



## OHIO OPPORTUNITY ZONE TAX CREDIT

### GUIDELINES November 2021

#### Definitions

- Except as otherwise provided, terms used in this document have the same meaning as Section 122.84 of the Ohio Revised Code (“ORC”).

#### Taxpayer Qualifications

- The Taxpayer must be subject to taxes levied under ORC Section 5747.02.
- The Taxpayer must invest in one (or more) Ohio Qualified Opportunity Fund (“Fund”).
- The Taxpayer must make the Fund investment in its “qualified taxable year”, defined as a Taxpayer’s taxable year that includes the first day of a calendar year during which a Fund makes an investment in a project located in an Ohio Opportunity Zone.

#### Ohio Qualified Opportunity Fund Requirements

- The Fund must be designated as a “Qualified Opportunity Fund” as defined by the Federal government in 26 U.S.C. 1400Z-2.
- The Fund must hold 100 percent of its invested assets in Qualified Opportunity Zone property situated in Ohio.
- The Fund may invest its assets in qualified stock, qualified partnership interests, or qualified business property.
- Stock and/or partnership interest is situated in an Ohio Opportunity Zone only if, during the entirety of the Fund’s holding period for such stock or interest, all of the use of the corporation’s or partnership’s tangible property was in an Ohio Opportunity Zone.

For business property that is Qualified Opportunity Zone Business Property, the property is situated in an Ohio Opportunity Zone if, during the entirety of the Fund’s holding period for such property, all of the use of the property was in an Ohio Opportunity Zone

#### Application

- The Application shall be made on forms prescribed by the Director of the Ohio Department of Development (“Director”).
- The Application shall be made by the Taxpayer on or after the first day of January and on or before the first day of February of each year.

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- The application period of each round shall be determined by the Director, within the allowances of the statute.

### **Required Application Information**

- Information to be provided by the Taxpayer:
  - The amount of the Taxpayer's investment in the Fund(s) during the Taxpayer's qualifying taxable year. The information must be arranged according to the amount invested in each such Fund if the Taxpayer invested in more than one such fund.
  - A certified statement from an employee or officer of each Fund identified by the Taxpayer.
  - A certified statement from the owner of each project funded by the Taxpayer's investment.
- Information to be provided by the Fund:
  - Must provide a statement to the Taxpayer certifying the following:
    - The Fund meets the definition of "Ohio Qualified Opportunity Fund" in ORC Section 122.84(A)(1).
    - Amount of the Taxpayer's investment in the Fund.
    - Amount of Taxpayer's investment the Fund subsequently invested in project(s) located in Ohio Opportunity Zones during the calendar year preceding the application filing.
    - Verification of capital investment transfer from Fund to project(s).
    - Description of each project funded by the Taxpayer's investment.
    - Location of each project funded by the Taxpayer's investment.
    - The portion of the Taxpayer's investment that the Fund invested in the project.
- Information to be provided by the Owner of Qualified Opportunity Zone property:
  - Must Provide a statement to the Taxpayer certifying the following:
    - The project property is located in an Ohio Opportunity Zone; and
    - The investment was received from the Fund.

### **Tax Credit Approval Process**

- The Director shall review and award qualified applications in the order they are received.
- The Director shall issue tax credits until all qualified Taxpayers are awarded tax credit or the total amount of tax credits is issued, whichever comes first.
- The Director shall not issue certificates in a total amount that would cause the tax credits claimed in any fiscal biennium to exceed \$50 million.
- The Director shall not issue certificates to a single Taxpayer in an amount that would cause the tax credits claimed in any fiscal biennium by that Taxpayer, and any person to whom the Taxpayer transfers the certificate, to exceed \$2 million.

## **Tax Credit Claiming**

- Once the Director determines that the Taxpayer qualifies for a tax credit, the Director shall issue a tax credit certificate within 60 days after the receipt of a complete application.
- The tax credit certificate will be identified with a unique number and list the amount of credit the Director determines the Taxpayer is eligible to claim.
- The tax credit shall equal 10 percent of the amount of the Taxpayer's investment in the Fund that the Fund invested in projects located in Ohio Opportunity Zones in the calendar year preceding the application, not to exceed \$2 million in the biennium.
- The credit is a nonrefundable tax credit against the tax levied under section 5747.02 of the Ohio Revised Code.
- The Director may not issue a certificate under the Ohio Opportunity Zone Tax Credit Program on the basis of any investment for which a small business investment certificate has been issued under Ohio Revised Code Section 122.86.
- The tax credit may be claimed for the Taxpayer's qualifying taxable year or the next ensuing taxable year. Any unused amount may be carried forward for the following five taxable years.
- If the Taxpayer is a pass-through entity, any taxpayer that is a direct or indirect investor in the pass-through entity on the last day of the entity's qualifying taxable year may claim the Taxpayer's proportionate or distributive share of the credit.
- A Taxpayer claiming an Ohio Opportunity Zone Tax Credit shall submit a copy of the certificate to the Ohio Department of Taxation with the Taxpayer's return or report.

## **Transfer of the Ohio Opportunity Zone Tax Credit**

- A Taxpayer that holds an unclaimed Ohio Opportunity Zone Tax Credit Certificate may notify the Tax Commissioner in writing that the Taxpayer is transferring the right to claim the credit.
- The Taxpayer, in that notification, shall identify the certificate's number and the name and tax identification number of the Transferee.
- The Transferee may claim the credit stated on the certificate, subject to the limitations of Ohio Revised Code Section 122.84.
- A Transferee may not transfer the right to claim the credit to any other person.