MDCEP
MARYLAND CENTER ON ECONOMIC POLICY
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Subsidy Programs Should Include Community Benefits and Accountability

Position Statement in Support of House Bill 45

Given before the House Ways and Means Committee

Maryland's Opportunity Zone Enhancement Program is the most recent of a growing number of business subsidies policymakers have created during the last several decades. This program builds on tax breaks authorized by the Trump administration's signature tax overhaul and, like other business subsidies, comes with significant costs and highly uncertain benefits. The community benefit standards and accountability measures in House Bill 45 would increase the likelihood that the program will make a meaningful difference for community residents and workers. For these reasons, the Maryland Center on Economic Policy supports House Bill 45.

Congress created the Opportunity Zone program as part of the 2017 federal tax overhaul. The program is in line with the law's overall approach of handing large tax breaks to profitable corporations and wealthy individuals. Although the ostensible goal of the Opportunity Zones program is to promote economic opportunity in struggling communities, it includes few meaningful protections to ensure that these communities see real benefits:

- The program's core is a set of capital gains tax breaks a recipient can qualify for by investing in Opportunity Zones. This design ensures that the program's benefits will be heavily lopsided, as more than 60 percent of capital gains in Maryland and nationwide go to the wealthiest 1 percent of households.[i]
- The program does little to prevent benefits from going to projects investors would have pursued in the absence of subsidies. In fact, the program is structured to deliver the largest tax breaks to the most profitable investments—limiting its ability to spur growth in the communities that need it most.[ii]
- Growing evidence confirms that investors are claiming tax breaks for projects in already-growing areas and capturing most of the benefits for themselves.[iii]

The Maryland General Assembly passed new subsidies for Opportunity Zone businesses last year—on top of the state's existing subsidy programs and on top of the federal subsidies. That legislation did include some accountability measures, but the overall effect was still to divert more of our public resources to tax breaks with questionable effectiveness, instead of proven investments like education, health care, and transportation.

House Bill 45 would improve Maryland's Opportunity Zone subsidies by adding the following protections:

- Prohibits subsidies for country clubs, tanning salons, massage parlors, and bail bondsmen
- Requires subsidy recipients to report on community benefits such as job creation, increased affordable housing, or improved environmental sustainability
- Requires businesses that receive subsidies to pay all workers at least 120 percent of the state or local minimum wage, whichever is greater
- Adds a sunset date to ensure the program is periodically reviewed to determine whether it is working as intended

As Marylanders consider our state's unmet needs in areas like education and health care, we should ask how well our policy choices line up with our values. Subsidy programs with little record of success use resources we could otherwise invest in the foundations of our economy. We owe it to ourselves to take common-sense steps to hold those who benefit from these programs accountable for sharing those benefits with the community.

For these reasons, the Maryland Center on Economic Policy respectfully requests that the Ways and Means Committee make a favorable report on House Bill 45.

Equity Impact Analysis: House Bill 45

Bill summary

House Bill 45 strengthens requirements for investors that claim subsidies under Maryland's Opportunity Zone Enhancement Program. The bill makes country clubs, tanning salons, massage parlors, and bail bondsmen ineligible for subsidies. It also requires recipients of subsidies to pay all employees at least 120 percent of the applicable minimum wage and to report on a range of community benefits.

Background

Congress created the federal Opportunity Zones program as part of the 2017 Tax Cuts and Jobs Act. The program allows investors to delay or reduce their capital gains tax responsibilities by investing in Opportunity Zones designated by state governments. A neighborhood can qualify as an Opportunity Zone if it faces economic challenges as defined by a broad set of criteria or if it borders a neighborhood that satisfies these criteria.

Maryland lawmakers in 2019 created additional state subsidies for businesses located in Opportunity Zones. If a company that claims subsidies from another program such as Enterprise Zones or the More Jobs for Marylanders Program (among others) is located in an Opportunity Zone, it is eligible to receive larger tax breaks than it would otherwise be entitled to. The law prohibits subsidies for certain "vice" businesses, authorizes larger subsidies for companies that can show they provide community benefits, and includes reporting requirements.

Equity Implications

Both the federal and state Opportunity Zone programs pose significant equity concerns:

- The capital gains tax breaks at the center of the Opportunity Zones program are heavily lopsided. More than 60 percent of capital gains income in Maryland goes to the wealthiest 1 percent of tax filers. The program also worsens racial wealth imbalances because a small minority of white families hold nearly two-thirds of all household wealth nationwide,[iv] which is a prerequisite for capital gains income.
- The design of the Opportunity Zones program is tilted toward highly profitable projects, leaving behind the communities that most need new investment. Growing evidence confirms that investors are claiming tax breaks for projects in already-growing areas and capturing most of the benefits for themselves.v
- The state Opportunity Zones program expands several existing subsidies, that according to state analysts, have shown little record of success in improving opportunities for workers who face economic barriers.[vi]
- Subsidy programs use public resources that could otherwise be invested in things like world-class schools, sufficient child care assistance, and reliable transit. Investing in these basics strengthens our economy and can dismantle the economic barriers that too often hold back Marylanders of color.

House Bill 45 would mitigate some of the equity problems in the state's current Opportunity Zones program:

- House Bill 45 would ensure that the state does not subsidize certain investments in luxury goods, businesses that pose demonstrable health hazards, or businesses that profit from mass incarceration.

- House Bill 45 would increase transparency, allowing policymakers and the public to assess whether subsidies are producing meaningful community benefits.
- House Bill 45 would ensure that businesses that receive subsidies pay workers a decent wage.

Impact

House Bill 45 would likely **improve racial and economic equity** in Maryland.

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i TY 2016 Personal Statistics of Income, Maryland Comptroller.

ii Investors can avoid paying tax on capital gains from certain Opportunity Zone investments. This design gives investors an additional incentive to focus on projects that will produce the greatest profits, rather than those that offer the greatest social benefits.

iii **Eric Lipton and Jesse Drucker**
Symbol of '80s Greed Stands to Profit From Trump Tax Break for Poor Areas
Oct. 26, 2019
https://www.nytimes.com/2019/10/26/business/michael-milken-trump-opportunity-zones.html

How a Tax Break to Help the Poor Went to NBA Owner Dan Gilbert
After a lobbying effort, Dan Gilbert, billionaire founder of Quicken Loans, won special tax status for wealthy areas of downtown Detroit where he owns billions worth of property.
by Jeff Ernsthausen and Justin Elliott
Oct. 24, 2019, 2:10 p.m. EDT
https://www.propublica.org/article/how-a-tax-break-to-help-the-poor-went-to-nba-owner-dan-gilbert

iv 2016 Survey of Consumer Finances.

v See endnote iii.

vi Department of Legislative Services analyses of multiple tax credit programs found little evidence that they are effective in spurring job growth.