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Client Alert: Proposed Legislation in Ohio to Create Tax Credit for Opportunity Zone Investments

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By: Christopher Knezevic

On August 29, 2018, House Speaker Pro Tempore Kirk Schuring introduced a bill (H.B. No. 727) to create a tax credit for investments in Qualified Opportunity Zones. If enacted, taxpayers investing at least \$250,000 during a taxable year in an Ohio Qualified Opportunity Fund will earn a nonrefundable tax credit equal to 10% of the investment.

The Qualified Opportunity Zone program was created as part of the Tax Cuts and Jobs Act enacted on December 22, 2017, in order to encourage investment in businesses located in low-income communities throughout the country. This program provides taxpayers who recognize gain on the sale of property (including, for example, investment assets such as stock or other security interests, and business assets) with the opportunity to defer and partially eliminate such gain, as well as additional future gain, by investing the sale proceeds in a Qualified Opportunity Fund.

A Qualified Opportunity Fund is organized for the purpose of investing in a Qualified Opportunity Zone Business or in Qualified Opportunity Zone Business Property. The proposed legislation would require a taxpayer seeking the tax credit to invest in a Qualified Opportunity Fund that holds 100% of its assets in a Qualified Opportunity Zone Business or in Qualified Opportunity Zone Property located in a designated Ohio Qualified Opportunity Zone. The U.S. Treasury Department has certified 320 census tracts in Ohio as Qualified Opportunity Zones.

The proposed tax credit would be claimed against the aggregate tax liability of the taxpayer for the taxable year in which the investment is made. Because the tax credit is nonrefundable and there is currently no credit carry forward included in the bill, the tax credit would need to be utilized in the taxable year it is eligible to be claimed.

While there is still uncertainty surrounding how Treasury and IRS will apply the Qualified Opportunity Zone rules, the program has the potential to be a powerful economic development tool. The proposed tax credit for investing in Ohio Qualified Opportunity Zones could generate even more interest in the program within Ohio.

Vorys encourages you to contact your Vorys attorney with any questions you may have. For questions on Qualified Opportunity Zones or other incentives matters, please contact: Kelly Bissinger, kbbissinger@vorys.com, 202.467.8856; Joseph B. Mann, 614.464.6313, jbmanna@vorys.com; Scott J. Ziance, 614.464.8287, sjziance@vorys.com; or Christopher J. Knezevic, 614.464.5627, cjknezevic@vorys.com.