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NDC Washington Webinar Series

Unpacking the Investment in Opportunity Act with special guest Shay Hawkins

Presented by: Jane Campbell & Ken Baker

January 23, 2018

Washington Update

- Continuing Resolution that **expired midnight Friday January 19th**
- **Federal Government shutdown**
- Moderate Senators from both sides lead by Susan Collins (R-Maine) and Joe Manchin (D-W.Va) met over the weekend to broker a deal in which Senate Majority and Minority Leadership accepted forcing a vote Monday 1/22 on short-term spending package that would reopen federal government
  - Continuing Resolution H.R. 195 (115)
    - funds the government through **February 8TH, 2018**
    - Authorizes CHIP for 6 years
    - Delays a trio of ACA taxes (bipartisan support)
    - Renew National Flood Insurance Program until deadline
    - Promise by Majority Leader McConnell for Senate to take up a vote on immigration policy before the 2/8/2018 deadline
    - **Senate passed measure (81-18)**
    - **House passed measure (266 -150)**

Shay Hawkins

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Shay Hawkins is Legislative Assistant to U.S. Senator Tim Scott (R-SC), a member of the Senate Committee on Finance. He also serves as Staff Director for the Subcommittee on Fiscal Responsibility and Economic Growth. In this capacity, Hawkins is Senator Scott's lead policy advisor on Tax and Trade issues. He previously served as Legislative Fellow to Representative Jim Renacci, (R-OH 16) a member of the Ways and Means Committee.

Prior to coming to Capitol Hill, Hawkins spent five years as an investment banker at what is now Results International. While with Results International, Hawkins focused on sell-side Mergers and Acquisitions for firms in the Technology, Media, and Telecoms sector.

In addition to his finance and Capitol Hill experience, Hawkins worked as a field coordinator with The LIBRE Initiative, an organization advancing the principles of economic freedom to empower the U.S. Hispanic community.

A native of Cleveland Ohio, Hawkins started his career as a broker in the online division of what is now Credit Suisse. He earned his undergraduate degree in economics from The Ohio State University, his MBA from Columbia Business School as a Credit Suisse First Boston Fellow, and his JD from the Moritz College of Law at OSU.

TAX CUTS & JOBS ACT

Provision adopted from the Investing in Opportunity Act (S.293)

- Sponsor: Sen. Tim Scott
- Original cosponsor: Sen. Cory Booker
- House sponsors: Rep. Pat Tiberi, Rep. Ron Kind
- 14 bipartisan Senate cosponsors
- 81 bipartisan House cosponsors (H.R. 828)




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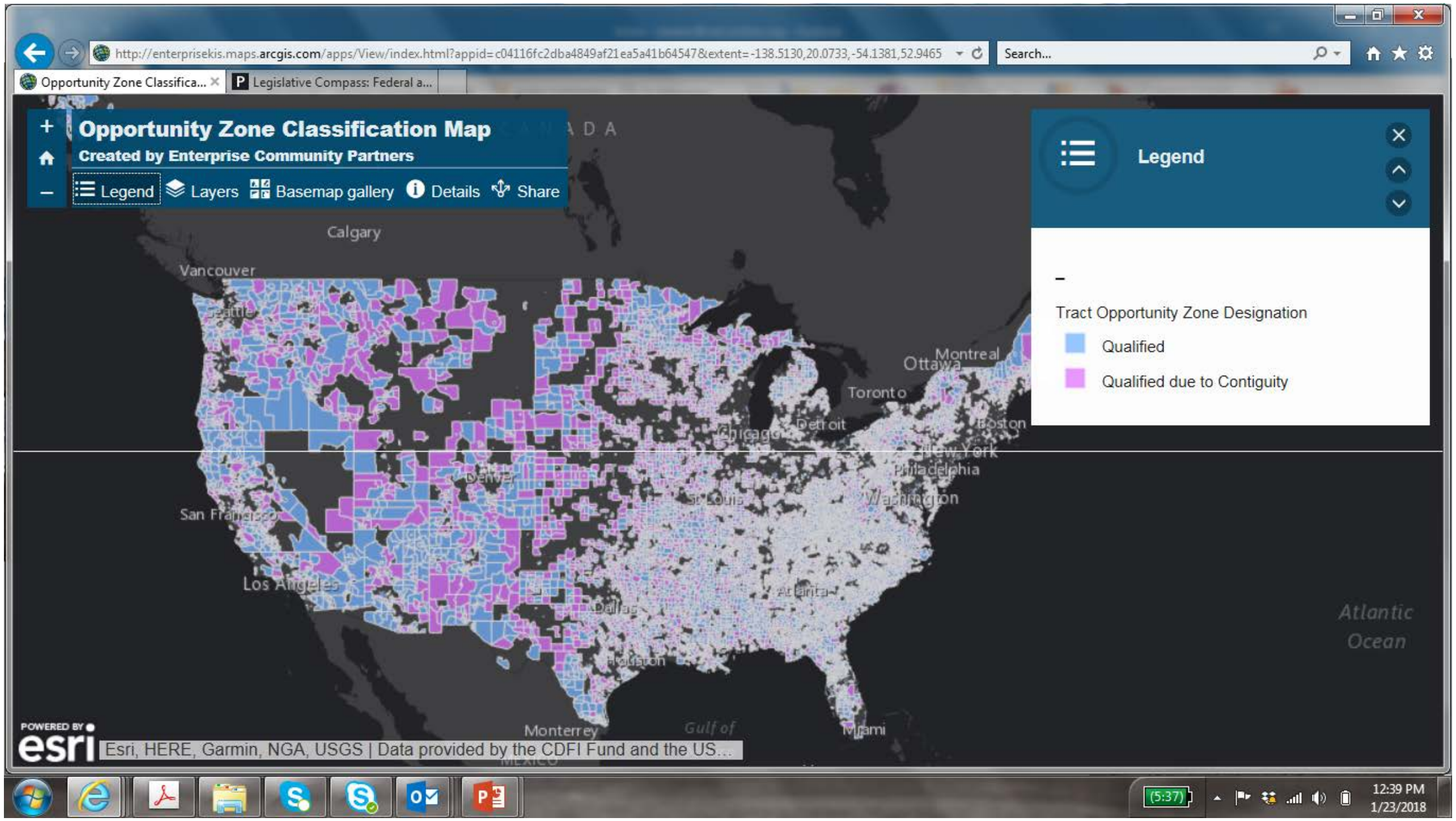
Economic Innovation Group

- Key to drafting and promotion of IIOA and later Opportunity Zones
- Should be considered a resource going forward.
- www.eig.org

Opportunity Zone Classification Map

https://www.enterprisecommunity.org/resources/opportunity-zone-classification-map



Basics

- Allows investors to defer paying tax on capital gains if those gains are invested in Opportunity Zones.
- The deferral is temporary
  - Provision requires the gain be recognized on the earlier of 10 years or the date the investment in the Opportunity Fund is sold or exchanged.
- The amount of gain eligible is lesser of gain originally deferred, or the excess of the FMV of the investment over the taxpayer's basis in the investment.

Basics cont.

- Provision incentivizes long-term investment by allowing for a step-up in basis for investments that are held for more than
  - 5 Years (basis increase by 10 percent of original gain)
  - 7 Years (basis increase by 5 percent of original gain)
- Long Term Investments
  - Opportunity Zone investments held for a period of at least 10 years are exempt from taxation on gains beyond what was originally deferred.

Opportunity Zones

- Designated by Governors
    - (or the chief Executive of a District e.g. the Mayor of D.C.)
  - Governors are responsible for identifying the areas in their states to be designated as Opportunity Zones.
    - Governors have 90 days from enactment to do so.
      - We intended this period to be 90 days from Treasury's implementation of the provision.
  - Provision allows for 25 percent of a state's low-income census tracts to be designated as qualified Opportunity Zones.
  - Provision uses the definition of a "Low-Income Community" used by the new markets tax credit (NMTC) program.

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Opportunity Funds

- All investments in Opportunity Zones must be made through Opportunity Funds.
- Opportunity Funds must be certified by U.S. Department of the Treasury
- Opportunity Funds are required to hold at least 90 percent of their assets in qualified opportunity zone businesses and/or business property.
  - If an Opportunity Fund fails to meet the 90 percent requirement, then the fund must pay a penalty for each month it fails to meet the investment requirement.

Opportunity Zones and NMTC

- The provision was NOT intended as a replacement for the New Markets Tax Credit (NMTC).
- NMTC was renewed alongside the Opportunity Zones provision as a part of the Tax Cuts and Jobs Act.
- The Opportunity Zones provision is, in fact, complementary to the new markets tax credit.
  - The provisions incentivize different sources of capital:
    - Equity = Opportunity Zones
    - Debt = NMTC

Implementation

- Treasury Department must develop the rules that determine how Qualified Opportunity Funds are certified, and then certify the funds meet the criteria.
  - No timetable from Treasury yet, but the Administration want's to get the provision "stood up as soon as possible" to quote one Treasury official.
- Governors must identify the low income census tracks in their States that will be designated as Opportunity Zones.

U.S. Senator Tim Scott's Opportunity Agenda

- The Investing in Opportunity Act is a part of a broader Opportunity Agenda.
  - **Choice Act**
    - The CHOICE Act seeks to expand opportunities and foster success by providing students and parents greater choice when it comes to education
  - **Leap Act**
    - The Leveraging and Energizing America's Apprenticeship Programs (LEAP) Act, provides a tax credit to employers to help increase the number of registered apprenticeships in the U.S.
  - **Skills Act**
    - SKILLS Act was focused on delivering high-quality, efficient job training services to Americans who need them most.
      - **Incorporated into a bipartisan compromise, WIOA.**
      - **Signed into law on July 22, 2014.**

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