United States Government Accountability Office

Report to Congressional Requesters

October 2021

OPPORTUNITY ZONES

Census Tract Designations, Investment Activities, and IRS Challenges Ensuring Taxpayer Compliance

GAO-22-104019

GAO@100 Highlights

Highlights of GAO-22-104019, a report to congressional requesters

October 2021

OPPORTUNITY ZONES

Census Tract Designations, Investment Activities, and IRS Challenges Ensuring Taxpayer Compliance

Why GAO Did This Study

Congress created the Opportunity Zones tax incentive to spur investments in distressed communities. Taxpayers who invest in Qualified Opportunity Funds—that then invest in qualified property or businesses—could receive significant tax-related benefits. Funds and their investors generally must invest in Opportunity Zones for a minimum number of years and report information annually to receive tax benefits and avoid penalties. IRS administers and ensures compliance with these rules. GAO was asked to review implementation and use of this tax incentive.

This report describes the process for designating census tracts as Opportunity Zones and compares characteristics of designated and non-designated tracts; describes Qualified Opportunity Funds' experiences with and states' views on the tax incentive; analyzes available IRS data; and evaluates IRS's taxpayer compliance plans, among other objectives.

GAO analyzed census data on tracts designated and not designated as Opportunity Zones, analyzed data from a non-generalizable sample of 18 Qualified Opportunity Funds, and surveyed state officials. GAO also reviewed IRS documentation, including a compliance plan, and met with Treasury and IRS officials.

What GAO Recommends

GAO is recommending that IRS (1) address risks caused by limited data availability, and (2) research compliance risks of high-wealth investors and large partnership Qualified Opportunity Funds. IRS generally agreed pending available resources.

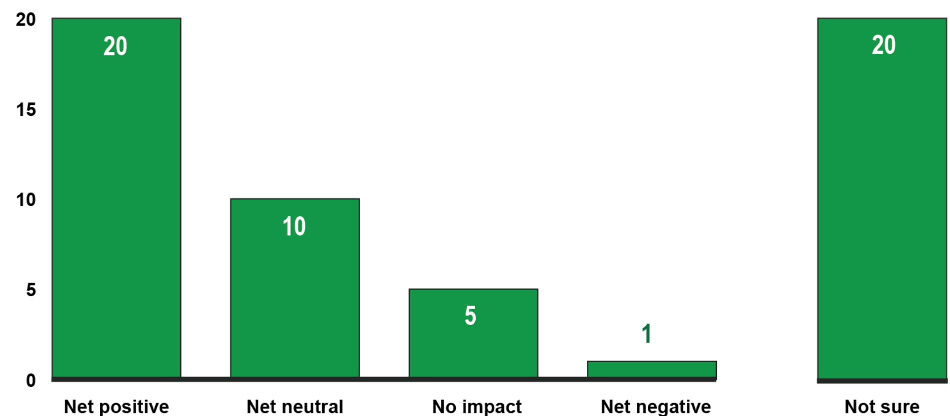
View GAO-22-104019. For more information, contact Jessica Lucas-Judy at (202) 512-6806 or LucasJudyJ@gao.gov.

What GAO Found

The 2017 law commonly known as the Tax Cuts and Jobs Act created a tax incentive that gave governors discretion to nominate generally up to 25 percent of their states' low-income census tracts as special investment areas called Opportunity Zones. The U.S. Department of the Treasury then verified eligibility and designated the nominated tracts. GAO found that on average, the selected tracts had higher poverty and a greater share of non-White populations than eligible, but not selected, tracts. These differences were statistically significant.

Most state government officials were aware of at least some Opportunity Zone investments but had differing views of the tax incentive's effect so far.

State Respondents' Views on Overall Impact of the Opportunity Zones Tax Incentive



Source: GAO analysis of state responses to GAO survey on Opportunity Zones incentive. | GAO-22-104019

Note: GAO surveyed government officials from the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—and received 56 responses.

Based on case studies of Qualified Opportunity Funds—investment vehicles organized for investing in Opportunity Zones—the tax incentive attracted investment in a variety of projects, including multifamily housing, self-storage facilities, and renewable energy businesses. According to survey responses and other sources, most projects are real-estate focused.

Through 2019, more than 6,000 Qualified Opportunity Funds had invested about $29 billion, based on partial data from the Internal Revenue Service (IRS).

IRS developed plans to ensure Qualified Opportunity Funds and investors are complying with the tax incentive's requirements; however, IRS faces challenges in implementing these plans. Specifically, the plans depend on data that are not readily available for analysis. In addition, funds have attracted investments from high-wealth individuals, and some funds are organized as partnerships with hundreds of investors. IRS considers both of these groups to be high risk for tax noncompliance generally. However, IRS has not researched potential compliance risks these groups pose for this tax incentive. As a result, IRS may be unable to effectively direct compliance efforts.

Contents

Letter		1
	Background	3
	Opportunity Zones Have Lower Income, Higher Poverty, and Greater Non-White Population than Other Eligible Census Tracts	9
	Selected Qualified Opportunity Funds Offer Insights on Variety, Attractiveness, and Challenges Using the Tax Incentive	19
	States Report Mixed Views on the Opportunity Zones Tax Incentive's Effects and Challenges to Encouraging Its Use	27
	COVID-19 Created Delays in Some Opportunity Zones Investments, but Full Effect Is Unclear	34
	Available Tax Data Indicate about $29 Billion Invested in Opportunity Zones	36
	IRS's Planned Compliance Efforts Do Not Adequately Address Risks Posed by Limited Data Availability and High-Wealth Individuals and Large Partnerships	38
	Conclusions	43
	Recommendations for Executive Action	44
	Agency Comments and Our Evaluation	44
Appendix I	Objectives, Scope, and Methodology	47
Appendix II	Additional Characteristics of Opportunity Zones	58
Appendix III	Characteristics and Investment Focus of Selected Qualified Opportunity Funds	60
Appendix IV	State Responses to Select Opportunity Zones Tax Incentive Survey Questions	62
Appendix V	Opportunity Zones Tax Incentive Survey Questionnaire Sent to State Officials	67

Appendix VI	Comments from the Internal Revenue Service	71
Appendix VII	GAO Contact and Staff Acknowledgments	74

Tables

Table 1: IRS Forms Used to Collect Data on Investments in Opportunity Zones 7
Table 2: Comparisons of Population Characteristics of Opportunity Zones and Other Census Tracts, 2015-2019 15
Table 3: Comparisons of Demographic Characteristics of Opportunity Zones and Other Census Tracts, 2015-2019 17
Table 4: Comparison of Low-Income Communities (LIC) and Contiguous Tracts Eligible for, and Selected as, Opportunity Zones, 2015-2019 18
Table 5: Selected Qualified Opportunity Funds Characteristics and Experience with Opportunity Zones Tax Incentive 20
Table 6: Available Data on Qualified Opportunity Funds and Investors, Tax Year 2019 37
Table 7: Selected Risks and Proposed Mitigations in IRS' Plans to Ensure Qualified Opportunity Funds and Investor Compliance 39
Table 8: Sampling Qualified Opportunity Fund Characteristics and Target Numbers for Case Study Analysis 50
Table 9: Characteristics of Qualified Opportunity Funds Interviewed as Case Studies 52
Table 10: Characteristics and Investment Focus of Selected Qualified Opportunity Funds 60
Table 11: Responses to Select Survey Questions by State Officials Who Reported Being Aware of Opportunity Zones Investment 62
Table 12: State Views on Clarity of Federal Opportunity Zones Tax Incentive Guidance and Information 64
Table 13: State Views on Timeliness of Federal Opportunity Zones Tax Incentive Guidance and Information 64
Table 14: State Views on Sufficiency of Federal Opportunity Zones Tax Incentive Guidance and Information 65
Table 15: Would States Change Census Tracts Designated as Opportunity Zones, if Given the Option 65

Table 16: Percentage of Census Tracts Designated as Opportunity Zones that States Would Change, if Given the Option 66

Figures

Figure 1: Basic Structure and Tax Benefits of Investments in Opportunity Zones 4
Figure 2: IRS COVID-19 Relief Extended Time Investors Had to Invest in Qualified Opportunity Funds 6
Figure 3: Opportunity Zones' Poverty Eligibility and Statistical Uncertainty 13
Figure 4: Average Median Household Income, Opportunity Zones, and Other Census Tracts 16
Figure 5: Hypothetical Value of Opportunity Zones Tax Incentive 10-Year Gain Exclusion for a $1 Million Initial Investment Depending on its Growth 23
Figure 6: State Respondents' Views on Overall Impact of the Opportunity Zones Tax Incentive 28
Figure 7: State Respondents' Views on the Coronavirus Disease 2019's Effect on Opportunity Zones Investment 34
Figure 8: Distribution of Median Household Income, Opportunity Zones 58
Figure 9: Average Median Household Income, Low-Income Communities Selected and Not Selected as Opportunity Zones 59

Abbreviations

ACS	American Community Survey
COVID-19	Coronavirus Disease 2019
IRS	Internal Revenue Service
IT	Information Technology
LIC	low-income community
LB&I	Large Business and International
SB/SE	Small Business/Self-Employed
SEC	Securities and Exchange Commission
TCJA	Tax Cuts and Jobs Act of 2017
Treasury	Department of the Treasury

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.

**441 G St. N.W.
Washington, DC 20548**

October 7, 2021

Congressional Requesters:

Conventional access to credit and investment capital for developing small businesses, creating and retaining jobs, and revitalizing neighborhoods is often limited in economically distressed communities or in communities with large low-income populations. To incentivize growth and investment in these communities, Congress created the Opportunity Zones tax incentive as part of the law commonly known as the Tax Cuts and Jobs Act of 2017 (TCJA).[1] Opportunity Zones are designated census tracts where certain qualified investments are eligible for federal tax benefits. The nearly 9,000 designated tracts are home to more than 10 percent of the nation's population. According to the Joint Committee on Taxation, in its first 2 years, the Opportunity Zones incentive has attracted more than $20 billion in private capital, which can potentially grow tax-free if invested in Qualified Opportunity Funds and held for at least 10 years, or up until the end of 2047.[2] Qualified Opportunity Funds are investment vehicles organized for the purpose of investing in qualified property within the Opportunity Zones.

Given the magnitude and time horizon of this tax incentive, you asked us to evaluate its implementation and use. This report (1) describes the process for designating census tracts as Opportunity Zones and compares select demographic characteristics of designated and non-designated tracts; (2) describes Qualified Opportunity Funds' experiences with and use of the Opportunity Zones tax incentive; (3) describes states' experiences with the incentive; (4) describes the effect of the Coronavirus Disease 2019 (COVID-19) pandemic on investment activity in Opportunity Zones; (5) analyzes available taxpayer data about Qualified Opportunity Funds and their investors; and (6) evaluates Internal Revenue Service

[1]Pub. L. No. 115-97, § 13823, 131 Stat. 2054, 2183-88 (2017) (codified as amended at 26 U.S.C. §§ 1400Z-1 – Z-2). The Opportunity Zones tax incentive is a tax expenditure, which is a special credit, deduction, or other tax provision that reduces taxpayers' tax liabilities, and as a result, reduces federal tax revenue. The Congressional Budget and Impoundment Control Act of 1974 defines tax expenditures as "revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability." Pub. L. No. 93-344, § 3, 88 Stat. 297, 299 (1974) (codified at 2 U.S.C. § 622(3)).

[2]Joint Committee on Taxation, *Selected Topics Relating to Tax and Infrastructure,* JCX-25-21, May 17, 2021.

(IRS) plans to ensure taxpayer compliance with rules governing the Opportunity Zones tax incentive.

To describe the process for designating census tracts as Opportunity Zones and to compare select demographic characteristics of designated and non-designated tracts, we analyzed Department of Treasury and IRS guidance and American Community Survey (ACS) data. Specifically, we analyzed 2011-2015 and 2012-2016 ACS data to determine if designated tracts met statutory eligibility criteria. We also analyzed 2015-2019 ACS data to describe how designated tracts compared to all tracts and other eligible, but not selected census tracts.

To describe Qualified Opportunity Funds' experiences with and use of the Opportunity Zones tax incentive, we randomly selected 18 funds as non-generalizable case studies. Because a complete public list of funds does not exist, we used multiple methods to identify funds for selection. Specifically, we surveyed state officials (as described below), reviewed public information (e.g., online databases of funds seeking investment) and Securities and Exchange Commission quarterly index filings in its Electronic Data Gathering, Analysis, and Retrieval system for 2018, 2019, and 2020.

To describe states' experiences with the Opportunity Zones tax incentive, we surveyed government officials in the 50 U.S. states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—(hereafter states) from October 2020 to January 2021. We received responses from all 56 states.[3] Respondents varied across different types of state organizations, including Departments of Commerce, Economic Development, Housing and Community Development, Small Business, and Economic Development Authorities and governors' offices. Appendix I contains additional information on our case studies and survey.

To describe the effect of the COVID-19 pandemic on investment activity in Opportunity Zones, we analyzed IRS documentation (e.g., guidance) and interviewed IRS officials. We also analyzed state officials' survey

[3]By statute, for the purposes of designating opportunity zones the term "state" includes the U.S. territories and the District of Columbia. *See* 26 U.S.C. § 1400Z-1(c)(3); 26 U.S.C. § 7701(a)(10).

responses and interviewed Qualified Opportunity Fund representatives from case studies.

To analyze information that is available from taxpayer data about Qualified Opportunity Funds and their investors, and the overall investment activity, we analyzed IRS data, met with Treasury and IRS officials, and assessed data reliability. After interviewing Treasury and IRS officials and reviewing agency documentation, we found that the available data were sufficiently reliable for our purposes.

To evaluate the extent to which IRS has established plans to ensure taxpayer compliance with the rules governing the Opportunity Zones tax incentive, we analyzed IRS regulations and documentation (e.g., forms and compliance planning documentation) and met with Treasury and IRS officials. We evaluated IRS's Opportunity Zones compliance plan using criteria from *Standards for Internal Control in the Federal Government* and IRS's current strategic plan.[4]

We conducted this performance audit from December 2019 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

For more information on our objectives, scope, and methodology, see appendix I.

Background

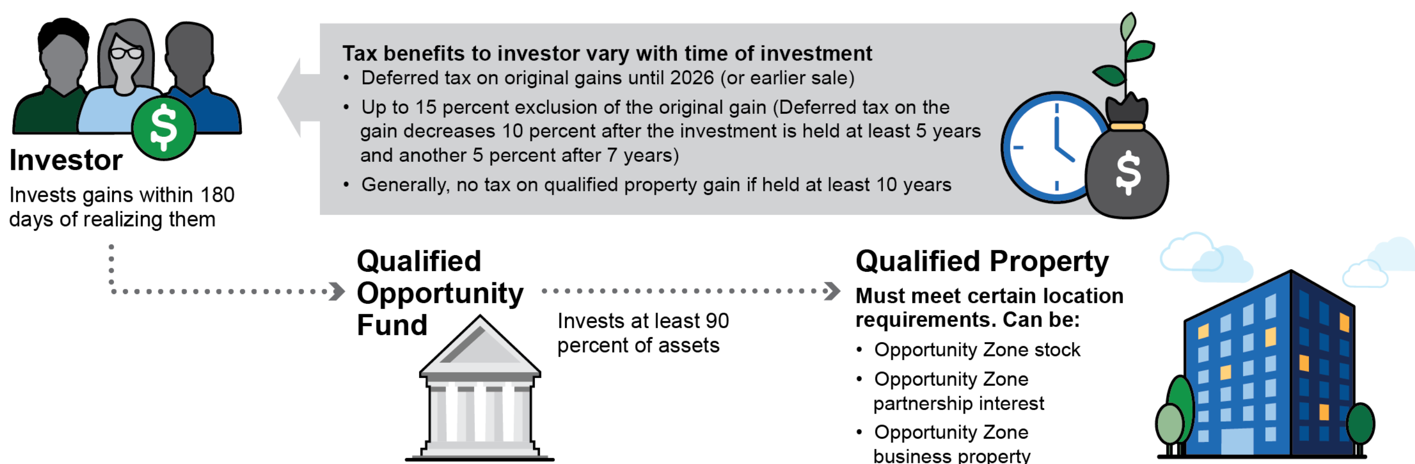
Opportunity Zones Tax Incentive Benefits and Rules

The financial benefits of the Opportunity Zones tax incentive for investors can vary with the length of time they maintain investments in Qualified Opportunity Funds. Investing in funds allows taxpayers realizing capital gains on prior investments to defer these gains from taxable income until as late as December 31, 2026—and under certain circumstances to pay reduced taxes on those gains. In addition, taxpayers generally would not pay taxes on any gain due to appreciation of investments in Opportunity Zones if those investments are held in a fund at least 10 years.

[4]Internal Revenue Service, *FY2018-2022 Strategic Plan*, Publication 3744 (Rev. 4-2018).

As shown in figure 1, to receive these tax benefits, generally taxpayers must first invest the amount of their original gains in a Qualified Opportunity Fund within 180 days of realizing those gains; in turn, the funds must invest in property located within the Opportunity Zones.[5]

Figure 1: Basic Structure and Tax Benefits of Investments in Opportunity Zones



Source: GAO analysis of Department of the Treasury and Internal Revenue Service (IRS) regulations and IRS documentation. | GAO-22-104019

Note: Investors needed to invest by the end of 2019 to be eligible for the 15 percent exclusion of the original gain when the gain is realized in 2026. To be eligible for the 10 percent exclusion of the original gain, investors need to invest by the end of 2021.

There are a number of requirements that must be met for Qualified Opportunity Funds, including—

- **Self-certification and 90-percent investment standard.** Funds must self-certify as a Qualified Opportunity Fund and report their 90-percent investment standard calculation. A fund generally must hold at least 90 percent of its assets in qualified property, determined by the average of the percentage of qualified property held by that fund as measured in 6-month intervals. If a fund fails to meet the 90-percent investment standard, the fund generally must pay a penalty for each month that it fails to meet that standard. In practice, this means that

[5]Investors with gains reported to them by a pass-through entity—such as a partnership, S-corporation, or certain trusts—have the option to start the 180-day time limit on any of the following three dates: (1) the date the flow-through entity realized the gain, (2) the last day of the flow-through entity's tax year, or (3) the due date of the flow-through entity's tax return without extension.

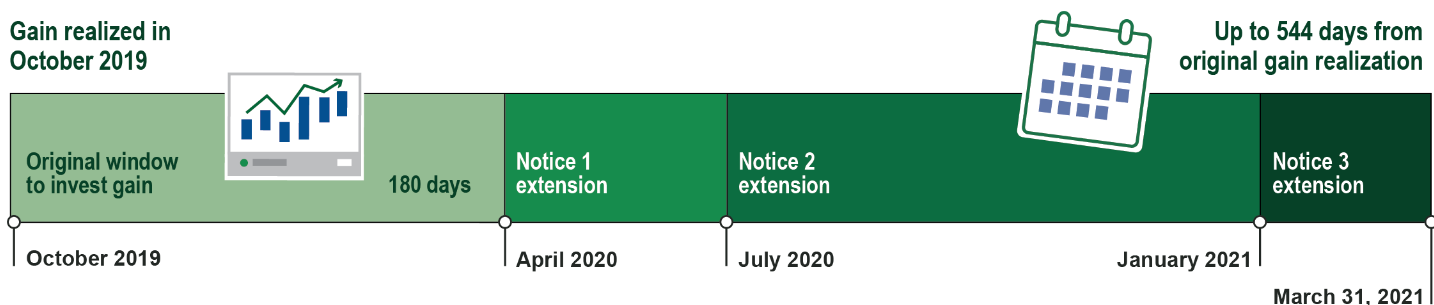
funds generally must invest capital within 6 months of receiving it to avoid paying a penalty.

- **Original use or substantially improve qualified property within 30 months.** Property must be for original use, or Qualified Opportunity Funds must substantially improve property—when its original use in the Opportunity Zone does not begin with the fund—within 30 months of the acquisition of the property. Property is determined to be substantially improved, if at any time during the 30-month period, it has been improved by an amount in excess of the adjusted basis (generally exclusive of the land value) at the start of the 30-month period. For example, if a fund bought property that cost $300,000, with the building used in the active conduct of a trade or business being valued at $250,000 and the land worth $50,000, then the fund would need to invest more than $250,000 into the property.
- **Substantially all qualified property must be located in a zone.** Qualified Opportunity Funds and qualified businesses, in which funds have an equity interest, are expected to hold substantially all of their tangible property in an Opportunity Zone. During substantially all (at least 90 percent) of the time a fund or qualified business holds or leases tangible property, substantially all (generally at least 70 percent) of that property's use must be in an Opportunity Zone. In practice, this means at least 63 percent of a fund or qualified business's use of tangible property needs to be in an Opportunity Zone.
- **Qualified businesses must earn 50 percent or more of their revenue from within zones.** A qualified business, in which funds have an equity interest, must earn at least 50 percent of its gross income from business activities within an Opportunity Zone. There are four ways a business can meet this test: (1) at least half the business's service hours were performed in an Opportunity Zone, (2) at least half of the business's aggregate amounts paid were for services performed in an Opportunity Zone, (3) if tangible property and business functions were located in an Opportunity Zone and they are each necessary for generation of at least half of the business' gross income, or (4) based on all the facts and circumstances, at least half of the gross income of a qualified business is derived from the active conduct of a trade or business in an Opportunity Zone.

IRS extended deadlines for the Opportunity Zones tax incentive three times (in April and June 2020, and January 2021) to provide relief for funds, businesses, and investors who could face hardship in meeting the

original deadlines and other requirements due to the effects of COVID-19, as shown in figure 2.[6]

Figure 2: IRS COVID-19 Relief Extended Time Investors Had to Invest in Qualified Opportunity Funds



Source: GAO analysis of Internal Revenue Service Notices. | GAO-22-104019

Note: IRS Notice 2020-23 (issued April 2020) provided an extension until July 15, 2020, of any eligible gains that needed to be invested between April 1, 2020, and July 15, 2020 (to meet the 180-day requirement). IRS Notice 2020-39 (issued June 2020) provided an extension until December 31, 2020. IRS Notice 2021-10 (issued January 2021) provided an extension until March 31, 2021.

Generally, investors have to invest eligible gains within 180 days of realizing them; however, after IRS granted relief due to COVID-19, investors could have up to 544 days to invest eligible gains, depending on when they realized those gains.[7]

IRS also extended timelines for certain Qualified Opportunity Fund and qualified business requirements (e.g., working capital safe harbor and amount of time to substantially improve property) and provided funds relief from investment threshold requirements and associated penalties. This relief was automatic in that funds and businesses did not need to apply for it.

[6]IRS, Notice 2020-23, *Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2020-18 (Apr. 27, 2020); Notice 2020-39, *Relief for Qualified Opportunity Funds and Investors Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2020-26 (June 22, 2020); and Notice 2021-10, *Extension of Relief for Qualified Opportunity Funds and Investors Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2021–7 (Feb. 16, 2021).

[7]This could be even longer in the case of gains from a pass-through entity. For gains from a pass-through entity, taxpayers have 180 days from the date of the entity's tax return, not the date the gain was realized.

IRS Implementation Activities

The Opportunity Zones tax incentive is part of the Internal Revenue Code and therefore IRS administers the incentive and ensures taxpayer compliance with the incentive's rules and requirements. IRS assigned primary responsibility for implementing the Opportunity Zones tax incentive to its Small Business and Self-Employed (SB/SE) division. SB/SE serves approximately 57 million small business/self-employed filers who are fully or partially self-employed individuals and small businesses.[8] IRS officials told us that other divisions assisted SB/SE with implementing the tax incentive.

Treasury and IRS issued tax regulations and guidance to implement the Opportunity Zones provisions in the TCJA. The agencies also developed new forms and modified existing forms to collect information from investors and Qualified Opportunity Funds. As shown in table 1, IRS is collecting data related to the tax incentive from four forms, including two forms—Forms 8996 and 8997—created specifically for the Opportunity Zones tax incentive.

Table 1: IRS Forms Used to Collect Data on Investments in Opportunity Zones

Investors	*Form 8949.* Report deferred gain amounts invested in Qualified Opportunity Funds and the amount of eligible gains that were previously deferred and are now recognized due to sales or exchanges of fund investments. *Form 8997.* Report Qualified Opportunity Fund investments and deferred gains held at the beginning and end of the current tax year, as well as any capital gains deferred by investing in a Qualified Opportunity Fund and fund investments disposed of during the current tax year.
Qualified Opportunity Funds	*Form 8996.* Certify that the fund is organized to invest in qualified property. Report that the fund has invested 90 percent of its assets in qualified businesses or properties, and if not, calculate a penalty. Report the dollar value of qualified property that funds are holding at the middle and end of the tax year. Report the dollar value of each of the fund's investments by designated zone. *Form 1099-B.* Report all dispositions of interests in the fund.
Businesses	Qualified businesses that receive investments from Qualified Opportunity Funds are not required to report data on those investments to IRS.

Source: GAO analysis of Internal Revenue Service (IRS) Forms. | GAO-22-104019

We previously reported that as a result of unclear statutory authority, there are insufficient data available to evaluate the performance of the

[8]IRS has four primary divisions known as business operating divisions that oversee major customer segments and other taxpayer-facing functions. SB/SE is one of these business operating divisions. Large Business and International, Wage and Investment, and Tax Exempt/Government Entities are the other three IRS business operating divisions.

Opportunity Zones tax incentive.[9] IRS generally collects data explicitly for tax administration and compliance purposes, and some of these data, such as investment amounts, can be used to evaluate outcomes. However, only limited reporting on performance is possible. Also, additional data collection and reporting on the incentive are necessary to evaluate outcomes. In October 2020, we asked Congress to consider requiring more reporting for the incentive, and specified that Treasury is best suited to collect that information.[10] As of September 2021, no legislation has been introduced in the current Congress to address these issues.

COVID-19 Effect on IRS Operations

As we reported in March 2021, the COVID-19 pandemic significantly hampered IRS operations, especially during the 2020 filing season.[11] Due to the COVID-19 pandemic and to provide relief to taxpayers, IRS extended the 2020 filing and payment deadline by 3 months to July 15, 2020.

IRS also temporarily closed all processing facilities for several weeks and then operated them at reduced capacity for health and safety reasons. This, in turn, led to millions of pieces of unopened mail—including paper tax returns. IRS's paper-based return processing is inherently slow compared to electronic return processing because it involves manual tasks, such as staff sorting and batching, reviewing, and transcribing return data into IRS's information technology systems—all work that is conducted by staff on site. For example, once reviewed, IRS staff correct

[9]GAO, *Opportunity Zones: Improved Oversight Needed to Evaluate Tax Expenditure Performance*, GAO-21-30 (Washington, D.C.: Oct. 8, 2020).

[10]We also asked Congress to consider identifying questions about the performance of the Opportunity Zones tax incentive that it wants Treasury, in collaboration with other agencies, to address in order to help guide data collection and reporting of performance, including outcomes. We identified the following questions that could be useful to address in evaluating the incentive's performance: (1) How have Opportunity Zones' characteristics changed, for example with regard to poverty, income, unemployment, education levels, race, affordable housing, and displacement?; (2) What are the characteristics of businesses in Opportunity Zones, such as location, business type, number of employees, finances, and residential units (if applicable)?; and (3) What are the characteristics of Qualified Opportunity Funds, particularly with regard to the dollar amount of assets held and types of investments? As of September 2021, no legislation has been introduced to address this issue. For more information, see GAO-21-30.

[11]GAO, *Tax Filing: Actions Needed to Address Processing Delays and Risks to the 2021 Filing Season,* GAO-21-251 (Washington, D.C.: Mar. 1, 2021).

errors on tax returns and transcribe return data into IRS's systems to begin processing them.

As of early June 2021, IRS had largely addressed its 2020 processing backlog—all individual returns had been entered into its processing system and fewer than 1 million business returns remained to be entered.[12] However, according to IRS officials, the reduced staffing due to ongoing COVID-19 pandemic conditions and an increase in manual work, along with additional responsibilities, such as issuing economic impact payments, have hampered IRS's ability to assist taxpayers and process returns during the 2021 filing season. As a result, taxpayers are experiencing unusually long delays in receiving refunds and difficulty reaching IRS for assistance.[13]

Opportunity Zones Have Lower Income, Higher Poverty, and Greater Non-White Population than Other Eligible Census Tracts

Governors Selected Opportunity Zones among Eligible Census Tracts

To become eligible to be designated as an Opportunity Zone, the law specifies that census tracts needed to be low-income communities (LIC) or non-LIC contiguous tracts.[14] LICs generally are

1. tracts in which the poverty rate is at least 20 percent;

[12]IRS officials said that some of these returns could be going through back-end processing, such as validation checks.

[13]For more information, see GAO, *COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity,* GAO-21-551 (Washington, D.C.: July 19, 2021).

[14]The statute uses the term "Qualified Opportunity Zones," but for purposes of this report and to ease understanding and readability, we have shortened the term to Opportunity Zones. 26 U.S.C. § 1400Z-1(a).

2. tracts in which the median family income does not exceed 80 percent of statewide median family income if located outside a metropolitan area; or
3. if located within a metropolitan area, tracts in which the median family income does not exceed 80 percent of the statewide median family income or the metropolitan area median family income, whichever is higher.[15]

Contiguous tracts are those that are both adjacent to an LIC that was designated and had a median family income no more than 125 percent of the adjacent LIC.

Treasury and IRS used data from the Census Bureau's American Community Survey (ACS) to determine which census tracts met the statutory criteria for eligibility. ACS is a nationwide annual survey designed to provide communities with reliable and timely social, economic, housing, and demographic data.[16] Though the Census Bureau administers the survey annually, it releases data in 5-year moving averages to obtain sufficiently large samples to estimate characteristics at the census tract level. Treasury and IRS considered tracts to be eligible if they met the statutory requirements under either the 2011-2015 or the 2012-2016 ACS—the two most recent versions available at the time the tracts were designated.[17]

More than half of the approximately 74,000 tracts in the United States met the eligibility requirements as either LIC or contiguous tracts. Governors could nominate up to 25 percent of their states' LIC census tracts for

[15]26 U.S.C. § 1400Z-1(c)(1); 26 U.S.C. § 45D(e)(1). Locations could also be eligible, under certain conditions if they were low population census tracts, high migration rural census tracts, or not located in a census tract. 26 U.S.C. § 45D(e)(3)-(5).

[16]A separate annual survey, called the Puerto Rico Community Survey, collects similar data about the population of and housing units in Puerto Rico.

[17]Treasury and IRS provided an information resource listing eligible tracts based on the 2011-2015 ACS. However, in many cases tracts could be nominated based on the most recent ACS 5-year data, which was the 2012-2016 release at the time. IRS Revenue Procedure 2018-16, *Rev. Proc. 2018-16,* Internal Revenue Bulletin No. 2018-9 (Feb. 26, 2018).

designation.[18] No more than 5 percent of their nominations could be contiguous tracts.[19]

Based on governors' nominations, Treasury designated 8,764 census tracts—8,566 LIC tracts and 198 contiguous tracts.[20] We confirmed that all of these tracts met one or more of the statutory eligibility criteria, based on analysis of ACS data and communications with Treasury officials. Because governors had discretion in determining which tracts to nominate, contiguous tracts were not distributed evenly among the states. For the 50 states and Washington, D.C., 13 selected the maximum number of contiguous tracts allowed, while another 13 did not select any contiguous tracts.[21]

Selection Criteria Were Subject to Statistical Uncertainty

Tracts were eligible for designation based principally on income and poverty rates. The law did not specify what data source to use to determine eligibility.[22] Treasury used ACS data, which provide economic and demographic information at the level of the census tract, which is the

[18]26 U.S.C. § 1400Z-1(d)(1). We use the term governor in this report to refer to the chief executive officer in a state, U.S. possession, or the District of Columbia. Governors from states with fewer than 100 total eligible tracts could nominate a total of 25 tracts. See 26 U.S.C. § 1400Z-1(d)(2); IRS, Revenue Procedure 2018-16, *Rev. Proc. 2018-16,* Internal Revenue Bulletin No. 2018-9 (Feb. 26, 2018).

[19]26 U.S.C. § 1400Z-1(e)(2). States were allowed to nominate the nearest integer above 5 percent of their total tract allocation as contiguous tracts, so in some cases the actual number could exceed 5 percent.

[20]Pursuant to statute, all of Puerto Rico's census tracts that met the definition of a low-income community were deemed to be certified and designated as Opportunity Zones. 26 U.S.C. §1400Z-1(b)(3). In addition, Puerto Rico nominated another 26 contiguous non-LIC tracts that were certified and designated as Opportunity Zones for a total of 863. For the official lists of designated Zones, see IRS, Notice 2018-48, *Designated Qualified Opportunity Zones under Internal Revenue Code § 1400Z-2,* Internal Revenue Bulletin No. 2018-28 (July 9, 2018); and Notice 2019-42, *Amplification of Notice 2018-48 to Include Additional Puerto Rico Designated Qualified Opportunity Zones,* Internal Revenue Bulletin No. 2019-29 (July 15, 2019).

[21]Puerto Rico, U.S. Virgin Islands, American Samoa, and Norther Mariana Islands did not face a tradeoff between LICs and contiguous tracts. By statute, all LIC tracts in Puerto Rico are Opportunity Zones. In addition, in the U.S. Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands, the minimum number of allowed Opportunity Zones (25) was greater than the number of LIC tracts in the territories. Guam had 31 LICs and 25 Opportunity Zones, of which it designated the maximum number (two) of contiguous tracts.

[22]According to 26 U.S.C. § 1400Z-1(c)(1), "low-income communities" has the same meaning as when used in 26 U.S.C. § 45D(e). In § 45D(e), a "low-income community" means "any population census tract" that meets certain requirements, as explained above.

geographic unit upon which Opportunity Zones are defined. ACS data are based on a survey of a sample of each census tract's population. Surveys such as the ACS, unlike a census (or full count of the population), have sampling error. Sampling error is the difference between an estimate based on a sample and the corresponding value that would be obtained if the estimate were based on the entire population.

To account for sampling error, published ACS values include both an estimate of the true population value, such as poverty rate or median family income, and a margin of error which is a measure of the magnitude of sampling error.[23] Together the estimate and margin of error define a confidence interval, which is a range of values that the true population estimate falls within with certain probability. The estimate is at the center of the confidence interval, and the margin of error determines how far from that estimate the confidence interval extends. Treasury based its eligibility determinations on the point estimates, which are the middle points of the confidence intervals.[24]

As a result of sampling error, the eligibility criteria used for current Opportunity Zone designations are subject to statistical uncertainty based on the estimates in the ACS. As one example of how sampling can affect the data sources used to determine eligibility, Treasury determined that one tract was eligible based on a measured poverty rate of 20 percent in the 2011-2015 ACS.[25] According to those data, at a 90-percent confidence level, the poverty rate was between approximately 7 and 33 percent, a wide range that falls almost evenly on both sides of the threshold. Additionally, that tract's estimated poverty rate was below 20 percent in both the 2010-2014 and 2012-2016 ACS.

Overall, nearly one-third of all census tracts had confidence intervals that were both below and above the 20-percent poverty threshold, indicating

---

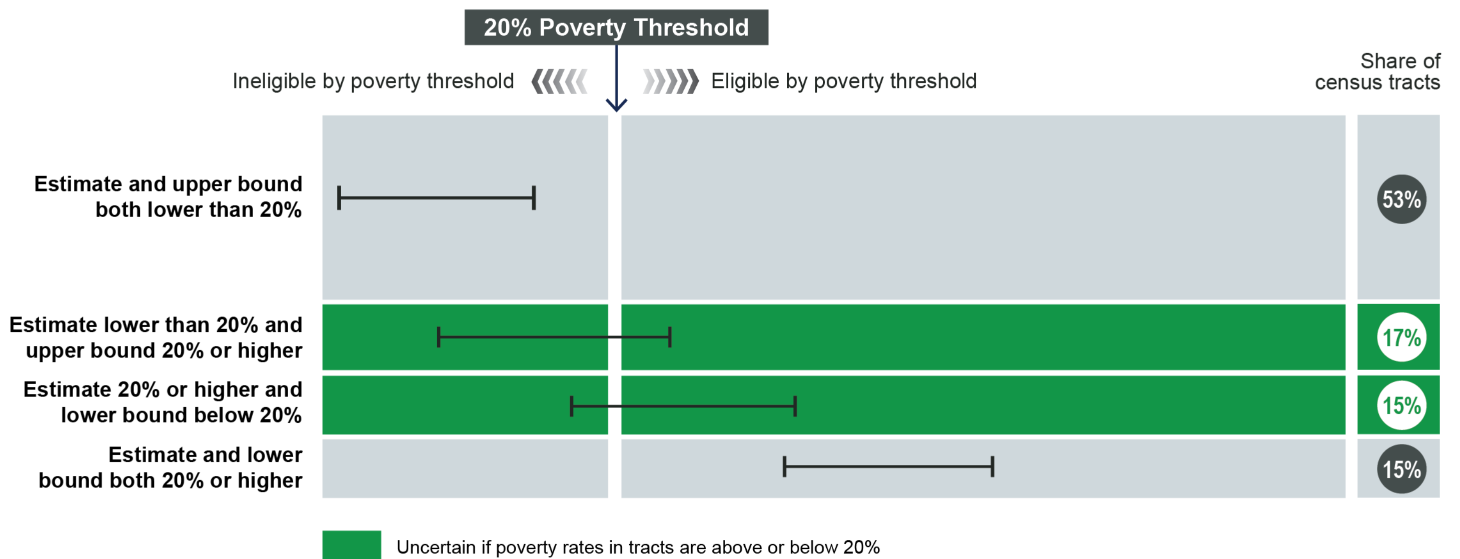
[23]In addition to sampling error, ACS data may also have non-sampling error. For more information on error, see U.S. Census Bureau, *Understanding and Using American Community Survey Data: What All Data Users Need to Know*, U.S. Government Publishing Office, Washington, D.C. (2020).

[24]This is consistent with how Treasury and the Community Development Financial Institutions Fund have determined eligibility for the New Markets Tax Credit, which uses the same statutory definition of low-income communities to determine eligibility. See 26 U.S.C. § 1400Z-1(c)(1); 26 U.S.C. § 45D(e).

[25]Tracts with poverty rates of 20 percent or higher are considered LICs and were eligible for selection.

uncertainty regarding whether their poverty rates were above or below 20 percent as a result of sampling error. Figure 3 below illustrates how point estimates and confidence intervals interact with the poverty eligibility threshold.[26]

Figure 3: Opportunity Zones' Poverty Eligibility and Statistical Uncertainty



Source: GAO analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund data. | GAO-22-104019

Note: Ranges represented are illustrative of point estimate and 90-percent confidence interval.

For each tract, ACS includes a point estimate and 90-percent confidence interval around that point. When the entire confidence interval falls to one side of the threshold or another, it can be said with at least 90-percent confidence that the tract did or did not represent a tract with at least a 20-percent poverty rate. When the confidence interval includes values on both sides of the threshold, it is statistically uncertain whether or not the tract represents such a poverty rate.

[26]As explained above, tracts could be eligible LICs for criteria other than poverty. We focus only on poverty rates for illustrative purposes. Other eligibility criteria, such as median family income, are defined relative to the state or metropolitan area of the tract, and are not common across all tracts.

How such sampling error could affect the outcome of the incentive is unclear at this point. Treasury officials told us they have not studied the consequences of statistical uncertainty in designations.

Understanding the role of statistical uncertainty in the process is important for understanding the outcomes of the program and could inform similar designation efforts in the future for other place-based incentives. Because the designation process was a one-time event, there is no role for Treasury to evaluate new tracts for eligibility, or to remove the eligibility of existing tracts.

Opportunity Zones Have Lower Incomes and Higher Poverty than Other Census Tracts, and a Greater Share of Non-White Population

Just over 10 percent of the U.S. population lives in the designated tracts, according to data from the 2015-2019 ACS, the most recent data available at the time of our report. The Opportunity Zones include both urban and rural census tracts in similar proportions to their shares among the tracts that were eligible, but not selected, as shown in table 2 below. On average, the designated census tracts have lower incomes, higher poverty, and higher unemployment. The average median family income in a designated tract is just over $38,000, while the average median family income across all tracts is just over $66,000. The poverty in the designated tracts averages nearly 25 percent while the national average is just over 13 percent.[27]

[27]These differences are statistically significant with at least 90-percent confidence.

Table 2: Comparisons of Population Characteristics of Opportunity Zones and Other Census Tracts, 2015-2019

	All tracts	Ineligible tracts	Eligible, not selected, tracts	Opportunity Zones
Population characteristics				
Number of tracts	74,001	31,920	33,392	8,689
Percent rural	18	11	23	24
Percent urban	81	88	77	76
Population	328,016,242	151,859,733	141,421,722	34,734,787
Rural population	51,068,717	13,464,849	29,227,564	8,376,304
Urban population	276,944,218	138,392,687	112,193,048	26,358,483
Economic characteristics				
Median household income (dollars)	66,530	91,165	50,856	38,553
Rural tracts (dollars)	50,386	63,801	47,289	40,382
Urban tracts (dollars)	70,055	94,447	51,927	37,976
Average poverty rate (percent)	13	7	18	25
Average unemployment rate (percent)	5	4	6	9

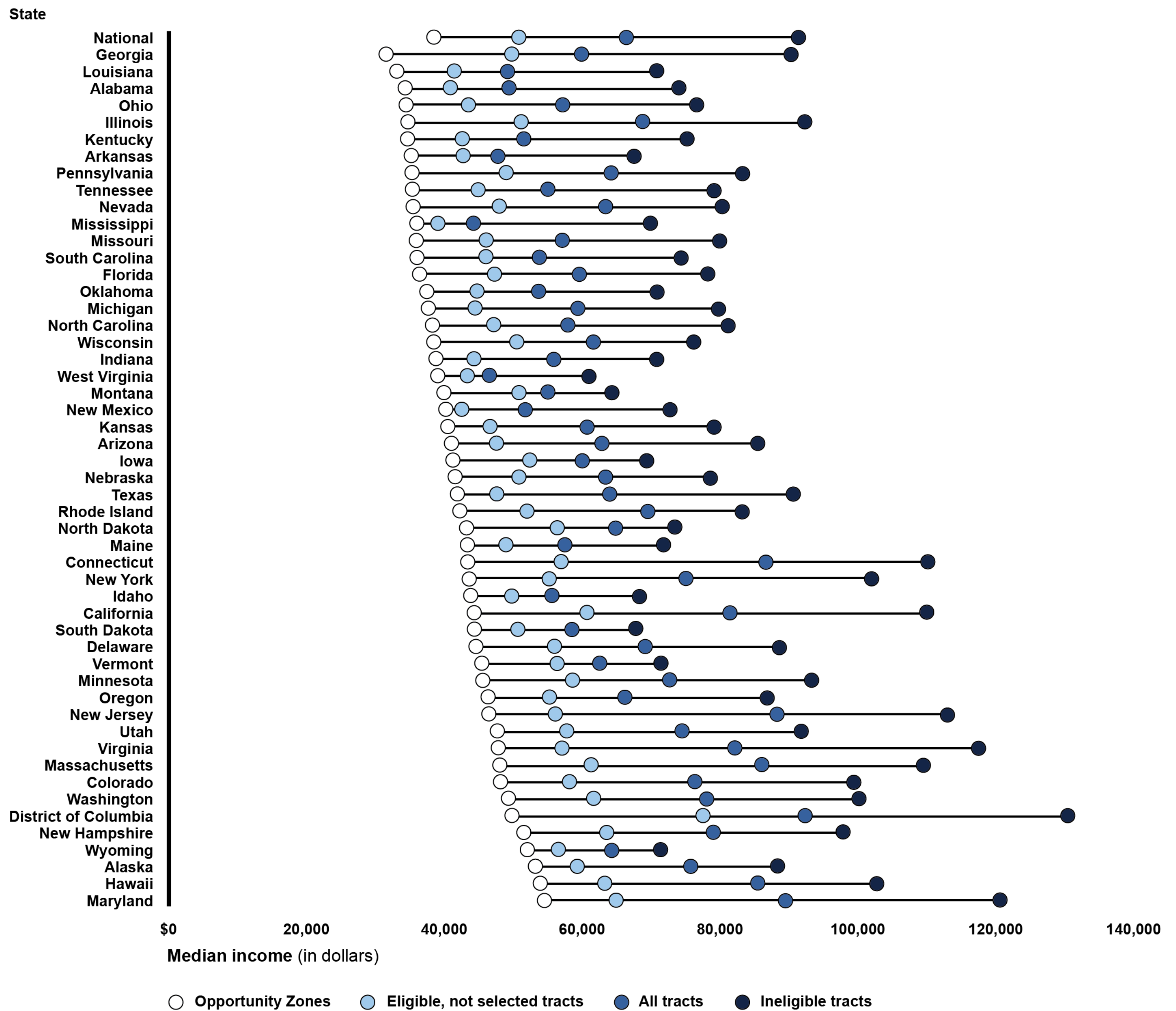
Source: GAO Analysis of 2015-2019 American Community Survey, Community Development Financial Institutions Fund, and Economic Research Service Data. | GAO-22-104019

Notes: Includes 50 states, Washington, D.C., and Puerto Rico, but excludes other territories. Rural and urban classifications are based on Rural Urban Commuting Area codes developed by the Economic Research Service. The estimates in this figure have margins of error at the 90-percent confidence level within 1 percent or 2 percentage points, respectively.

Across all states, the selected tracts have lower incomes than the eligible, but not selected, tracts. However, there is considerable variation between states, as shown in figure 4.[28] The economic conditions of the selected tracts vary across the states. Average median household income ranges from a low of approximately $32,000 in Georgia to a high of approximately $54,000 in Maryland. Because income eligibility depends on the state or metropolitan area where the census tract is located, a given income level could make a tract eligible in one part of the country and ineligible in another part of the country (see appendix II for information on the distribution of income).

[28]Across all states, the difference between selected tracts and eligible but not selected tracts was statistically significant with at least 90-percent confidence.

Figure 4: Average Median Household Income, Opportunity Zones, and Other Census Tracts



Source: GAO analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund data. | GAO-22-104019

Note: The estimates in this figure have margins of error at the 90-percent confidence level within 10 percent.

In addition to economic characteristics, the selected tracts also differ from other tracts based on demographic characteristics. A greater share of the population in selected tracts are Black or Hispanic compared to all tracts and tracts that were eligible, but not selected.[29] The selected tracts also have a greater share of population that was foreign born, and have lower educational attainment than the populations of all tracts, as well as the tracts that were eligible, but not selected, as shown in table 3 below.[30]

Table 3: Comparisons of Demographic Characteristics of Opportunity Zones and Other Census Tracts, 2015-2019

	All tracts	Ineligible tracts	Eligible, not selected tracts	Opportunity Zones
Percentage of the populations that is…				
White	60	72	53	39
Hispanic	19	12	23	33
Black	12	7	16	21
Asian	6	7	5	3
Other	3	3	4	4
Percentage of the populations that is…				
Foreign born	3	2	2	10
Living in a non-English speaking household	22	17	25	27
Percentage of the population with…				
High school education or less	39	29	47	53
A bachelor’s degree or higher	32	43	23	19

Source: GAO Analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund Data. | GAO-22-104019

Notes: Includes 50 states, Washington, D.C., and Puerto Rico, but excludes other territories. We reported on five race/ethnicity categories, combining some Census categories for ease of analysis: White, Black, Hispanic (an ethnicity that applies to individuals of any racial background), Asian (includes Asian, Native Hawaiian, and Other Pacific Islander), and Other (includes American Indian, Alaska Native, two or more races, and some other race). The estimates in this figure have margins of error at the 90-percent confidence level within 3 percentage points.

[29]The Census Bureau defines race as a person’s self-identification with one or more social groups. An individual can report as White, Black or African American, Asian, American Indian and Alaska Native, Native Hawaiian and Other Pacific Islander, or some other race. Survey respondents may report multiple races. Ethnicity determines whether a person is of Hispanic origin or not and is broken out in two categories, Hispanic or Latino and Not Hispanic or Latino. Hispanics may report as any race. For ease of analysis, we combined some Census categories and reported on five race/ethnicity categories: White; Black; Hispanic (an ethnicity that applies to individuals of any racial background); Asian (includes Asian, Native Hawaiian, and Other Pacific Islander); and Other (includes American Indian, Alaska Native, two or more races, and some other race).

[30]These differences are statistically significant with at least 90-percent confidence.

Among the final selections, the contiguous tracts have higher income and lower poverty than the LIC tracts within each state, but states were limited in the number of contiguous tracts they could select. Comparing only the LIC tracts that were eligible but not selected to those that were selected, on average the selected LIC tracts still have lower income and higher poverty, but the differences are smaller than when contiguous and LIC tracts are grouped together.[31] Table 4 below presents tract characteristics distinguishing between LIC and contiguous tracts (see appendix II for information on selected and eligible, not selected LIC tracts by state).

Table 4: Comparison of Low-Income Communities (LIC) and Contiguous Tracts Eligible for, and Selected as, Opportunity Zones, 2015-2019

	Eligible, not selected tracts			Selected Qualified Opportunity Zones		
	All	**LIC**	**Contiguous**	**All**	**LIC**	**Contiguous**
Median household income (dollars)	50,856	45,944	62,173	38,553	38,037	57,746
Poverty rate (percent)	18	21	12	25	25	13
Unemployment rate (percent)	6	7	5	9	9	6
Percentage of population non-White	47	55	31	61	61	38

Source: GAO Analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund Data. | GAO-22-104019

Note: Includes 50 states, Washington, D.C., and Puerto Rico, but excludes other territories. The estimates in this figure have margins of error at the 90-percent confidence level within 2 percent or 2 percentage points, respectively.

[31]These differences are statistically significant with at least 90-percent confidence.

Selected Qualified Opportunity Funds Offer Insights on Variety, Attractiveness, and Challenges Using the Tax Incentive

The Opportunity Zones Tax Incentive Is Supporting a Diverse Set of Investments in Residential, Mixed-Use, and Commercial Real Estate and Operating Businesses

Qualified Opportunity Funds are making diverse investments. Nearly all of the fund representatives we interviewed were investing in projects principally focused on real estate development.[32]

The characteristics of the selected 18 funds varied widely, such as by fund size, number of investors, number of investments, and geographic focus.

- Some funds have hundreds of investors and have raised more than $100 million while other funds raised less than $10 million from a handful of investors.
- Some funds are investing in more than 10 projects in Opportunity Zones while others are investing in one project.
- Some funds are focused on investing in one geographic area while others are investing in projects nationwide.

The funds included in our case studies were investing or planning to invest in a diverse set of projects, including commercial real estate development, multifamily housing development, agricultural land development, renewable energy businesses, and hotel development.[33]

[32]We selected 18 funds for case studies using a purposeful, stratified random sampling methodology to ensure that we examined a range of characteristics, including a variety of investment approaches and projects. The case studies are not generalizable to the entire population of Qualified Opportunity Funds. To characterize fund representatives' views throughout this report, we defined modifiers (e.g., "most") to quantify representatives' views as follows: "nearly all" represents more than 15 representatives, "most" represents 10 to 15 representatives, "many" represents six to nine representatives, and "some" represents two to five representatives." For more information on our case study selection methodology, see appendix I.

[33]For more details on the funds we selected for case studies, see appendix III.

See table 5 for examples of funds investing in each of these types of projects.

Table 5: Selected Qualified Opportunity Funds Characteristics and Experience with Opportunity Zones Tax Incentive

	Investment census region	Investment type	Fund size (dollars)	Number of investors
Fund A	South	Residential and commercial real estate: Mobile home park and small business industrial park	12 million*	Under 10
	Reason for using Opportunity Zones incentive: According to this fund manager, they decided to use the incentive because it helps raise capital for development projects and is easy to use. Specifically, the manager said the incentive is not too complicated for a small business to use for fundraising, which is different than the manager's real estate investment and development experience with other government incentives that are often complex. For example, it is relatively easy for a developer to set up its own funds and not need to outsource fund management to another entity, which would increase costs. Additionally, land in Opportunity Zones is conducive to the type of development with which this manager is experienced. *Experience and strategy using the incentive:* This fund intends to develop a mobile home park with amenities and a multi-acre warehouse business park in a separate location. According to the manager, the fund has already acquired the land for the mobile home park and has identified the land it wants to acquire for the business park development. *Challenges:* According to the manager, this fund lost some potential investors due to the COVID-19 pandemic because they invested in larger firms' funds with projects that were more "ready to go." Investors can be hesitant to invest until a project is "shovel-ready" (e.g., proper permits acquired). The fund manager expects to use non-Opportunity Zones incentive financing to start the development projects and get them shovel-ready and then finish development with Opportunity Zones incentive financing.			
Fund B	West	Mixed-use real estate development: Small apartment building and revitalized retail strip center	Under 5 million	1
	Reason for using Opportunity Zones incentive: This fund manager (also a developer and sole investor) realized capital gains, and the incentive's benefits—the ability to defer these gains and pay less tax, as well as realize future gains on Opportunity Zones investments tax-free—presented an attractive opportunity to invest realized gains. *Experience and strategy using the incentive:* Originally, the fund manager intended to build new retail space, but after consulting local government officials who indicated the city needed additional housing, the fund manager altered investment plans to meet this need. The fund manager expects the project to cost less than $5 million and anticipates completion in spring 2022. *Challenges:* This manager did not identify any challenges and characterized the experience as "pretty seamless."			
Fund C	West	Residential real estate development: Three apartment buildings	Over 200 million	Over 100
	Reason for using Opportunity Zones incentive: According to the fund manager, when the incentive was enacted, the fund's sponsoring company—one that invests in and manages large-format-rental housing—found the incentive attractive and invested resources for about 12 months to determine how it could be leveraged in its business model. *Experience and strategy using the incentive:* The company decided to acquire properties that were mid-development or near-completion, but had not yet reached the stage where the property had received a certificate of occupancy. According to the fund manager, this model enabled developers to start projects in Opportunity Zones without capital raised under the tax incentive and then the company used funds to purchase them part-way through the development process. The manager explained that the benefit of this structure is that it allowed a separation between developers and Qualified Opportunity Funds, in which developers could complete their part of the project and funds could purchase them with investor capital raised under the incentive and hold and manage them longer term. *Challenges:* This manager cited the lack of Internal Revenue Service (IRS) guidance in the early stages that created uncertainty around what investment strategies were allowable as a challenge. Also, given the incentive is new, getting potential investors comfortable with the structure and mechanics proved challenging, particularly during the pandemic, according to the manager.			

	Investment census region	Investment type	Fund size (dollars)	Number of investors
Fund D	South	Commercial real estate: Agricultural land	Under 10 million	Under 10
	Reason for using Opportunity Zones incentive: The fund manager said the benefits of the tax incentive were attractive. In particular, the 10-year hold period synced well with the longer time period often needed to hold agricultural land for investment purposes. The fund manager also said the incentive is easier to use than similar community development tax incentives because there are fewer reporting requirements. *Experience and strategy using the incentive:* The fund's strategy is to improve the property and then lease it to farmers. According to this manager, the fund is low-leveraged (i.e. low outstanding debt), so the strategy is to refinance the property by 2026 to provide investors with a distribution of about 70 to 80 percent of their initial investment. This will allow investors to pay the deferred tax realized in 2026. According to the fund manager, this cash flow was important to the fund's investors and helped incentivize them to maximize their investments. *Challenges:* The fund manager explained that the biggest challenge this fund faced was a lack of clarity in IRS guidance regarding the amount that funds need to improve agricultural land to satisfy the requirement that qualified property be "more than insubstantially" improved. For other types of land, such as land with structures, funds need to improve the property by 100 percent of the acquisition cost of the structure, and the cost of the land is excluded from this calculation. However, the manager explained that the fund's agricultural land generally has few, if any, structures, and the regulations governing the Opportunity Zones tax incentive do not include a percentage definition of improvements that more than insubstantially improve agricultural land. However, the fund manager noted that the examples provided in the final regulations regarding the types of improvements to agricultural land that would be considered more than insubstantial have proved useful in planning for their improvements.			
Fund E	Non-contiguous United States	Operating business/renewables: businesses collecting and processing seaweed into sustainable products; renewable energy resources	20 million*	Under 10
	Reason for using Opportunity Zones incentive: Since much of the territory in which the fund plans to invest is made up of Opportunity Zones, this fund manager said that almost any investment there that leverages capital gains would make sense. According to this manager, other than certain timing requirements for making investments, the structure of the projects they are managing in Opportunity Zones are similar to those they have made in the past. *Experience and strategy using the incentive:* The fund manager plans to include compliance with the tax incentive's requirements in contracts between the fund and businesses in which the fund invests. Also, fund leadership will have a seat on the board of businesses in which the fund invests and require reporting to stay aware of business activities. Because so much of the territory is designated as Opportunity Zones, the risk of investing in a business that expands and no longer meets incentive requirements is low. *Challenges:* The territory in which this fund plans to invest is considered a foreign tax jurisdiction. As a result, the manager explained that extra effort was needed to structure the fund to meet requirements for both local incentives and the Opportunity Zones incentive. This was particularly important to avoid unnecessary tax burdens for non-resident investors. This also resulted in extra effort to educate potential investors, according to the manager.			
Fund F	South, West, Midwest, Non-contiguous United States	Hospitality real estate development: More than 10 hotels	Over 175 million	Over 500
	Reason for using Opportunity Zones incentive: According to the fund representatives, the company sponsoring this fund did not initially plan to use the incentive. However, when it was determined that an already planned project was within an Opportunity Zone, the company decided to go "all in" and leverage the incentive for multiple hotel projects. *Experience and strategy using the incentive:* Fund representatives said the first of these hotels opened in spring 2020 and the fund expects the last of them will open in 2023. While the company would have pursued development of these properties without the incentive, fund representatives told us they do not know if they would have been able to raise enough capital to develop all of their hotel projects without it. *Challenges:* This fund has not faced many challenges, but representatives said it has taken some extra effort to ensure they will be in compliance with the tax incentive requirements.			

Legend: *Denotes target fund size

Source: GAO analysis of public database, Securities and Exchange Commission and Qualified Opportunity Fund information and interviews. | GAO-22-104019

Notes: Locations are based on the Census regions—Northeast, South, Midwest, and West. We combined Alaska and Hawaii with the U.S. territories for a "Non-contiguous U.S." category.

Opportunity Zones Tax Incentive Led to New Investments, Accelerated Projects, and Subsidized Projects that Would Have Occurred Regardless

Based on interviews with representatives from selected Qualified Opportunity Funds, the Opportunity Zones tax incentive seems to be motivating some companies to invest in projects and locations that they otherwise would not have.

Representatives from 10 funds told us they would not have invested in their projects without the incentive, and representatives from two other funds told us they would not have invested in at least one of their projects without the incentive. For example, a fund that built an industrial warehouse facility would not have pursued this project if the incentive did not exist. Representatives from four funds said they would have considered, and likely invested in, different locations if not for the incentive.

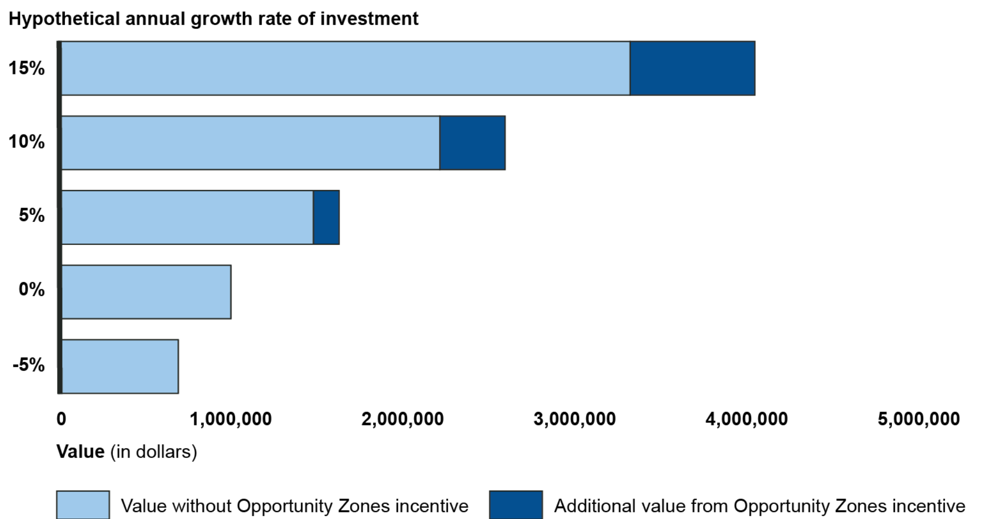
However, representatives from four funds told us that they would have made the same investments without the incentive. Representatives from a different fund told us that their Opportunity Zone projects fit their investment criteria without the incentive and may have pursued the investments, provided capital was readily available. According to representatives from one fund, while they still would have invested in some of their projects without the incentive, they would have held the properties for a shorter duration than currently planned as a 10-year holding period is not common for development. A representative from a different fund said that the incentive sped up their decision-making and development activity but had no other effect on their plans.

According to some fund representatives, the Opportunity Zones tax incentive does not spur investment in projects that they would not have already considered "sound." One fund representative told us that the incentive is not going to change a bad investment that would not provide positive returns into one that does provide positive returns because the subsidy is not that deep or generous; however, it can enhance returns on a good investment and make it more competitive or attractive for investors when compared to other potential investment opportunities. Similarly, representatives from a different fund said the value of a project financed using the Opportunity Zones tax incentive comes from project

cash flow and capital gains tax benefits of the Opportunity Zone program, rather than tax credits; therefore, the project itself needs to be successful to realize the value of the incentive. According to these representatives, this differs from other community development tax incentives such as the New Markets Tax Credit and Low Income Housing Tax Credit, where the value comes from tax credits. Fund representatives generally estimated that the incentive adds 2 to 4 percentage points to a project's internal rate of return.

See figure 5 for a hypothetical example showing how the amount of appreciation affects the value of the incentive's 10-year gain exclusion.

Figure 5: Hypothetical Value of Opportunity Zones Tax Incentive 10-Year Gain Exclusion for a $1 Million Initial Investment Depending on its Growth



Source: GAO analysis. | GAO-22-104019

Notes: If investors hold investments in Qualified Opportunity Funds for at least 10 years, they are able to elect to have the basis of their original investment be the investment's fair market value when they sell or dispose of their investments. If investors' investments in Qualified Opportunity Funds do not appreciate in value, there is no value from the Opportunity Zones 10-year gain exclusion because the basis has not changed. If investments lose value, then investors do not have to elect to have their basis in their original investments be valued at fair market value. Losses from investments in Opportunity Zones may be able to offset capital gains from other investments. For the purposes of this illustration, we assume investors face the 20 percent long-term capital gains tax rate, and the 3.8 percent net investment income tax, for a cumulative tax of 23.8 percent. We also assume that investors have sufficient gains from other investments such that all losses can be used to offset gains that would also be taxed at 23.8 percent.

Funds Have Different Plans for How Long to Hold Opportunity Zones Investments Prior to Selling

According to representatives, the selected Qualified Opportunity Funds varied their strategies for how long they plan to hold their Opportunity Zones investments. While funds must hold their investments for at least 10 years before their investors can realize gains tax-free, funds can hold investments until the end of 2047 before selling.

- **Plan to hold investments less than 10 years.** One fund is planning to sell its investments prior to holding for 10 years because, according to fund representatives, the benefits of excluding taxes on those long-term gains is not an incentive for them given their overall strategy. Specifically, their intent is to capture the maximum tax deferral benefit, but the fund's investments are not structured in a way that they will have gains beyond the minimum 10-year period.
- **Plan to hold investments about 10 years.** Many funds plan to hold their investments for about 10 years and then sell them to realize tax-free gains. For example, one fund is planning to hold investments for about 13 years, as the fund manager does not expect that market conditions will be right to sell investments on the first day after the 10-year period.
- **Plan to hold investments "longer term."** Some funds plan to hold investments longer, potentially until the incentive ends in 2047. For example, one fund plans to hold its investments until the incentive ends because, according to a representative, holding until 2047 will provide the biggest tax benefit.
- **Unsure of how long to hold investments.** Some funds have not determined how long they will hold investments. For example, one fund will hold its investment until market conditions are advantageous to sell. A representative from a different fund reported it will determine its exit strategy at some point in the future based on investor consensus.

Qualified Opportunity Funds Generally Cited Challenges Related to the Incentive's Many Timing Requirements

Qualified Opportunity Fund representatives generally cited the incentive's numerous timing requirements, for both investors and funds, as a challenge to using it.

Timing for investing and deploying capital. The requirement that investors have to invest in a Qualified Opportunity Fund within 180 days after realizing a gain can present challenges to funds that have timing requirements for investing capital into qualified property. For example, some representatives said the 6-month requirement to invest in qualified property is difficult because if a fund's development project is not "shovel

ready," it could take too long to deploy capital and the fund may have to pay a penalty.

Some fund representatives reported they created a two-tiered investment structure to mitigate this challenge. Specifically, they set up a qualified business in which the funds invest the deferred capital gains. By placing the Opportunity Zones capital into this business the funds are then able to hold those working capital funds without investing them in qualified property for up to 31 months provided, among other things, they have a written plan for how they intend to deploy that capital and then execute that plan.

Timing for making improvements to qualified property. Some fund representatives reported challenges due to the amount of time (30 months) funds have to substantially improve property or complete ground-up development. For example, some fund representatives said it is challenging to complete development within the required time frame because of the need to obtain permits and other public approvals. Similarly, a different representative said when the representative's company buys a property, it normally begins construction between 18 and 24 months after purchasing the property.

Timing for investors to qualify for 15 and 10 percent step-up in basis benefits. Gains deferred by investing in a Qualified Opportunity Fund are realized on December 31, 2026, if not previously realized due to disposition. If investors have held those investments for at least 7 years by that point, they are eligible for a 15 percent step-up in basis. If investors have held those investments for at least 5 years, they are eligible for a 10 percent step-up in basis. As a result, December 31, 2019, and December 31, 2021, are the deadlines to invest to receive the 15 or 10 percent step-up. One fund representative stated that this December 2019 deadline created some pressure to accelerate fundraising in 2019—a time of uncertainty before the Opportunity Zones tax incentive rules had been finalized—so that investors would be eligible for the 15 percent step-up in basis. A different representative expects demand to invest in funds will decrease at the end of 2021 due to the expiration of eligibility for the 10 percent step-up in basis.

Timing when investors pay deferred capital gains tax. Some Qualified Opportunity Fund representatives said another challenge stems from the lack of alignment between when the deferral of tax on invested capital gains expires in 2026 and when investors would be able to realize gains from their Opportunity Zones investments. The Opportunity Zones

incentive rules stipulate that investors hold their investments for 10 years to exclude taxes on gains from their Opportunity Zones investments. However, investors need to hold investments for at least 10 years before they can realize tax-free gains, which would be in 2028 at the earliest. For example, one representative said identifying a fund structure that could provide some cash flow to investors to help with their 2026 tax liability was a challenge. Many funds organized as partnerships were planning on making debt-financed distributions to their investors, which can provide those investors with liquidity without any tax liability, according to representatives. A representative from a fund organized as a corporation told us the inability for it to make a debt-financed distribution to investors limited the fund's appeal and the representative regrets the decision to structure it as a corporation.

Some fund representatives also highlighted the challenge of the uncertainty regarding what the capital gains tax rate will be in 2026—when the investors will need to pay tax on their invested gains—because investors cannot calculate what their tax liability will be in 2026 at the time they invest in funds. We previously reported that when taxpayers are uncertain as to the amount of an incentive they will receive, the effectiveness of an incentive is reduced.[34] A representative said the uncertainty can dissuade potential investors from investing in Qualified Opportunity Funds.

[34]GAO, *Tax Policy: The Research Tax Credit's Design and Administration Can Be Improved*, GAO-10-136 (Washington, D.C.: Nov. 6, 2009).

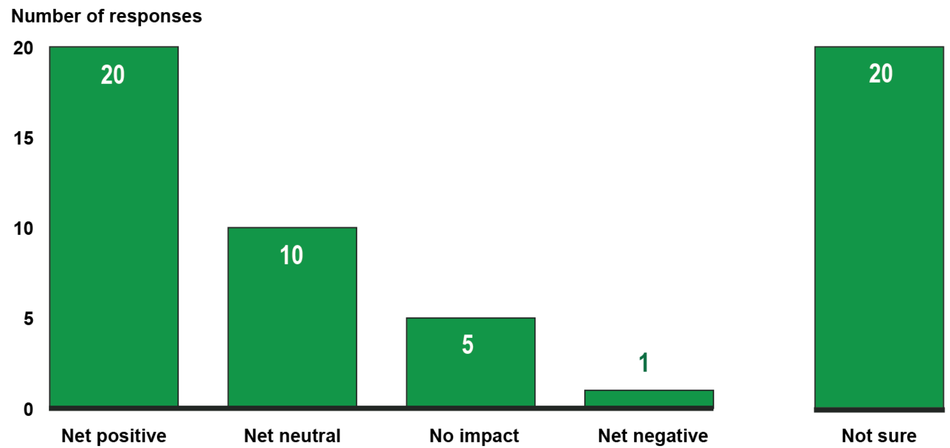
States Report Mixed Views on the Opportunity Zones Tax Incentive's Effects and Challenges to Encouraging Its Use

An Equal Number of States Reported the Opportunity Zones Incentive Had Positive Effect as Were Unsure of Its Effects

Officials from the 50 states, five U.S. territories, and Washington, D.C. who responded to our survey had mixed views on the overall effect of the Opportunity Zones tax incentive within their states, as shown in figure 6.[35] Twenty states reported the incentive had a net positive effect on their states. Another 20 were unsure of the effect. Other states reported the incentive had a neutral, a negative, or no effect.

[35]We surveyed officials from the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—and received responses from all 56. To characterize state officials' views throughout this report, we defined modifiers (e.g., "most") to quantify officials' views as follows: "nearly all" represents 48 or more state officials, "most" represents 27 to 47 state officials, "many" represents 10 to 26 state officials, and "some" represents three to 10 state officials. For responses to selected Opportunity Zones survey questions, see appendix IV. For a copy of our survey questionnaire, see appendix V.

Figure 6: State Respondents' Views on Overall Impact of the Opportunity Zones Tax Incentive



Source: GAO analysis of state responses to GAO survey on Opportunity Zones incentive. | GAO-22-104019

Note: We surveyed officials from the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—and received responses from all 56.

Of the states that reported the Opportunity Zones incentive had a positive effect, some reported it spurred some development that would not have otherwise occurred or sped up some other development.[36] Four states reported that the incentive likely spurred development that would not have happened but for the incentive. One of these states responded that the incentive had a catalytic effect on community-oriented economic development. A different state responded that the incentive accelerated some development projects, helping those projects exceed capital-raising goals and begin construction earlier than originally planned.

States that reported the Opportunity Zones incentive had no impact or a net neutral effect did not provide detailed explanations of their responses.[37] For example, one responded that there were few Opportunity Zones investments and hoped that there will be more in the

[36]Of the 20 states that reported the Opportunity Zones tax incentive had a positive effect, 11 provided narrative responses explaining their characterization.

[37]Of the 15 states that reported the Opportunity Zones tax incentive had a net neutral effect or no effect, five provided narrative responses explaining their characterization.

future. Similarly, a different state reported there had been some positive, but minimal, effect from the incentive.

States that were unsure of the incentive's effect and that provided explanations cited various reasons for their uncertainty.[38] Two states responded that it was too early to determine the incentive's effect. Five states reported that the lack of data and reporting requirements made it difficult for them to know the incentive's effect.

According to our survey results, 41 of 56 states were aware of at least some Opportunity Zones investments in their states, but most of the 56 states thought there are more investments of which they are unaware. This is consistent with what Qualified Opportunity Fund representatives from our case studies told us—while many funds worked with state and local officials related to their fund and investments, many did not interact with state or local officials outside of routine interactions, such as the permitting process.

Most States Tried to Incentivize Opportunity Zones Investment

While there was no official role for states after nominating census tracts to be designated as Opportunity Zones, states took varied approaches promoting the Opportunity Zones incentive and its use in their jurisdictions. These approaches included providing additional incentives to encourage investment and conducting outreach and education about the incentive. At the federal level, the Opportunity Zones incentive encourages development by reducing capital gains taxes; however, not all states tax capital gains.

Most states reported they offered other incentives to encourage Opportunity Zones investment in their states, such as:

- **Offering additional incentives to invest in Opportunity Zones.** Many states have specific incentives for Opportunity Zones investments. For example, Ohio has a tax credit that further incentivizes investment in its Opportunity Zones.[39] Investors who invest in Ohio Qualified Opportunity Funds that meet the requirements under the federal incentive must apply to the state to be eligible for tax

[38]Of the 20 states that reported they were unsure of the Opportunity Zones tax incentive's effect, 10 provided narrative responses explaining their characterization.

[39]Ohio Rev. Code § 122.84.

benefits through Ohio's program.[40] New Mexico offers a monetary bonus for projects that locate in its Opportunity Zones and meet specific hiring and investment targets.

- **Giving preferential treatment to Opportunity Zones projects applying for other benefits.** Some states give greater consideration to Opportunity Zones projects if those projects also apply for state economic development grants or other programs. For example, Delaware gives additional scoring points to Opportunity Zones projects when evaluating applications for the Low Income Housing Tax Credit. Similarly, Missouri provides additional scoring points for Opportunity Zones projects applying for its State Historic Preservation Tax Credit program.
- **Enabling the Opportunity Zones incentive to be used in conjunction with other state incentives.** Some states have enabled Qualified Opportunity Funds to use the Opportunity Zones incentive in conjunction with (or "stacked" with) other state incentives. These states said that some or all of their state incentives could be combined with the federal incentive. As a specific example, Oklahoma designated Priority Enterprise Zones to coincide with Oklahoma's Opportunity Zones to help alleviate poverty and attract capital to Oklahoma's designated tracts. Investors who invest in Oklahoma's Opportunity Zones within Priority Enterprise Zones can potentially layer other state or local incentives, including the Investment Tax Credit, Enterprise Zone Incentive Leverage Act, and tax increment financing.[41]

---

[40]According to the Ohio Department of Development be an Ohio Qualified Opportunity Fund, funds must provide information on investors' investments and descriptions and locations of fund investments. This Ohio credit is applied to individual income tax. For more information, see Ohio Department of Development, *Ohio Opportunity Zones*, accessed August 4, 2021, at https://www.development.ohio.gov/bs/bs_censustracts.htm.

[41]The Oklahoma Department of Commerce explains the incentives as follows: the Investment Tax Credit allows a corporate income tax credit for new investment or job creation; Priority Enterprise Zones double the income tax credit and will have that designation for the life of the selected Zones, instead of being subject to annual updates; the Enterprise Zone Incentive Leverage Act allows local areas to capture state sales tax if the local areas have a matching tax; tax increment financing is a local incentive authorized in state statute used for redevelopment and reinvestment of blighted areas; and Priority Enterprise Zone designations are evidence of distressed areas and would be allowed to be incorporated in a local development plan as a tax increment financing district. Oklahoma Department of Commerce. *Federal Opportunity Zones*, accessed August 5, 2021, at https://www.okcommerce.gov/doing-business/business-relocation-expansion/incentives/federal-opportunity-zones/.

One residual benefit for some states offering state-level incentives is additional insight into and oversight of Opportunity Zones investment activities. One state that reported it wanted more information on Opportunity Zones investments said that having a companion state program with reporting requirements would provide information on investors and Qualified Opportunity Funds and how they are using the incentive.

In addition to the incentives provided by some states, most states reported additional activities to promote the Opportunity Zones incentive and attract investment:

- **Providing information and education.** Most states reported hosting, attending, or participating in events to help provide information on the Opportunity Zones incentive. For example, Tennessee reported it held statewide and regional forums to educate stakeholders on how the incentive can be implemented throughout the state and to highlight opportunities to invest in operating businesses. Similarly, Maryland reported having several open forums on the incentive, and that these forums helped spur interest and investment in its Opportunity Zones.
- **Providing assistance to communities.** Some states provided technical assistance to certain communities to help them understand how the Opportunity Zones incentive works and its potential benefits. For example, Pennsylvania created a webinar video explaining how to create an Opportunity Zones investment prospectus, and in its survey response reported that it worked with local stakeholder teams to help them develop prospectuses to highlight their investment opportunities. In response to challenges to using the incentive reported by communities, Washington created a process to support and promote community-driven projects in Opportunity Zones that build community wealth. In its survey response, Washington reported that it provided some financial assistance to Tribal nations and rural communities to help their potential projects become shovel ready so that they could be more competitive when Quality Opportunity Funds consider which Opportunity Zone to target for investment.
- **Working with non-profits in public-private partnerships.** Some states worked with nonprofit organizations to help increase visibility of states' Opportunity Zones, educate investors and developers about the Opportunity Zones incentive, and encourage investment in states' zones. For example, Alabama responded that it has an active outreach strategy, and that this is due to a partnership with Opportunity Alabama—a non-profit dedicated to increasing the visibility of potential Opportunity Zones projects by identifying

community-oriented projects and putting them in front of investors. This enabled the state government to have a direct and active role in conducting Opportunity Zones-related outreach.

- **Connecting investors with investment opportunities.** Some states tried to connect investors with investment opportunities. For example, some states reported that they developed websites to help match investors and Qualified Opportunity Funds. New Jersey created an Opportunity Zones marketplace website that lists business and real estate opportunities seeking investment that the New Jersey Economic Development Authority anticipates can improve its communities. This website includes a listing of projects in Opportunity Zones, their locations, and the types of investment (e.g., mixed-use real estate, single-family housing, multifamily housing, or light industrial). Similarly, Washington, D.C., created a D.C. marketplace website that enables (1) businesses and real estate ventures based in Opportunity Zones that are seeking equity investment from Qualified Opportunity Funds to post information about their projects, and (2) fund managers to identify potential investment opportunities.

Nearly All States Reported Challenges to Opportunity Zones Incentive Use, Including a Lack of Knowledge among Potential Participants

Overall, 14 states cited challenges from the Opportunity Zones incentive's complexity in general, or more specifically, from financial planners', investors', or developers' lack of understanding. One state responded that project leaders rarely understand the program and community leaders tend to be the least knowledgeable and sometimes view the incentive negatively for its capacity to contribute to gentrification. A different state reported the incentive's complexity made it less accessible to entities without access to legal and accounting consultants, such as small and rural businesses.

To mitigate some of these challenges, some states suggested there could be more training—or support for training—and outreach to educate tax professionals, community leaders, and potential investors. According to one state, documenting and sharing real-life Opportunity Zones incentive examples could help small investors, businesses, and entrepreneurs understand the incentive's potential benefits.

States that were aware of Opportunity Zones investment generally reported investment tended to be for real estate projects (as opposed to in operating businesses) and in metropolitan areas (as compared to nonmetropolitan areas). Some states reported the following challenges to encouraging investment:

- **Investment in rural areas.** Eight states said that attracting investment to rural areas was a challenge and 32 states reported there was more metropolitan Opportunity Zones investment than nonmetropolitan investment.[42] For example, one state reported it had been challenging to encourage investors to invest in the state's rural areas and most investors and developers were interested in metropolitan areas. Similarly, a different state had hoped that the Opportunity Zones incentive would spur industrial development in rural areas, but the incentive had seemed to primarily spur housing development in urban areas.
- **Investment in operating businesses.** Three states cited attracting investment in businesses as a challenge and 33 states reported there was more Opportunity Zones investment in real estate than in operating businesses.[43] For example, one state reported that the timelines align with real estate investment, but not with those making investments into businesses. This state suggested that investments made into businesses have shorter time frames.

[42]For this question, 42 states responded, and 32 of those responded that there was more investment in metropolitan Opportunity Zones. One state said there were more nonmetropolitan projects. Three states said that there were similar numbers of metropolitan and nonmetropolitan projects, and six said they did not know.

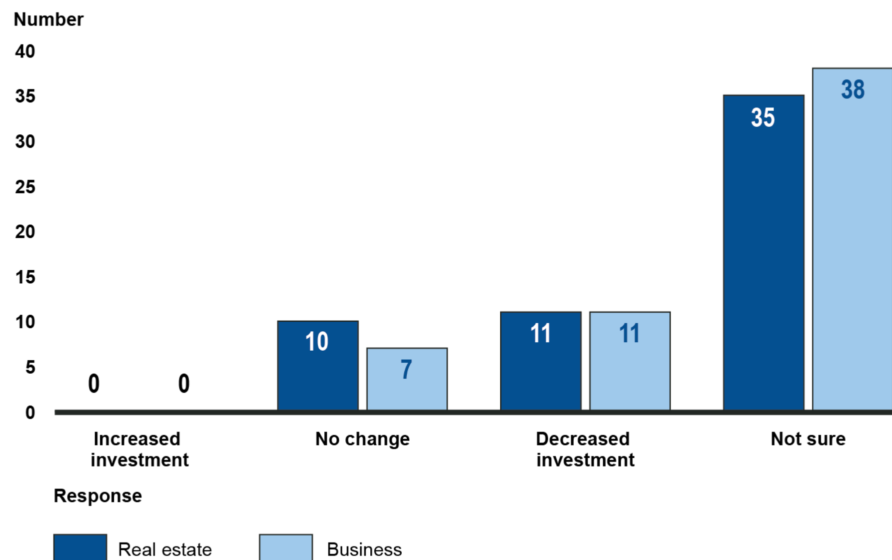
[43]For this question, 44 states responded, and 33 of those responded that there was more investment in real estate investments than operating businesses. Four states said there were similar numbers of each and seven said they did not know.

COVID-19 Created Delays in Some Opportunity Zones Investments, but Full Effect Is Unclear

Majority of State Respondents Unsure of COVID-19's Effects on Opportunity Zones Investment, but Some Reported Decreased and Delayed Activity

Most of the 56 state respondents to our survey were unsure of COVID-19's effect on Opportunity Zones investment while less than 20 percent thought COVID-19 had no effect. As shown in figure 7, views were similar for both real estate and business investment effects.

Figure 7: State Respondents' Views on the Coronavirus Disease 2019's Effect on Opportunity Zones Investment



Source: GAO analysis of state responses to GAO survey on Opportunity Zones incentive. | GAO-22-104019

Note: We surveyed officials from the 50 states, the District of Columbia, and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—and received responses from all 56.

Of the state respondents that were unsure of COVID-19's effect, the majority said they did not have enough information to make a determination. Most of these respondents cited a lack of reporting requirements or insight into Opportunity Zones investment in real estate projects and operating businesses as a barrier. However, a respondent from a state that established a related Opportunity Zones tax credit said

that Qualified Opportunity Fund applications for the 2021 credit should provide some insights because those tax credit applications will be based on 2020 investment.

Of the respondents that did indicate COVID-19 had an effect on investment, perspectives varied. Some respondents said COVID-19 had caused a decrease in investment and cited various information sources and reasons for this decrease. For example, one respondent based this determination on a decline in the number of new development permits in Opportunity Zones. Some respondents observed initial investment decreases and delays, but had since seen a return to a degree of normalcy. For example, one respondent said investments slowed during the beginning of 2020, but got back to similar levels of investment gains by summer 2020. Some respondents observed that COVID-19's effect on Opportunity Zones investment were more pronounced in some zones or industries than others. For example, one state responded that investment in service and hospitality businesses were negatively affected by COVID-19, while primary industries (e.g., manufacturing) did not seem to be affected.

Funds Reported COVID-19 Effects Included Delays and Challenges in Fundraising, Investment, and Development Activity

Many Qualified Opportunity Fund representatives said that COVID-19 had substantially affected their fund and development activity, including causing delays to their development activities. For example, one fund representative said that if the pandemic had not occurred, the fund would have already broken ground on at least some of the initially planned projects. The representative explained that the historically Black colleges and universities with which the fund is working had to close their campuses and needed to focus on the effects of these closures. Other funds reported that as the pandemic progressed they experienced unanticipated increases in labor and raw material costs. Conversely, some fund representatives said they did not face development- or fundraising-related challenges but had hardships in gaining full occupancy in their completed properties, such as housing for low-income or homeless individuals and industrial warehouse space.

Some fund representatives found IRS's COVID-19 deadline extensions and penalty relief helpful. For example, representatives from one fund said the shift in investors' gain timeline has been helpful because the fund's development projects were delayed. In contrast, a representative from a different fund said, while IRS's COVID-19 relief was well intentioned, it ultimately made it harder to raise capital for a project because investors were able to delay making investments.

Many representatives indicated that the pandemic did not have any substantial lasting effects on their projects. For example, one representative said that the fund's investment project faced some construction delays and labor shutdowns, but the delays did not have a substantial effect and were at most 90 days.

Available Tax Data Indicate about $29 Billion Invested in Opportunity Zones

A comprehensive picture of investment activity in Opportunity Zones based on tax data is currently unavailable due in part to COVID-19-related tax filing extensions, IRS processing delays, and incomplete transcription of paper-filed returns. However, IRS was able to analyze electronically filed returns and selectively transcribed paper filings.

According to preliminary IRS data for tax year 2019, more than 6,000 Qualified Opportunity Funds reported holding about $29 billion in qualified property, as shown in table 6.[44] IRS data also indicate nearly 18,000 taxpayers reported being invested in those funds during tax year 2019. The funds file IRS Form 8996 annually to certify that 90 percent of their assets are either (1) directly invested in tangible property located in an Opportunity Zone or used by a qualified business, or (2) invested in a partnership or corporation that is a qualified business. IRS estimates that 19 percent of Forms 8996 for tax year 2019 were filed on paper, and data from those paper forms have not been fully transcribed or digitized for reporting and analysis.

[44]According to Treasury officials, the number of Forms 8996 filed may not equal the number of Qualified Opportunity Funds because some taxpayers filed Form 8996 without expressing intent to certify as a Qualified Opportunity Fund.

Table 6: Available Data on Qualified Opportunity Funds and Investors, Tax Year 2019

Qualified Opportunity Funds	2019
Number of Forms 8996 filed[a]	6,845
Dollar amount of qualified property held (in millions)	28,910
Investors	
Number of Forms 8997 filed[b]	17,891

Source: Internal Revenue Service data. | GAO-22-104019

Note: Data are incomplete due to return processing delays, missing information from amended returns and some returns filed on paper, and limited information transcribed from taxpayer forms.

[a]Funds file Form 8996 annually to self-certify that they are a qualified fund and to report total qualified property held at the middle and end of the tax year. The number of Forms 8996 filed may not equal the number of Qualified Opportunity Funds as some taxpayers filed Form 8996 without expressing intent to become a Qualified Opportunity Fund.

[b]Investors file Form 8997 annually to report information about their investments in Qualified Opportunity Funds.

Based on IRS data of investors electing deferrals, about 10 percent deferred gains in more than just 1 year, and about 85 percent were individual filers (the remaining were business filers such as corporations and partnerships).

When providing these data, IRS officials told us that the actual counts and dollar amounts could be greater for several reasons.

- **COVID-19 tax return processing delays.** As we previously reported in March 2021, disruptions in IRS operations during the COVID-19 pandemic have delayed the processing of some 2019 tax returns that would normally have been processed during the 2020 tax filing season.[45]
- **COVID-19 relief for filing tax returns and other deadlines.** Because IRS extended tax return filing deadlines as well as other deadlines specific to the Opportunity Zones tax incentive due to COVID-19, data on investors and funds have also been delayed.
- **Missing some data from paper-filed tax returns.** Some of IRS's preliminary summary data on investors and funds is based only on information captured from forms submitted to IRS electronically. Information from forms that were mailed to IRS, or emailed to IRS in a PDF format, was not easily available for aggregated reporting and

[45]GAO-21-251.

analyses because it was not transcribed from paper or PDF forms into IRS information systems.

- **Limited information transcribed from taxpayer forms.** The initial data may also be understating actual figures because in instances where IRS did transcribe data from paper or PDF forms, the agency did not transcribe all lines or fields containing data. We discuss the implications of this below.
- **Missing data from amended tax returns.** IRS officials also told us that the available data do not include data from any amended returns.

IRS's Planned Compliance Efforts Do Not Adequately Address Risks Posed by Limited Data Availability and High-Wealth Individuals and Large Partnerships

Key Elements of IRS's Compliance Plan Rely on Access to Important Data that Are Not Readily Available

IRS developed a compliance plan for the Opportunity Zones tax incentive that identified compliance risks and outlined mitigating actions for these risks. However, based on IRS's current data transcription plans, the agency will be unable to conduct some of the mitigation activities described in the compliance plan.

According to the September 2020 version of the compliance plan, IRS intends to mitigate some compliance risks through automated matching of information reported by investors and funds with information from third parties and other sources.[46] The automated matching includes information from Forms 8949, 8997, and 1099-B. Investors report deferred gains on Form 8949 and investment information on Form 8997; funds use Form 1099-B to report all sales of interests in the fund.

[46]As of June 2021, a revised version of the IRS compliance plan dated September 2020 is labeled as a "draft," but IRS has taken steps to operationalize the plan.

Additionally, the proposed matching is consistent with the goal in IRS's strategic plan to review and refine risk-based filters to detect anomalies earlier, as well as identify potential issues as they occur and engage taxpayers earlier to resolve those issues faster.[47] See table 7 for selected risks and proposed mitigations in the compliance plan.

Table 7: Selected Risks and Proposed Mitigations in IRS' Plans to Ensure Qualified Opportunity Funds and Investor Compliance

Risk identified	Proposed mitigation
Validating the deferral of capital gains tax claimed by investors	Match Forms 8949 to Forms 8997
Ensuring that investors appropriately reflect in income the sales or dispositions of Qualified Opportunity Fund investments	Match Forms 1099-B to Forms 8949
Verifying amounts reflected as a disposition with third-party reporting	Match Forms 1099-B to Forms 8997
Tracking and reconciling investor dispositions of an interest in a Qualified Opportunity Fund	Use data on Form 8997 regarding investment acquisitions, dispositions, and gains to oversee compliance
Verifying that the Qualified Opportunity Fund is investing in qualified property	Check census tracts of investments reported by Qualified Opportunity Funds on Forms 8996

Source: GAO analysis of Internal Revenue Service (IRS) compliance plan. | GAO-22-104019

Based on IRS's form-transcription decisions, the agency will be unable to conduct some of these mitigation activities. IRS may be able to conduct some of the other activities but their effectiveness and efficiency will be limited without full data transcription.

IRS has historically limited using data elements from electronically-filed returns for compliance purposes when these data are not also transcribed from paper-filed returns. This decision is to ensure that paper-filed returns are treated similarly to electronic returns. IRS's ability to easily and accurately report data on the tax incentive is thus constrained by how much information is captured from taxpayer forms. IRS officials told us that as the Small Business and Self-Employed (SB/SE) and Information Technology (IT) divisions evaluated and prioritized transcription requests, only some data from Forms 8996 and 8997 were approved to be transcribed beginning with tax year 2021.

As of June 2021, IRS's compliance plan does not reflect that those data will be unavailable for automated matching. Further, the plan does not

[47]Internal Revenue Service, *FY2018-2022 Strategic Plan*, Publication 3744 (Rev. 4-2018).

discuss the effects of those data limitations nor does it include actions to mitigate the risks of having limited data in an easily accessible format.

IRS officials told us that they have limited resources and competing priorities for IT programming changes such as transcription requests. When IRS receives paper returns, data from the returns can be transcribed either manually or through automated systems that use optical character recognition.[48] IRS officials consider a number of factors when making transcription decisions, including IRS employee wages, impact to the agency and the taxpayer, volumes, revenue, or loss thereof. In addition, IRS IT officials said that the portion of transcription from tax forms related to Opportunity Zones that was approved is considered discretionary, and could be overridden by future priority changes.

We have previously reported that having more easily accessible data would increase the effectiveness of IRS compliance actions. In October 2011, we reported that IRS said that having more tax return information available electronically, such as through transcription, would reduce burdensome examinations for compliant taxpayers, as well as facilitate enforcement efforts, make case resolution faster, and increase compliance revenue.[49] IRS officials stated that they could reconsider transcribing more data from tax forms related to Opportunity Zones in future years depending on the results of ongoing compliance research studies the agency is conducting. IRS officials said those studies could take until October 2022 to complete.

IRS officials told us in June 2021 that they intend to update the compliance plan by the end of fiscal year 2021. Key changes will be related to COVID-19 guidance and any adjustments resulting from some early compliance efforts to address taxpayer filing errors. IRS officials said that they will note the data limitations in the updated compliance plan, but did not say they would fully address the risks posed by the data limitations, specifically those that were to be mitigated by automated matching.

[48] In December 2020, we reported that IRS's ability to transcribe data from tax forms is limited by capacity constraints in some of IRS's IT systems. See GAO, *Tax Administration: Better Coordination Could Improve IRS's Use of Third-Party Information Reporting to Help Reduce the Tax Gap,* GAO-21-102 (Washington, D.C.: Dec. 15, 2020).

[49] GAO, *E-Filing Tax Returns: Penalty Authority and Digitizing More Paper Return Data Could Increase Benefits,* GAO-12-33 (Washington, D.C.: Oct. 5, 2011).

According to *Standards for Internal Control in the Federal Government*, agencies may need to revise risk responses when risk response actions do not enable them to operate within defined risk tolerances.[50] Operating within the defined risk tolerance provides greater assurance that the agency will achieve its objectives, such as—in IRS's case—ensuring taxpayer compliance with the tax incentive's requirements.

Our past work included recommendations to IRS to consider the costs and benefits of transcribing more data from tax returns. In February 2020, we recommended that SB/SE identify the costs and benefits of retroactively transcribing taxpayer data resulting from TCJA's provisions, including the Opportunity Zones incentive, and based on those costs and benefits, determine which provisions' data should be converted into a more useful electronic format for compliance and enforcement purposes and work with the appropriate offices to obtain the transcribed data, as appropriate.[51] IRS disagreed with the recommendations and does not plan to take further action on them. However, conducting audits is labor intensive. We continue to believe that converting data in instances where the benefits outweigh the costs would better position IRS to efficiently ensure taxpayer compliance.

Although IRS intends to revise the compliance plan and note the absence of requested data, mitigating the risks of limited transcription is not a focus of the update. If IRS does not assess and mitigate the risks from the lack of expected data, IRS will be less likely to identify and address taxpayer noncompliance.

[50]GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

[51]GAO, *Tax Cuts and Jobs Act: Considerable Progress Made Implementing Business Provisions, but IRS Faces Administrative and Compliance Challenges,* GAO-20-103 (Washington, D.C.: Feb. 25, 2020).

IRS Has Not Established Plans to Research Compliance Risks of High-Wealth Individuals and Large Partnerships that Participate in the Opportunity Zones Incentive

IRS assigned primary responsibility for implementing the Opportunity Zones tax incentive to its SB/SE division, but IRS data and our case studies indicate that a significant number of Qualified Opportunity Funds and their investors are high-risk taxpayers who typically fall under the purview of IRS's Large Business and International (LB&I) division.[52] Available tax return data indicate that many investors who deferred capital gains by investing in Qualified Opportunity Funds are likely "high-income" or "high-wealth" individuals.[53] For example, the top 10 percent of deferrals made by individual taxpayers in tax year 2018 averaged nearly $10 million. Audits of high-income and high-wealth individuals with especially complex returns are led by a special group of LB&I examiners.

Similarly, IRS analysis of data from tax year 2018 indicates that about 86 percent of Qualified Opportunity Funds were organized as partnerships. Some of the funds we reviewed through our case studies were partnerships with hundreds of partners and total assets of $100 million or greater. We also found that nearly all funds are investing in real estate developments, many of which are complex multiyear projects such as hotels and multifamily housing projects.[54] IRS generally classifies partnerships with more than $10 million in total assets as large partnerships. Examinations of these returns are the responsibility of LB&I.[55] IRS has previously identified high-wealth and high-income

[52]IRS's LB&I division serves corporations, subchapter S corporations, and partnerships with assets greater than $10 million. It also serves U.S. citizens and residents with offshore activities and nonresidents with U.S. activities.

[53]IRS officials said that the Global High Wealth group in LB&I addresses taxpayers with assets or earnings in the tens of millions of dollars. SB/SE officials told us that they generally define "high income" as taxpayers who report total positive income of $200,000 or greater.

[54]For example, one fund that we identified (but did not interview for our case studies) is developing a large hotel in Las Vegas and has publicized plans to use a sophisticated real estate structure to provide on-site gaming. Qualified businesses are generally prohibited from being gambling facilities under 26 U.S.C. §§ 1400Z-2(d)(3)(A)(iii), 144(c)(6)(B); 26 C.F.R. § 1.1400Z2(d)-1(d)(4); 85 Fed. Reg. 1866, 1929-1930 (Jan. 13, 2020); however, a representative from this fund has publicly stated that it developed a more complicated business structure that allows it to have on-site gaming while still complying with the legal requirements.

[55]In 2014, we recommended that IRS better define large partnerships based on asset size and number of partners. As of June 2021, IRS has not fully implemented our recommendation but officials said they have begun efforts to better select partnership returns for audit based on compliance risks. See GAO, *Large Partnerships: With Growing Number of Partnerships, IRS Needs to Improve Audit Efficiency,* GAO-14-732 (Washington, D.C.: Sept. 18, 2014).

individuals, and pass-through entities like partnerships as posing high compliance risks. One of LB&I's strategic goals for fiscal year 2021 is to strengthen compliance coverage of these groups.[56]

Although these two groups are LB&I priorities, ongoing research into taxpayer compliance with the Opportunity Zones tax incentive rules did not include these high-risk taxpayers. Further, according to SB/SE officials overseeing compliance, IRS has no plans to do so. To identify potential trends in noncompliance, the SB/SE division has begun examining random samples of tax returns filed by investors and funds; but IRS officials told us that none of the randomly selected tax returns are from LB&I-type taxpayers like high-wealth investors or large partnership funds. LB&I officials told us that while the division does not have a compliance plan specific to the Opportunity Zones tax incentive, examinations done through LB&I high-income and large partnership initiatives could have issues related to Opportunity Zones. Thus, they have trained their examiners on the tax incentive. LB&I officials also said that it is early in the process of examining cases with Opportunity Zones related issues, and they would consider other compliance related activities if significant issues arise. IRS's strategic plan describes how the agency will use insights into compliance behavior—such as for high-risk taxpayer segments—to intervene proactively. By not including research on these groups, IRS will lack insights on key taxpayer segments that could be high-risk for noncompliance. Thus, it will be unable to effectively plan and target its enforcement efforts.

Conclusions

IRS is implementing a plan to ensure compliance with the Opportunity Zones tax incentive, but key elements of the plan rely on access to data that are not readily available. IRS cannot fully execute its compliance plan as currently constituted, and the agency has not taken steps to adjust the plan and mitigate the issues that this lack of data causes.

In addition, ongoing compliance research does not include some types of participants in Opportunity Zone investment activities that IRS considers high-risk taxpayers—such as high-wealth individuals and large partnerships. These taxpayers—who are often involved in sophisticated

[56]IRS, *LB&I Fiscal Year 2021 Focus Guide* (Publication 5319), October 2020. In February 2020, the Secretary of the Treasury also instructed the IRS Commissioner to ensure that at least 8 percent of all high-income individual tax returns are audited annually. See Department of the Treasury, Memorandum for Internal Revenue Service Commissioner Charles P. Rettig from Secretary Steven T. Mnuchin on subject of "Importance of Audit Procedures" (Feb. 10, 2020).

tax and investment structures—generally fall under the purview of IRS's LB&I division and not the SB/SE division that has primary responsibility for implementing the Opportunity Zones tax incentive. IRS's compliance plan does not include any efforts to research the compliance risks that these taxpayers may pose. More comprehensive research on taxpayer compliance with Opportunity Zones tax incentive rules that includes evaluations of high-risk taxpayers will help IRS to better plan and target its enforcement efforts.

Recommendations for Executive Action

We are making the following two recommendations to IRS:

The Commissioner of Internal Revenue should direct the Small Business and Self-Employed division to assess the risks that data limitations pose to its Opportunity Zones tax incentive compliance plan and take steps to mitigate those risks. (Recommendation 1)

The Commissioner of Internal Revenue should direct the Small Business and Self-Employed and Large Business and International divisions to research compliance risks posed by high-wealth individuals and large partnerships that are using the Opportunity Zones tax incentive and take appropriate steps to address the risks identified. (Recommendation 2)

Agency Comments and Our Evaluation

We provided a draft of this report to Treasury and IRS for review and comment.

In its comments, reproduced in appendix VI and summarized below, IRS agreed with one of our recommendations and partially agreed with our other recommendation.

IRS agreed with our recommendation to assess the risks that data limitations pose to the Opportunity Zones tax incentive compliance plan and mitigate those risks. IRS agreed to review previously-identified risks considering data limitations and then identify potential alternative mitigation actions and revise the compliance plan, as appropriate.

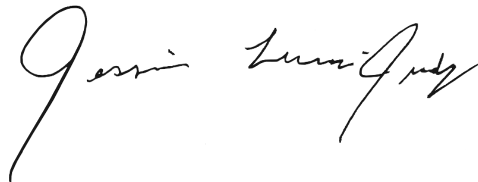
IRS partially agreed with our recommendation for SB/SE and LB&I to research compliance risks posed by high-wealth individuals and large partnerships and address risks identified. In its comments, IRS agreed to conduct research on potential compliance risks posed by high-wealth individuals and large partnerships. However, IRS stated that the agency cannot agree to take related mitigating actions because IRS first needs to identify those risks and consider available resources and competing priorities of work based on the highest risk for noncompliance. Our

recommendation asked that IRS take appropriate steps to address the risks identified. We think it is reasonable that IRS would take a number of considerations into account when determining those steps.

Treasury and IRS also provided technical comments, which we incorporated as appropriate.

As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the appropriate congressional committees, the Secretary of the Treasury, the Secretary of the Department of Housing and Urban Development, the Commissioner of Internal Revenue, the Director of the Community Development and Financial Institutions Fund, and other interested parties. In addition, the report will be available at no charge on the GAO website at http:www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-6806 or lucasjudyj@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs are on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VII.



Jessica Lucas-Judy
Director, Tax Issues
Strategic Issues

List of Requesters

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate

The Honorable Charles E. Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Richard E. Neal
Chairman
The Honorable Kevin Brady
Republican Leader
Committee on Ways and Means
House of Representatives

The Honorable Cory A. Booker
United States Senate

The Honorable Tim Scott
United States Senate

Appendix I: Objectives, Scope, and Methodology

This report (1) describes the process for designating census tracts as Opportunity Zones and compares select demographic characteristics of designated and non-designated tracts, (2) describes Qualified Opportunity Funds' experiences with and use of the Opportunity Zones incentive, (3) describes states' experiences with the incentive, (4) describes the effect of the Coronavirus Disease 2019 (COVID-19) pandemic on investment activity in Opportunity Zones, (5) analyzes available taxpayer data about Qualified Opportunity Funds and their investors, and (6) evaluates Internal Revenue Service (IRS) plans to ensure taxpayer compliance with rules governing the Opportunity Zones tax incentive.

To describe the process for designating census tracts as Opportunity Zones and compare select demographic characteristics of designated and non-designated tracts, we analyzed Department of the Treasury and IRS guidance, and American Community Survey (ACS) data, and interviewed Treasury officials. Specifically, we analyzed 2011-2015 and 2012-2016 ACS data to verify each of the designated Opportunity Zones had population and economic characteristics consistent with the requirements in the statute. ACS is a nationwide annual survey designed to provide communities with reliable and timely social, economic, housing, and demographic data.[1]

We then analyzed 2015-2019 ACS to describe the characteristics of all census tracts, tracts that were ineligible for designation, eligible but not selected tracts, and those that were selected as Opportunity Zones. For each of those categories of tracts, we calculated the average of various economic and demographic characteristics. We also analyzed separately, among eligible tracts, the low-income communities and contiguous tracts.

To describe Qualified Opportunity Funds' experiences with and use of the incentive, we randomly selected 18 funds for non-generalizable case studies. Because we could not identify a complete public list of funds, we used several different methods to identify funds.

- **Survey of state officials.** We identified 257 funds through our survey of state officials. As part of our survey of state officials (described below), we asked if they were willing to provide us with information on the Qualified Opportunity Funds and their associated investments that

[1]A separate annual survey, called the Puerto Rico Community Survey, collects similar data about the population of and housing units in Puerto Rico.

they were aware of in their states. Sixteen states provided information on funds investing in their states.

- **Public information.** We identified 828 funds using public information. These sources included Novogradac, OpportunityDb, National Council of State Housing Agencies, various state-specific Qualified Opportunity Fund listings, CoStar data, OpZone, Qualified Opportunity Zone Marketplace, Eazy Do it Funds, and a White House Opportunity and Revitalization Council report.[2]
- **Securities and Exchange Commission filings.** We identified 1,431 potential Qualified Opportunity Fund filings using key words to search the Securities and Exchange Commission (SEC) Electronic Data Gathering, Analysis, and Retrieval system quarterly index files in 2018, 2019, and 2020.[3] Because funds could file in each year, the list

[2]29th Street Capital. "Opportunity Zone Investment." 2020 Virtual Opportunity Zone Expo, June 24-25, 2020; Acqua QOF Portland. "Multifamily Real Estate Opportunity Zone Fund." 2020 Virtual Opportunity Zone Expo, June 24-25, 2020; Arizona Commerce Authority, Arizona Opportunity Zones Network Report, accessed July 29, 2020, https://www.azcommerce.com/arizona-opportunity-zones/arizona-opportunity-zones-network-results/; Colorado Office of Economic Development and International Trade, Search Opportunity Fund, accessed July 29, 2020, https://www.colorado-invest.com/search-opportunity-fund/; Costar, Opportunity Zone Funds Reported Capital Raise, (Feb. 2020), accessed July 23, 2020, https://costar.brightspotcdn.com/7e/93/bfbb0b2f49689c8f0f60f847c7ac/opportunity-zone-spreadsheet-2.2020.pdf; EazyDoit, List of Qualified Opportunity Zone Funds Ready for Investment, accessed November 15, 2020, https://eazydoit.com/list-opportunity-zone-funds/; Maryland Department of Housing and Community Development, OZ Information Exchange, accessed July 29, 2020,
National Council of State Housing Agencies, Opportunity Zone Fund Directory, (July 6, 2020), accessed July 29, 2020, https://www.ncsha.org/resource/opportunity-zone-fund-directory/; Novogradac & Company LLP, Opportunity Funds List, (Apr. 30, 2020), accessed July 29, 2020, https://www.novoco.com/resource-centers/opportunity-zone-resource-center/opportunity-funds-listing; OpportunityDb: The Opportunity Zones Database, Directory of Qualified Opportunity Zone Funds (QOFs), (Oct. 21, 2020), accessed November 9, 2020, https://opportunitydb.com/funds/; OpportunityDb, OZ Pitch Day 2020, accessed November 17, 2020, https://opportunitydb.com/pitch-day/; Opzone.com: Your Resource for Opportunity Zones, Fund Database, accessed July 29, 2020, https://opzone.com/opportunity-zone-projects; Qualified Opportunity Zone Marketplace, List of Qualified Opportunity Zone Funds, (Sept. 25, 2020), accessed November 15, 2020, https://qozmarketplace.com/list-of-qualified-opportunity-zone-funds/; Tennessee Department of Economic and Community Development, Funds: Tennessee Opportunity Zones, accessed July 29, 2020, https://oz.tnecd.com/funds/; White House Opportunity and Revitalization Council, *Opportunity Zones Best Practices Report to the President* (May 2020).

[3]Our search terms were Opportunity Zone, Opportunity Fund, QOF, QOZ, QOZB, OZ Fund, QOZF, and OpZone. We developed our search terms based on our background research and the list of funds we had been able to identify using public information.

included duplicate filings from the same fund. Because we used key words to identify potential funds, this list is not inclusive of all funds filing quarterly index files with the SEC and includes some false positives (organizations that include one of our key words in their name but are not Qualified Opportunity Funds). Any funds that did not include one of our key words would not have been identified using this methodology. Finally, because not all funds file with the SEC, the population of potential funds we could identify using SEC filings is limited.[4]

We used a purposeful, stratified random sampling methodology to select Qualified Opportunity Funds for case studies to ensure we examined a range of characteristics, including a variety of investment approaches and projects. We selected mostly real estate-focused funds because our evidence showed that real estate-focused funds comprise the majority of funds.[5] In our interview with subject matter specialists, they estimated that 90 percent of investments in Opportunity Zones are real estate projects. We corroborated this assertion by analyzing data they provided us and interviews with other subject matter specialists.

We initially selected funds based on geographic location from funds on the publicly-identified and state-identified lists, first date of SEC filing (as a proxy for date created) from the SEC-identified list, and funds only identified through SEC filings from the SEC-identified list (see Tier 1 Sampling in table 8).[6] We also developed Tier 2 sampling characteristics to ensure we had a range of fund characteristics in our selected funds to use to select additional funds if our initial sample of 45 did not meet the Tier 2 characteristics diversity. See table 8 below for our Tier 1 and Tier 2 sampling characteristics.

[4]According to the SEC, fund offerings may not need to be registered with the SEC or state securities regulators if an exemption from registration is available. We do not know how the population of Qualified Opportunity Funds filing SEC forms differs from the overall population of funds and from the subset of funds not filing SEC forms.

[5]At the time we began our audit work in December 2019, we were unable to identify a complete public listing of Qualified Opportunity Funds. As a result, we could not identify the entire population and select funds from that population to have a generalizable sample. We also could not use IRS's taxpayer data to select funds for our case study analysis because of privacy restrictions on how taxpayer data can be used.

[6]We categorized funds by Census region (Northeast, Midwest, South, West, and Non-contiguous U.S.). We combined the Hawaii and Alaska with the U.S. territories for a "Non-contiguous U.S." category.

Table 8: Sampling Qualified Opportunity Fund Characteristics and Target Numbers for Case Study Analysis

	Source for selection	Number for initial review	Target number for interview completion
Tier 1 Sampling			
Census region 1: Northeast	Publicly-identified list and state-identified list	4	2
Census region 2: South	Publicly-identified list and state-identified list	4	2
Census region 3: Midwest	Publicly-identified list and state-identified list	4	2
Census region 4: West	Publicly-identified list and state-identified list	4	2
Noncontiguous United States (funds investing in Alaska, Hawaii, and U.S. territories)	Publicly-identified list and state-identified list	4	2
Funds first filing with the U.S. Securities and Exchange Commission (SEC) or organized in 2018	SEC-identified list	5	1
Funds first filing with SEC or organized in 2019	SEC-identified list	5	1
Funds first filing with SEC or organized in 2020	SEC-identified list	5	1
Funds not identified on public or state lists	SEC-identified list	10	2
Tier 2 Sampling			
Investing in real estate project	Publicly-identified list	10	5
Investing in operating business	Publicly-identified list	4	2
Investing in 1 project	Publicly-identified list	2	1
Investing in multiple projects	Publicly-identified list	2	1
Varied investment focuses	Publicly-identified list	8	4
Fund with nationwide focus	Publicly-identified list	2	1
Fund with single area (e.g., region, state, city) focus	Publicly-identified list	2	1
Fund investing in nonmetropolitan project	Publicly-identified list	2	1
Fund investing in metropolitan project	Publicly-identified list	2	1
Fund with a target of less than $10 million and some raised	Publicly-identified list	2	1
Fund with a target of less than $10 million and no capital raised	Publicly-identified list	2	1
Fund with a target of between $10 million and $50 million and capital raised	Publicly-identified list	2	1
Fund with a target of between $10 million and $50 million and no capital raised	Publicly-identified list	2	1
Fund with a target of $50 million or more and capital raised	Publicly-identified list	2	1
Fund with a target of $50 million or more and no capital raised	Publicly-identified list	2	1

Source: GAO. | GAO-22-104019

We collected information on these funds in a two-stage approach. We first collected data about the funds using information sources we could identify and gather on our own (e.g., fund website, SEC filings). We then conducted outreach to funds to interview them for additional information, and if possible, documentation. We did not expect that all funds we initially selected to respond to our outreach or be willing to be interviewed. So, we selected more funds for case studies than our goal for funds interviewed.

We interviewed representatives from 18 funds with varying characteristics to understand their experience using the Opportunity Zones tax incentive. We also found that we were missing two funds that had not raised capital; however, we determined we did not need to identify funds that had not raised capital because we had gotten perspectives from organizations facing challenges to using the incentive.[7]

[7]We interviewed one fund that raised money but ultimately was unable to use the Opportunity Zones incentive and a non-profit organization that was trying to get investment for its development project but had been unable to raise any capital.

Table 9: Characteristics of Qualified Opportunity Funds Interviewed as Case Studies

Fund characteristic	Minimum target for interview selection	Number of interviewees
Census region 1: Northeast	2	2
Census region 2: South	2	10
Census region 3: Midwest	2	3
Census region 4: West	2	7
Investing Non-contiguous United States	2	4
Funds first filing with SEC/organized in 2018	1	3
Funds first filing with SEC/organized in 2019	1	6
Funds first filing with SEC/organized in 2020	1	1
Funds not identified on public or state lists	2	4
Investing in real estate project	5	15
Investing in operating business	2	3
Investing in 1 project	1	6
Investing in multiple projects	1	12
Varied investment focuses	4	9
Fund with nationwide focus	1	6
Fund with single area (e.g., region, state, city) focus	1	11
Fund investing in nonmetropolitan project	1	4
Fund investing in metropolitan project	1	15
Fund with target size of less than $10 million raised, no capital raised	1	0
Fund with target size of $10 million to $50 million, no capital raised	1	0
Fund with target size of more than $50 million, no capital raised	1	1
Fund with target size of less than $10 million raised, capital raised	1	3
Fund with target size of $10 million to $50 million, capital raised	1	5
Fund with target size of more than $50 million, capital raised	1	5

Source: GAO analysis. | GAO-22-104019

Note: Varied investment focus is not a fund-specific characteristic. This is the number of different investment focuses across all our case study funds.

We analyzed the interview context from these fund representatives to identify the types of projects being funded using Opportunity Zones investment, the incentive's benefits, and challenges to using the incentive. To characterize fund representatives' views throughout this

report, we defined modifiers (e.g., “most”) to quantify representatives’ views as follows:

- “nearly all” represents more than 15 representatives
- “most” represents 10 to 15 representatives,
- “many” represents six to nine representatives,
- “some” represents two to five representatives.

The results from nongeneralizable samples cannot be used to make inferences about a population.

To describe states’ experiences with the incentive, we surveyed officials in the 50 U.S. states, Washington, D.C., and the 5 U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—(hereafter states) to understand state experiences with the Opportunity Zones incentive.[8]

We selected the state level as the ideal unit of analysis because of the manageable population size, likelihood of experience with the Opportunity Zones tax incentive, and inclusivity of multiple regions and types of investment areas (e.g., urban v. rural). For our state survey, we identified relevant state officials by reviewing a listing of state contacts for the incentive from the Governors Association’s June 2019 Opportunity Zones Summit. We compared this list with a list of state government contacts in the Economic Development Directory of the U.S. Economic Development Agency. Finally, we searched state agency websites listed in the National Governors Association documentation and searched “opportunity zone” to confirm our identified state contact was correct. If there was no designated contact, we selected the supervisor of the department in which Opportunity Zones were described on the site.[9]

We developed our survey questionnaire based on our knowledge of the Opportunity Zones tax incentive and our research objectives. After we drafted the questionnaire, we conducted pretests to check that (1) the

[8]By statute, for the purposes of designating opportunity zones the term “state” includes the U.S. territories and the District of Columbia. *See* 26 U.S.C. § 1400Z-1(c)(3); 26 U.S.C. § 7701(a)(10).

[9]Respondents varied across different types of state organizations, including Departments of Commerce, Economic Development, Housing and Community Development, Small Business, and Economic Development Authorities and governors’ offices.

questions were clear and unambiguous, (2) terminology was used correctly, (3) the questionnaire did not place an undue burden on agency officials, (4) the information could feasibly be obtained, and (5) the survey was comprehensive and unbiased.

Because this was not a sample survey, it has no sampling errors. However, the practical difficulties of conducting any survey may introduce errors, commonly referred to as nonsampling errors. For example, difficulties in interpreting a particular question or sources of information available to respondents can introduce unwanted variability into the survey results.

We took steps in developing the questionnaire, collecting the data, and analyzing them to minimize such nonsampling error. For example, social science survey specialists designed the questionnaire in collaboration with our staff who had subject matter expertise. Then we pretested the draft questionnaire with state officials to ensure that the questions were relevant, clearly stated, and easy to understand.

We chose three pretest states—one state that appeared to be actively promoting use of the Opportunity Zones tax incentive within its state, one state that did not appear to be actively promoting the incentive, and a state with no specific contact identified—to ensure our questions were specific enough to be meaningful but general enough to be understood across the variation of state experiences with this incentive.

We changed the content and format of the questionnaire after each of the pretests, based on the feedback we received. After our pretests, we revised the questionnaire to reflect comments from our own independent reviewer. To see a copy of the questionnaire used for this study, see appendix V.

We sent the questionnaire with a cover letter on October 29, 2020, and conducted email and telephone follow-up until all questionnaires were returned on January 15, 2021.[10] We received responses from all 56 states. We sent the questionnaire by email in an attached Microsoft Word form that respondents could return electronically after entering responses.

[10]During the course of our outreach and follow-up, some state officials indicated that someone else would be a more appropriate respondent, and we addressed further correspondence to those individuals.

We analyzed the survey responses to identify states' views and experiences with the Opportunity Zones incentive, including the types of projects being funded using Opportunity Zones investment, the incentive's overall effect, challenges to using the incentive, and state efforts to encourage its use. To characterize state officials' views throughout this report, we defined modifiers (e.g., "most") to quantify officials' views as follows:

- "nearly all" represents 48 or more state officials,
- "most" represents 27 to 47 state officials,
- "many" represents 10 to 26 state officials,
- "some" represents three to 10 state officials.

To describe the effect of COVID-19 on investment activity in Opportunity Zones, we analyzed IRS documentation (e.g., guidance), analyzed state survey responses, and interviewed IRS officials and Qualified Opportunity Fund representatives from the case studies described above. Specifically, we analyzed IRS documentation that provided relief and shifted timing requirements and deadlines for Opportunity Zones tax incentive rules and interviewed IRS officials to understand the relief provided to investors, funds, and qualified businesses.[11]

In our survey of state officials, described above, we asked state officials (1) how COVID-19 affects Opportunity Zones investment in real estate projects in their states and (2) how COVID-19 affects Opportunity Zones investment in businesses in their states to understand state officials' views on the effect of COVID-19 on Opportunity Zones investment in their states. All 56 states responded to these questions. Of those, 23 states provided narrative responses related to real estate investment and 21 states provided narrative responses related to business investment. Additionally, we asked Qualified Opportunity Fund representatives we met with for our case studies to describe what, if any, effect COVID-19 had on using the incentive (e.g., raising or deploying capital, selecting projects). We analyzed fund representatives' statements to identify any

[11]IRS, Notice 2020-23, *Update to Notice 2020-18, Additional Relief for Taxpayers Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2020-18 (Apr. 27, 2020); Notice 2020-39, *Relief for Qualified Opportunity Funds and Investors Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2020-26 (June 22, 2020); and IRS Notice 2021-10, *Extension of Relief for Qualified Opportunity Funds and Investors Affected by Ongoing Coronavirus Disease 2019 Pandemic*, Internal Revenue Bulletin No. 2021–7 (Feb. 16, 2021).

commonalities in or differences across their perspectives of COVID-19's effect on their use of the incentive.

To analyze available taxpayer data about Qualified Opportunity Funds and their investors, we analyzed IRS data and met with IRS officials to determine what information was available and what could be reported on the Opportunity Zones incentive's use. Some of IRS's summary data on investors and funds is based only on information captured from forms submitted to IRS electronically. The preliminary data may also be understating actual figures because in instances where IRS did transcribe data from paper or PDF forms, the agency did not transcribe all lines or fields containing data from those forms. After interviewing Treasury and IRS officials and reviewing agency documentation, we found that the available data were sufficiently reliable for our purposes.

To evaluate IRS plans to ensure taxpayer compliance with rules governing the Opportunity Zones tax incentive, we analyzed IRS regulations and documentation (e.g., forms and compliance planning documentation) and met with Treasury and IRS officials to understand IRS's plans for ensuring compliance with the tax incentive's rules. We analyzed IRS regulations to identify rules and requirements that investors and Qualified Opportunity Funds must meet. We analyzed IRS's compliance plan to identify compliance risks and the agency's plans to mitigate these risks. We analyzed (1) Forms 1099-B, 8949, 8996, and 8997 to understand what tax incentive information IRS is collecting, and (2) IRS's plans for transcribing data from these forms to understand what information IRS would have stored in an easily accessible format to use for compliance activities. We interviewed Treasury and IRS officials to understand their plans to ensure compliance with the incentive's rules and challenges to those plans. We used criteria from the *Standards for Internal Control in the Federal Government* to evaluate IRS's compliance plan.[12] We also reviewed IRS's current strategic plan.

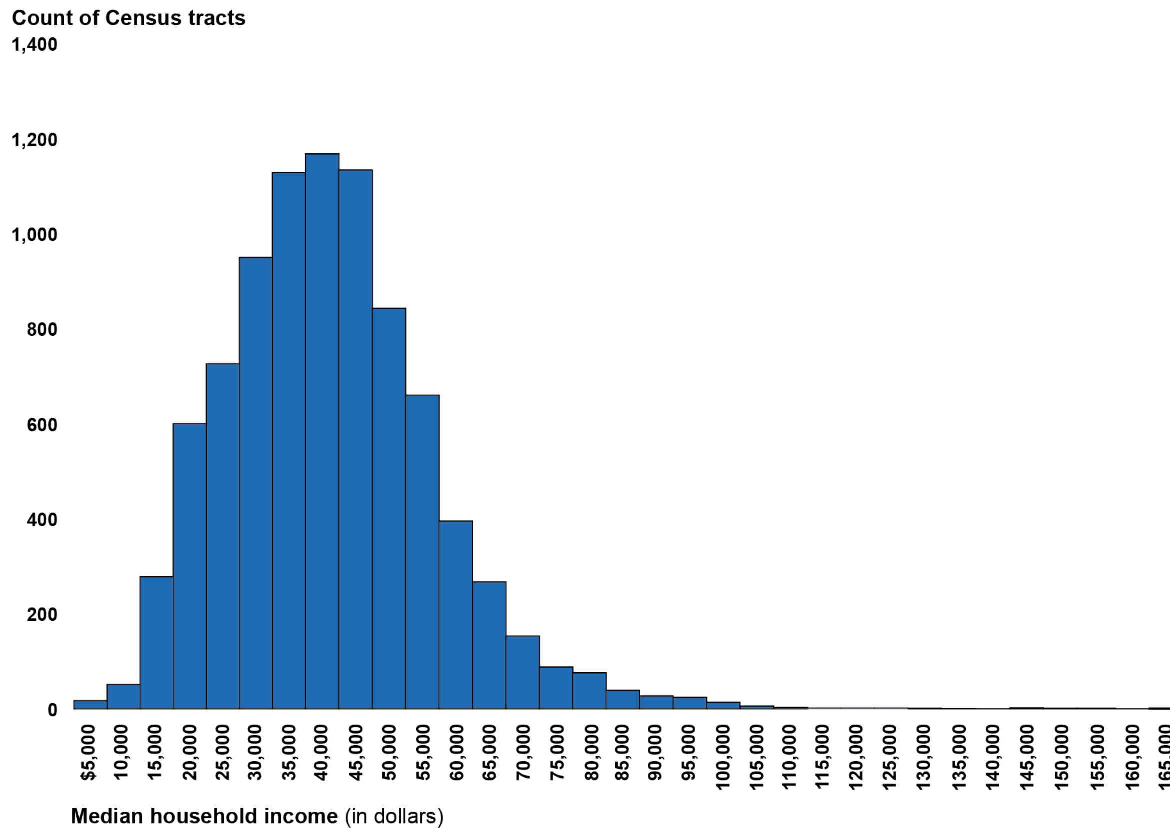
We conducted this performance audit from December 2019 to October 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe

[12]GAO, *Standards for Internal Control in the Federal Government,* GAO-14-704G (Washington, D.C.: Sept. 10, 2014).

that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

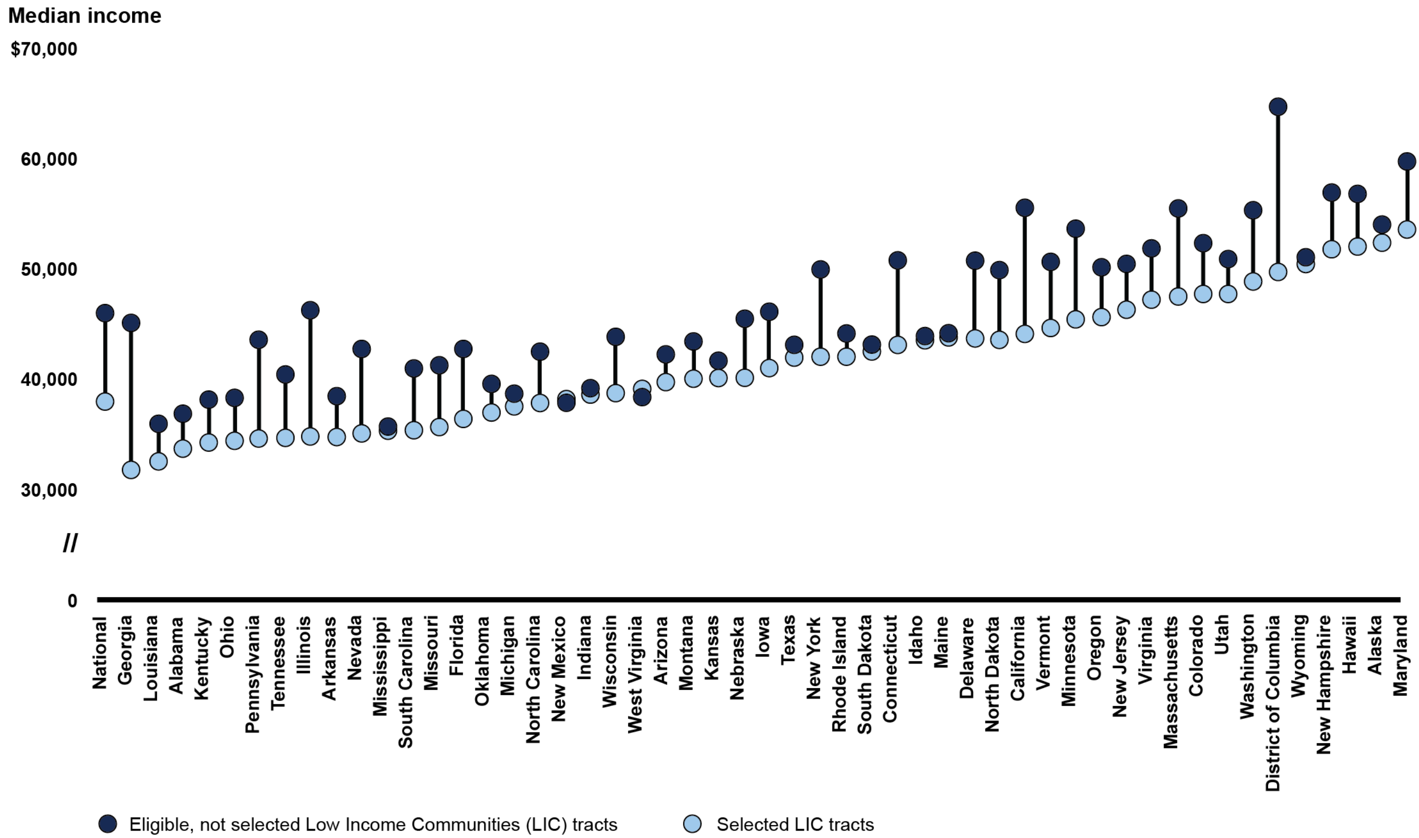
Appendix II: Additional Characteristics of Opportunity Zones

Figure 8: Distribution of Median Household Income, Opportunity Zones



Source: GAO analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund data. | GAO-22-104019

Figure 9: Average Median Household Income, Low-Income Communities Selected and Not Selected as Opportunity Zones



Source: GAO analysis of 2015-2019 American Community Survey and Community Development Financial Institutions Fund data. | GAO-22-104019

Note: The estimates in this figure have margins of error at the 90-percent confidence level within 10 percent.

Appendix III: Characteristics and Investment Focus of Selected Qualified Opportunity Funds

Table 10: Characteristics and Investment Focus of Selected Qualified Opportunity Funds

	Investment census region	Approximate fund size (dollars)	Approximate number of investors	Still pursuing Opportunity Zones project(s)?	Description
Fund A	South	10 to 25 million*	Less than 10	Yes	*Residential and commercial real estate:* Intends to develop a mobile home park with amenities and a warehouse business park in a separate location.
Fund B	West	Less than 5 million	Less than 10	Yes	*Mixed-use real estate:* Developing a small apartment building and updating an existing retail strip center on the same property.
Fund C	West	100 to 250 million	100-199	Yes	*Residential real estate:* Is finishing development of three apartment buildings that it acquired mid-development or near-completion.
Fund D	South	5 to 10 million	Less than 10	Yes	*Commercial real estate:* Plans to improve agricultural land and then lease it out to farmers.
Fund E	Non-contiguous United States	10 to 25 million	Less than 10	Yes	*Operating business/renewables:* Intends to invest in multiple businesses focusing on renewable energy, such as a business collecting and processing seaweed into sustainable products, a solar energy business, and battery storage.
Fund F	South, West, Midwest, Non-contiguous United States	100 to 250 million	500 or more	Yes	*Hospitality real estate:* Is developing more than 10 hotel properties across the country. The first of these opened in March 2020 and the fund expects the last of these to open in 2023.
Fund G	South	25 to 50 million*	Less than 10	No	*Residential real estate:* Intended to acquire and renovate single-family homes for workforce housing for local residents. However, the fund is no longer pursuing using the Opportunity Zones incentive.
Fund H	West	10 to 25 million	10-49	Yes	*Commercial real estate:* Developed an industrial warehouse speculatively (without a committed tenant). The fund will finish the site when it has a tenant so it can customize it accordingly.
Fund I	South, West	More than 250 million	500 or more	Yes	*Residential real estate:* Is developing nine apartment buildings—mainly mid-rise or garden style—that will have between 200 and 500 units each.
Fund J	Midwest	5 to 10 million	Less than 10	Yes	*Mixed-use real estate:* Invested in the development of an apartment building with commercial real estate on the first floor on a formerly vacant brownfield site.
Fund K	Non-contiguous United States	5 to 10 million	Less than 10	Yes	*Hospitality real estate:* Is investing in the development of a hotel. The development is ongoing and expected to be completed in spring 2022.

	Investment census region	Approximate fund size (dollars)	Approximate number of investors	Still pursuing Opportunity Zones project(s)?	Description
Fund L	Northeast, South	100 to 250 million	100-199	Yes	*Commercial and residential estate:* Has invested in five projects as of April 2021, including the development of an industrial warehouse building, three apartment buildings, and a lab/life science development. The fund plans to invest in two or more other projects depending on the final amount raised.
Fund M	South, Non-contiguous United States	50 to 100 million*	Less than 10	Yes	*Mixed-use real estate:* Expects to finance between 10 and 12 mixed-use real estate projects. These developments will be on or near historically Black colleges and universities and could include grocery stores, health care facilities, housing, and hotels.
Fund N	West	5 to 10 million	Less than 10	Yes	*Residential real estate:* Invested in the construction of three duplexes and one quadriplex that serve as permanent supportive housing for ultra-low-income homeless individuals.
Fund O	Northeast, South, Midwest	50 to 100 million	Less than 10	Yes	*Commercial, Residential, and Mixed-use real estate:* Is investing in 10 different projects, including a commercial building that will be anchored by a hospital center, a workforce housing apartment building, and an apartment building with ground floor retail space.
Fund P	South, West	10 to 25 million	Less than 10	Yes	*Commercial real estate/operating business/renewables:* Is investing in three solar farms that are all operational and selling electricity to municipalities. The fund constructed the solar farms and put them into service in 2020.
Fund Q	South	Less than 5 million	Less than 10	Yes	*Operating business/Renewables:* Is investing in an operating business that is installing solar panels on non-residential properties at no upfront cost under a power purchase agreement. As of July 2021, the business has completed 10 solar panel installations.
Fund R	Northeast, Midwest	100 to 250 million	200-499	Yes	*Commercial real estate:* Is investing in between 10 and 14 properties that it can convert to self-storage units; it is not investing in ground-up development. These storage facilities will be class A properties and contain climate-controlled units.

Legend: *Denotes target fund size

Source: GAO analysis of public database, Qualified Opportunity Fund, state-provided, and U.S. Securities and Exchange information and fund interviews. | GAO-22-104019

Notes: Geographic regions are based on the Census regions—Northeast, South, Midwest, and West. We combined Alaska and Hawaii with the U.S. territories for a “Non-contiguous U.S.” category. We categorized fund size into different ranges: less than \$5 million, \$5 to \$10 million, \$10 to \$25 million, \$25 to \$50 million, \$50 to \$100 million, \$100 to \$250 million, and more than \$250 million. If a fund fell on the end of one of the ranges, we rounded up and put it in the bottom of the next category (e.g., a fund that raised \$25 million would be listed in the \$25 to \$50 million range). We categorized the number of investors into different ranges: less than 10, 10-49, 50-99, 100-199, 200-499, and 500 or more. The “less than 10” category includes funds that do not yet have any investors.

Appendix IV: State Responses to Select Opportunity Zones Tax Incentive Survey Questions

We surveyed officials in the 50 U.S. states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—(hereafter states) to understand states' experiences with the Opportunity Zones tax incentive and identify Qualified Opportunity Funds and investments and received responses from all 56 states.[1] Below are states' responses to select survey questions.[2]

Table 11: Responses to Select Survey Questions by State Officials Who Reported Being Aware of Opportunity Zones Investment

State	Estimate of the number of investments of which officials were aware	Are there more real estate or more business investments?	Are there more metropolitan or non-metropolitan investments?
Alabama	At least 5	More real estate	More metropolitan
Alaska	5 or fewer	More real estate	Not sure
Arizona	At least 20	More real estate	More metropolitan
California	Did not respond with a numerical estimate	More real estate	More metropolitan
Colorado	At least 50	More real estate	Not sure
Connecticut	At least 20	More real estate	More metropolitan
Delaware	At least 5	More real estate	More metropolitan
Georgia	Not sure	More real estate	More metropolitan
Idaho	At least 5	More real estate	Not sure
Illinois	At least 20	More real estate	More metropolitan
Indiana	At least 20	More real estate	More metropolitan
Iowa	5 or fewer	More real estate	More metropolitan
Louisiana	5 or fewer	More real estate	More metropolitan
Maine	5 or fewer	Similar numbers of each	Similar numbers of each
Maryland	At least 50	More real estate	More metropolitan
Michigan	At least 5	More real estate	More metropolitan
Minnesota	At least 5	Not sure	Did not respond
Mississippi	5 or fewer	Similar numbers of each	Similar numbers of each
Missouri	At least 20	More real estate	More metropolitan

[1]For more information on our survey methodology and the types of state officials who responded, see appendix I. By statute, for the purposes of designating opportunity zones the term "state" includes the U.S. territories and the District of Columbia. *See* 26 U.S.C. § 1400Z-1(c)(3); 26 U.S.C. § 7701(a)(10).

[2]To see a copy of our survey questionnaire, see appendix V.

State	Estimate of the number of investments of which officials were aware	Are there more real estate or more business investments?	Are there more metropolitan or non-metropolitan investments?
Montana	Did not respond with a numerical estimate	Not sure	Not sure
Nebraska	At least 5	More real estate	More metropolitan
Nevada	Not sure	Not sure	Not sure
New Hampshire	Not sure	Not sure	Not sure
New Jersey	At least 50	More real estate	More metropolitan
New Mexico	At least 5	Not sure	More metropolitan
North Carolina	Not sure	More real estate	More metropolitan
North Dakota	At least 5	More real estate	More metropolitan
Ohio	At least 100	More real estate	More metropolitan
Oklahoma	5 or fewer	Similar numbers of each	More metropolitan
Oregon	At least 5	More real estate	More metropolitan
Pennsylvania	Not sure	More real estate	More metropolitan
Puerto Rico	At least 5	More real estate	More metropolitan
South Carolina	5 or fewer	Not sure	More metropolitan
South Dakota	5 or fewer	More real estate	More metropolitan
Tennessee	At least 20	More real estate	Similar numbers of each
Texas	At least 5	Similar numbers of each	More metropolitan
U.S. Virgin Islands	5 or fewer	More real estate	More non-metropolitan
Utah	At least 50	More real estate	More metropolitan
Virginia	At least 20	More real estate	More metropolitan
Washington	At least 5	More real estate	More metropolitan
Washington, D.C.	At least 5	More real estate	More metropolitan

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Notes: We surveyed officials from the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands—and received responses from all 56. This table includes state respondents that indicated they were aware of Opportunity Zones investment in their states. We are referring to the number of investments (e.g., number of real estate projects or investments in operating businesses) and not the monetary amount of investments in this table. State respondents provided different levels of specificity for the number of investments of which they were aware. We categorized these numerical responses into the following categories: less than five, at least five, at least 20, at least 50, and at least 100. We have categorized these responses with minimum amounts of which they are aware. For example, a respondent that reported being aware of 27 investments would be categorized as more than 20 and not included in the more than five category. Respondents from states not listed in this table either indicated they were unaware of any investment, were unsure if there was investment, or did not respond to this question.

Table 12: State Views on Clarity of Federal Opportunity Zones Tax Incentive Guidance and Information

Response	Number of Responses	Percentage of Respondents	Overall Percentage of States
Very clear	2	4	4
Clear	21	38	38
Somewhat clear	24	44	43
Not at all clear	5	9	9
Not sure	3	5	5
Did not respond	1	N/A	2
Total	**56**	**100**	**100**

Legend: N/A = not applicable

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Note: We are using the term “states” to refer to the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. We surveyed state officials from all 56 states. Percentages may not sum to 100 percent due to rounding.

Table 13: State Views on Timeliness of Federal Opportunity Zones Tax Incentive Guidance and Information

Response	Number of Responses	Percentage of Respondents	Overall Percentage of States
Very timely	0	0	0
Timely	9	16	16
Somewhat timely	18	32	32
Not at all timely	27	48	48
Not sure	2	4	4
Did not respond	0	N/A	0
Total	**56**	**100**	**100**

Legend: N/A = not applicable

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Note: We are using the term “states” to refer to the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. We surveyed states officials and received responses from all 56 states. Percentages may not sum to 100 percent due to rounding.

Table 14: State Views on Sufficiency of Federal Opportunity Zones Tax Incentive Guidance and Information

Response	Number of Responses	Percentage of Respondents	Overall Percentage of States
Very sufficient	2	4	4
Sufficient	21	38	38
Somewhat sufficient	25	45	45
Not at all sufficient	3	5	5
Not sure	5	9	9
Did not respond	0	N/A	0
Total	**56**	**100**	**100**

Legend: N/A = not applicable

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Note: We are using the term “states” to refer to the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. We surveyed state officials and received responses from all 56 states. Percentages may not sum to 100 percent due to rounding.

Table 15: Would States Change Census Tracts Designated as Opportunity Zones, if Given the Option

Response	Number	Percentage of Respondents	Overall Percentage of States
Yes	26	47	46
No	9	16	16
Not sure	20	36	36
Did not respond	1	N/A	2
Total	**56**	**100**	**100**

Legend: N/A = not applicable

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Note: We are using the term “states” to refer to the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. We surveyed state officials and received responses from all 56 states. Percentages may not sum to 100 percent due to rounding.

Table 16: Percentage of Census Tracts Designated as Opportunity Zones that States Would Change, if Given the Option

Response	Number	Percentage of Respondents	Overall Percentage of States
0-25 percent	21	68	38
26-50 percent	5	16	9
51-75 percent	1	3	2
76-100 percent	3	10	5
Not sure	1	3	2
Did not respond	25	N/A	45
Total	**56**	**100**	**100**

Legend: N/A = not applicable

Source: GAO analysis of state responses to GAO survey on Opportunity Zones tax incentive. | GAO-22-104019

Note: We are using the term “states” to refer to the 50 states, Washington, D.C., and the five U.S. territories—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. We surveyed state officials and received responses from all 56 states. Percentages may not sum to 100 percent due to rounding.

Appendix V: Opportunity Zones Tax Incentive Survey Questionnaire Sent to State Officials

Questionnaire

1. Are you aware of any investments (businesses or real estate projects) being funded by Qualified Opportunity Funds in Opportunity Zones in your state/territory?

   Choose an item.

   If **no** or **not sure**, please skip to question 7.

2. If **yes**, how many different Opportunity Zone businesses and real estate projects from Qualified Opportunity Funds are you aware of in your state/territory?

   Provide count here

   a. Do you believe that there are additional investments or projects from Qualified Opportunity Funds that you are not aware of in your state/territory?

   Choose an item.

   Explain here, if needed.

3. Did you use any of the following sources of information to learn about Opportunity Zone businesses and real estate projects financed by Qualified Opportunity Funds in your state/territory? *Please check one per row.*

Yes	No	
☐	☐	Newspapers, news articles, or other news outlet
☐	☐	Direct contact with a local government official
☐	☐	Direct contact with project manager/developer
☐	☐	Direct contact with Qualified Opportunity Fund
☐	☐	Public meetings or hearings
☐	☐	A conference/investment pitch event
☐	☐	State/locality required reporting of Qualified Opportunity Funds
☐	☐	Online database or listing (e.g., Novogradac or Opportunitydb)
☐	☐	Trade or industry journals
☐	☐	Other (please specify below)

Explain here, if needed.

4. In your experience, for investments made by Qualified Opportunity Funds in your state:

   Choose an item.

   Explain here, if needed.

Page 1

5. In your experience, what type of area in your state/territory has received more—in terms of number of investments—Qualified Opportunity Fund investments in businesses or real estate projects? (For the purposes of this survey, metropolitan areas are comprised of a core of at least one urbanized area that has a population of at least 50,000 and adjacent outlying counties that have a high degree of social and economic integration)

   Choose an item.

   Explain here, if needed.

6. Would you be willing to provide us with information on the Qualified Opportunity Funds and their associated investments that you are aware of in your state/territory? (If **yes**, we will follow-up with you separately. *Note: We are trying to compile a list of Funds and their associated investments as part of our work and to help pick case studies. We hope to use case studies as illustrative examples to describe different use cases of the incentive. We are not collecting information on individual investments or investment amounts.*)

   Choose an item.

7. How has the 2019 Coronavirus Disease (COVID-19) affected Opportunity Zone **investment in real estate projects** in your state/territory?

   Choose an item.

   Explain here, if needed.

8. How has the 2019 Coronavirus Disease (COVID-19) affected Opportunity Zone **investment in businesses** in your state/territory?

   Choose an item.

   Explain here, if needed.

9. How would you describe any outreach or education to promote federal Opportunity Zone benefits your state/territory is conducting to explain the incentive or to attract investment in your state/territory.

   Describe here

10. Is your state/territory offering additional incentives to specifically attract investment to federal Opportunity Zones (e.g., state tax conformity with federal Opportunity Zone incentive, state tax credits, expedited application processing)?

    Choose an item.

    a. If **yes**, please explain which additional incentives your state/territory offers.

       Click or tap here to enter text.

11. What sources do you use to get information about the Opportunity Zones incentive? *Please check one per row.*

    Yes No

Page 2

☐	☐	Economic/Community development professionals
☐	☐	White House Opportunity and Revitalization Council information
☐	☐	Tax professionals
☐	☐	Trade or industry information (e.g., Tax Notes)
☐	☐	IRS and Treasury information (e.g., FAQs, fact sheets)
☐	☐	News/media coverage
☐	☐	Conferences
☐	☐	IRS and Treasury official guidance (e.g., regulations, notices)
☐	☐	Other (please specify below)

Explain here, if needed.

12. For the following questions, please consider **federal guidance and information (e.g., IRS and Treasury official guidance, IRS and Treasury information, White House Opportunity and Revitalization Council information)** related to the federal Opportunity Zone incentive.

    a. How **clear** are the federal guidance and information related to the federal Opportunity Zone incentive?

       Choose an item. Please explain here

    b. How **timely** was the federal guidance and information related to the federal Opportunity Zone incentive?

       Choose an item. Please explain here

    c. How **sufficient** are the federal guidance and information related to the federal Opportunity Zone incentive?

       Choose an item. Please explain here

13. If you were able to change the Census tracts designated as Zones in your state/territory, would you do so?

    Choose an item.

    a. If "yes," about how many would you change and why?

       Choose an item.

       Please explain here

14. How would you describe any challenges associated with the Opportunity Zone incentive (e.g., federal implementation, encouraging investors to use the incentive, lack of eligible gains to invest)?

    Click or tap here to enter text.

Page 3

a. How could these challenges, if any, be addressed?

Click or tap here to enter text.

15. Did the federal Opportunity Zone designation have a positive or negative impact on your state/territory?

Choose an item.

Explain here, if needed.

16. Please list the officials and titles that answered this questionnaire.

Click or tap here to enter text.

17. Please describe any information sources used to answer this questionnaire.

Click or tap here to enter text.

Page 4

Appendix VI: Comments from the Internal Revenue Service

DEPUTY COMMISSIONER

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, DC 20224

September 16, 2021

Jessica Lucas-Judy
Director, Tax Issues Strategic Issues
United States Government Accountability Office
441 G Street N.W.
Washington, DC 20548

Dear Ms. Lucas-Judy:

Thank you for the opportunity to review and provide comments on the draft report, *Opportunity Zones; Census Tract Designations, Investment Activities, and IRS Challenges Ensuring Taxpayer Compliance* (GAO-22-104019). This report follows GAO's prior reports concerning Opportunity Zones (GAO 21-30) and Tax Cuts and Jobs Act (GAO 20-103). Tax Cuts and Jobs Act (TCJA) added §1400Z to the Internal Revenue Code (IRC), which provides tax incentives to those who invest in designated census tracts, or Qualified Opportunity Zones (QOZs), through Qualified Opportunity Funds (QOFs).

As noted in your report, to help ensure compliance the IRS has established plans to address potential non-compliance with the requirements of §1400Z. However, we agree that there are parts of this new legislation that present challenges to QOFs, QOF investors, and the Internal Revenue Service.

We have implemented an extensive outreach and education program to mitigate the risk of non-compliance and have participated in approximately 250 local and regional events, initiated more than 2,000 Opportunity Zone program information contacts with various organizations, and delivered multiple presentations attended by thousands of practitioners and other external stakeholders. We established an Opportunity Zone resource page on irs.gov with an extensive library of information for investors and fund managers, as well as links to other related government resources, and lastly we issued education letters to taxpayers with returns that had to take additional actions related to Opportunity Zones on their returns.

In your report, you also reference impacts the COVID-19 pandemic has had on our operations as well as Opportunity Zone investment and development. We appreciate your acknowledgement of the three deadline extensions provided as relief to funds, businesses, and investors who could face hardship in meeting compliance requirements. Additionally, we were able to pivot during these challenging times and redirect staff to accelerate our Opportunity Zone compliance efforts. This enabled us to

analyze filing information and identify compliance areas that require a greater focus far sooner than otherwise expected.

We appreciate the valuable feedback provided relative to data limitations. Although we agree there is some Opportunity Zone data that is not readily available in downstream compliance systems, we do not believe this is the primary issue impeding implementation of our compliance plan. As previously noted to GAO, gaps in legislatively required reporting, such as optional reporting of investment dispositions, create significant challenges in our ability to regulate compliance. In October 2020, GAO asked Congress to consider requiring more reporting on opportunity zones (GAO 21-30), but no legislation has yet addressed these issues.

Finally, as noted in your report and as would be expected, a significant subset of the funds and investors are high-income individuals and large partnerships. This is an area that the IRS is actively working to increase expertise, analytics, coverage, and compliance, and as part of those efforts, we will be assessing the appropriate focus on this particular compliance issue.

Responses to your specific recommendations are enclosed. If you have any questions, please contact me, or a member of your staff may contact Scott Irick, Director, Examination, Small Business/Self-Employed Division at (240) 613-6596

Sincerely,

Douglas W. Odonnell Digitally signed by Douglas W. Odonnell
Date: 2021.09.16 18:28:56 -04'00'

Douglas W. O'Donnell
Deputy Commissioner for
Services and Enforcement

Enclosure

Enclosure

Comments on the GAO Recommendations directed to the IRS
OPPORTUNITY ZONE: Census Tract Designations, Investment Activities,and IRS Challenges Ensuring Taxpayer Compliance, (GAO-22-104019)

Recommendation 1:
The Commissioner of Internal Revenue should direct the Small Business and Self-Employed Division to assess the risks that data limitations pose to its Opportunity Zones tax incentive compliance plan and take steps to mitigate those risks.

Comment:
We agree. We are currently able to identify instances of potential noncompliance using available information and are pursuing ongoing compliance efforts to address these concerns. We agree to review previously identified risks considering our current data limitations using our existing authorities. We will identify any potential alternative mitigation actions and revise our compliance plan, as appropriate.

Recommendation 2:
The Commissioner of Internal Revenue should direct the Small Business and Self-Employed and Large Business and International Divisions to research compliance risks posed by high-wealth individuals and large partnerships that are using the Opportunity Zones tax incentive and take appropriate steps to address the risks identified.

Comment:
We partially agree. We will conduct research on potential compliance risks posed by high-wealth individuals and large partnerships that are using the Opportunity Zones tax incentive and make recommendations to mitigate any risks identified. With respect to specific next steps, we cannot agree to take mitigating actions because we will need to assess the research and consider available resources and competing priorities of work based on the highest risk for noncompliance.

Appendix VII: GAO Contact and Staff Acknowledgments

GAO Contact

Jessica Lucas-Judy at (202) 512-6806 or LucasJudyJ@gao.gov.

Staff Acknowledgments

In addition to the contact named above, Brian James (Assistant Director), Mark Abraham, Walker Adams, Michelle Bacon, Dawn Bidne, Garry Blum, Devin Braun, Jacqueline Chapin, Arpita Chattopadhyay, Nina Crocker, Samuel Gaffigan, George Guttman, Mark Kehoe, Andrew Kincare, John Mingus Daniel Mahoney, Cory Marzullo, Edward Nannenhorn, Catherine Paxton, Sabine Paul, J. Daniel Paulk, Ralanda Sasser, Julie Scarano, Rachel Stoiko, Courtney Tepera, Peter Verchinski, and Alicia White made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through our website. Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. You can also subscribe to GAO's email updates to receive notification of newly posted products.

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, https://www.gao.gov/ordering.htm.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on Facebook, Flickr, Twitter, and YouTube.
Subscribe to our RSS Feeds or Email Updates. Listen to our Podcasts.
Visit GAO on the web at https://www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact FraudNet:

Website: https://www.gao.gov/about/what-gao-does/fraudnet

Automated answering system: (800) 424-5454 or (202) 512-7700

Congressional Relations

A. Nicole Clowers, Managing Director, ClowersA@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548

Strategic Planning and External Liaison

Stephen J. Sanford, Managing Director, spel@gao.gov, (202) 512-4707
U.S. Government Accountability Office, 441 G Street NW, Room 7814,
Washington, DC 20548

Please Print on Recycled Paper.