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THE MARYLAND HOUSE OF DELEGATES
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Testimony in Support of HB 224
Opportunity Zone Tax Deduction Reform Act of 2020

This bill would decouple Maryland from the federal tax breaks created for opportunity zone investors under the 2017 Trump tax legislation. Six states have already taken action to ensure that they do not provide additional state tax deductions under this federal program. Presently, opportunity zone investors receive a state break even if their money is invested outside of Maryland. Ending this tax break could save Maryland an estimated $13-$16 million per year.

Opportunity Zones Don't Necessarily Help the Poor

An August 2019 *New York Times* article pointed out that opportunity zones will result in billions of dollars in untaxed profits for wealthy investors, including members of President Trump's family and many real estate developers.[1] "While some money is flowing to poor communities, the most visible impact so far has been to set off a feeding frenzy among the wealthiest Americans," stated the article. "They are poised to reap billions in untaxed profits on high-end apartment buildings and hotels in trendy neighborhoods, storage facilities that employ only a handful of workers or student housing in bustling college towns."

Investors in Opportunity Zones are Very Wealthy

The federal rules for opportunity zones specify that only capital gains can be invested in an opportunity zone fund. Capital gains are the profits from the sale of an asset, such as stocks, bonds, or real estate. Less than 10% of American taxpayers have capital gains and those that do are among the wealthiest Americans.

Opportunity Zone Investors Get a Huge Tax Break

Under federal law, investors in opportunity zone funds get three significant benefits. First, they can defer paying capital gains taxes on their original investment until 2026 (or whenever the opportunity zone investment is sold, if earlier), which allows them to invest the entire sum and thereby potentially earn even more money. Second, their tax liability is reduced by 10% if maintain their opportunity zone investment for five

[1] https://www.nytimes.com/2019/08/31/business/tax-opportunity-zones.html

years and by 15% if held for seven years. Third, after 10 years, **the investor pays no capital gains taxes** on their profit from the sale of an opportunity zone investment.

These tax breaks are exceptionally lucrative.[2] If a person invests $100,000 in capital gains in an opportunity zone fund, after ten years they could expect to have $215,000. Normally, their federal tax liability on those capital gains would be $51,170, but because of the tax breaks for opportunity zone investors, they instead only owe $20,230 in federal taxes. **This is a 61 percent discount on their federal taxes!**

But the tax breaks don't end there. Maryland uses a taxpayer's federal adjusted gross income as the starting point for calculating state income taxes. This means that their reduced federal tax liability results in a reduced state tax liability on the order of a few thousand dollars. The fiscal note estimates that the state could be losing out on a total of $13-16 million a year.

Investors Get Tax Breaks for Investing in Other States

Under current law, state taxpayers are eligible to receive Maryland tax breaks for funds invested in opportunity zones in other states. Investment outside of Maryland is likely to be fairly common, as most opportunity zone funds plan to invest in multiple states. In fact, a directory of 184 opportunity zone funds lists only one fund that will invest in only Maryland, as opposed to 7 plans that will invest in Maryland plus other states and 63 plans that are nationwide.[3]

Why We Need to Decouple

The federal government created tax breaks for opportunity zone investors, but that doesn't mean that Maryland has to further extend these expensive tax breaks. We can save millions of dollars by decoupling our individual and corporate income taxes from the federal government in regards to opportunity zone tax breaks.

Four states do not currently provide state tax breaks for opportunity zone investments. North Carolina passed legislation to decouple in 2018. California, Massachusetts, and Mississippi base their state tax codes on pre-2017 versions of the federal tax code, which means that they don't give tax breaks for opportunity zones. In addition, Arkansas and Hawaii partially decoupled for investments made in other states.

Decoupling is an idea supported by two major non-partisan policy research organizations, the Institute on Taxation and Economic Policy and the Center on Budget and Policy Priorities.

In sum, Maryland can retain millions of dollars to use for education or closing the deficit by ending the tax breaks for wealthy opportunity zone investors.

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[2] https://calbudgetcenter.org/resources/the-federal-opportunity-zones-program-and-its-implications-for-california-communities/
[3] www.ncsha.org/resource/opportunity-zone-fund-directory/