has 1,526 Census tracts, 671 of which meet Opportunity Zone criteria.
- Arizona was eligible to nominate 168 tracts, of which up to 9 could be contiguous tracts.
- Governor Ducey nominated 160 qualifying tracts and 8 contiguous tracts, which were approved by Treasury.
- Every county in Arizona has at least one Opportunity Zone.

NOTE: The number of tracts eligible was determined by 2011-2015 American Community Survey data.



# COMMUNITY COLLABORATION

## Arizona Opportunity Zones:101

- ACA asked jurisdictions to recommend up to 25 percent of their qualifying tracts, plus one optional contiguous tract.
  - Maricopa and Pima counties: incorporated communities of 10,000+ residents submitted recommendations. The counties made recommendations for smaller towns and unincorporated areas.
  - In other counties, the county was asked to make recommendations.
  - Tribes with qualifying tracts centered on their land were asked to make recommendations for their areas.

Note: Many tracts cross city and tribal boundaries. A tract was counted as being “in” a particular jurisdiction if its center point was in that jurisdiction. ACA used this approach, recommended by the U.S. Census Bureau, to determine how many tracts each jurisdiction could recommend—the total times 0.25—but not to assign from which tracts a jurisdiction could chose.

A vertical photograph on the left side of the slide shows a person standing on a rocky cliff, looking out over a city at sunset. The sky is a mix of orange, yellow, and blue, and the city lights are visible in the distance.

# NOMINATION

## Arizona Opportunity Zones:101

- ACA staff reviewed submissions and trimmed total recommendations to the maximum 168.
- ACA CEO Sandra Watson presented recommendations to Governor Ducey, who approved them. ACA submitted the tracts to Treasury.
- Arizona was one of the first states whose tracts were approved.





# INVESTMENT TAX BENEFITS

## Arizona Opportunity Zones:101

- 2 separate tax benefits tied to investing in Opportunity Zones. To qualify for either:
  - Investment must be made via an Opportunity Fund and
  - Money invested in Opportunity Fund must be a gain from another investment transferred into an Opportunity Fund within 180 days of realizing gain.
- Tax on realized gain deferred and reduced if Opportunity Fund investment held 5 to 7 years.
  - 10% of deferred gain forgiven at 5 years; 15% at 7 years.
- Gains on the Opportunity Fund investment will not be taxed if the investment is held for 10 years.

Note: Investors may place funds that are not realized gains in Opportunity Funds, but those investments will yield none of the tax benefits described above.



# OPPORTUNITY FUNDS OVERVIEW

## Arizona Opportunity Zones:101

- Must be organized as a corporation or partnership to invest in Opportunity Zones.
- Must be certified by Treasury.
  - Funds will “self certify” by filling out a form to be released in August and attach it to their federal tax return.
- Must have 90% of assets in qualified Opportunity Zone property.
  - Judged twice yearly.
  - Fine if failure to meet; may be waived if “due to a reasonable cause.” “Reasonable” is not defined.
    - Fine is an amount equal to the excess of 90% of its aggregate assets over the aggregate amount of Opportunity Zone property held by the Opportunity Fund multiplied by the IRS’s underpayment rate.

A vertical photograph on the left side of the slide shows a person standing on a rocky cliff, looking out over a city at sunset. The sky is a mix of orange, yellow, and blue, and the city lights are visible in the distance.

# INVESTMENT TYPES

## Arizona Opportunity Zones:101

- Opportunity Funds may invest in a qualified Opportunity Zone business by purchasing:
  - Qualified Opportunity Zone stock
  - Qualified Opportunity Zone partnership interest
  - Qualified Opportunity Zone business property



# QUALIFIED BUSINESS

## Arizona Opportunity Zones:101

- A trade or business in which:
  - “substantially all of the tangible property owned or leased by the taxpayer is qualified Opportunity Zone property,” and
  - 50+ percent of total gross income is derived from active conduct of such business, and
  - “a substantial portion of the intangible property of such entity is used in the active conduct of any such business,” and
  - less than 5% of its assets are invested in nonqualified financial property.
- Cannot be a golf course, country club, massage parlor, hot tub facility, sun tan facility, liquor store, racetrack or “other facility used for gambling.”





# QUALIFIED BUSINESS PROPERTY

## Arizona Opportunity Zones:101

- Acquired by the qualified Opportunity Fund by purchase after Dec. 31, 2017.
- Original use starts with the Opportunity Fund or the fund “substantially improves the property.”
  - “Property is substantially improved if during any 30-month period following acquisition of such property there are additions to basis that equal the adjusted basis as of the beginning of such 30-month period.”
- “During substantially all of the Opportunity Fund’s holding period, substantially all of the use of the property was in a qualified Opportunity Zone.”



# QUALIFIED BUSINESS PROPERTY

## Arizona Opportunity Zones:101

- Significance of “substantial” and “substantially all” elsewhere is unclear. A similar “substantially all” requirement in §1400N (relating to Gulf Opportunity Zone Property) was interpreted to mean 80 percent.
- Numerous related-party provisions apply. Notably companies cannot purchase from themselves via Opportunity Funds.



# QUALIFIED OPPORTUNITY ZONE STOCK

## Arizona Opportunity Zones:101

- Must be obtained at original issue for cash.
- Corporation must be a qualified Opportunity Zone business when stock was issued or be organized to be one.
- During “substantially all” of the fund’s holding period for the stock, the corporation must qualify as an O Zone business.

Note: Several redemption rules apply.

A vertical photograph on the left side of the slide shows a person standing on a rocky cliff, looking out over a city at sunset. The sky is a mix of orange, yellow, and blue, and the city lights are visible in the distance.

# QUALIFIED PARTNERSHIP INTEREST

## Arizona Opportunity Zones:101

- Must be obtained from the partnership for cash.
- At time interest acquired, partnership must be a qualified Opportunity Zone business or be organized to be one.
- During “substantially all” of the fund’s holding period for the stock, the partnership must qualify as an O Zone business.





# TREASURY'S ROLE

## Arizona Opportunity Zones:101

- Treasury (IRS) is charged with:
  - Establishing rules for “certification of qualified Opportunity Funds.”
  - Form for self-certification due out in August.
- Establishing rules to ensure a Fund has “a reasonable period of time to reinvest the return of capital from investments in qualified Opportunity Zone stock and qualified Opportunity Zone partnership interests, and to reinvest proceeds from the sale or disposition of qualified Opportunity Zone property.”
- Establishing “rules to prevent abuse.”
- We are awaiting Treasury’s guidance on these issues and others.



# ADDITIONAL RESOURCES

## Arizona Opportunity Zones:101

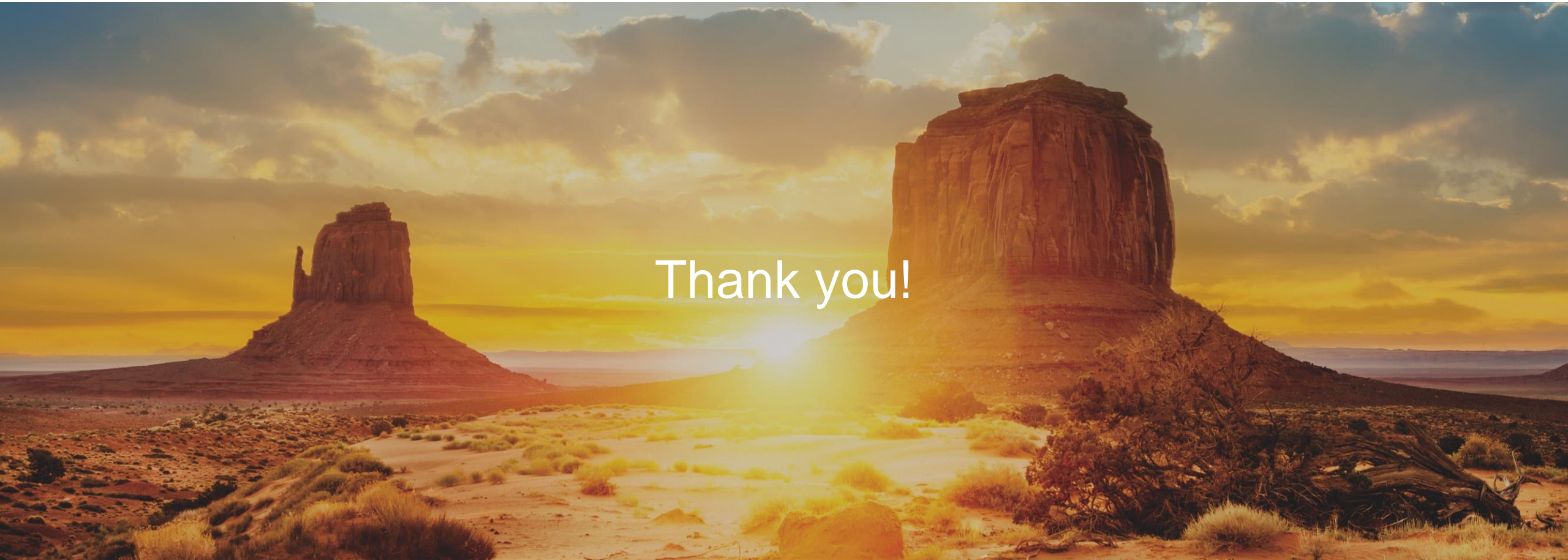
- ACA's Opportunity Zones information [page](#)
- ACA's Opportunity Zones [map](#)
- Treasury's CDFI Opportunity Zones Resources [page](#)
- Economic Innovation Group's Opportunity Zones [page](#)
  - EIG's [white paper](#) on the Opportunity Zones/Funds concept
- Council of Development Finance Agencies' (CDFA) Opportunity Zones [page](#)
- PriceWaterhouseCooper's "[Tax Insight](#)" issue on Opportunity Zones/Funds
- *Bloomberg Tax/Tax Management Real Estate Journal*<sup>TM</sup>'s [take](#) on Opportunity Zones/Funds, by Steven F. Mount



# Discussion & Questions







Thank you!

