

House Bill 2727

Sponsored by Representative EVANS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows subtraction from federal taxable income of gain from sale of opportunity zone property, defined as property in low-income census tract developed for affordable housing and held for stated period of time.

Applies to tax years beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

Relating to capital gains treatment of affordable housing property; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 316.

SECTION 2. (1) As used in this section:

(a) "Affordable housing" has the meaning given that term in ORS 197.309.

(b) "Low-income community" has the meaning given that term in section 45D(e) of the Internal Revenue Code, except that the community must have a population of at least 1,000 but not more than 49,900 at the close of the tax year.

(c) "Opportunity zone" means a population census tract that is a low-income community.

(d) "Opportunity zone property" means a project that consists of at least 50 percent affordable housing units by square feet and is located in an opportunity zone.

(2) There shall be subtracted from federal taxable income an amount equal to a percentage of the gain recognized from the sale or exchange of opportunity zone property in the tax year, as follows:

(a) 50 percent, if prior to sale the property is held by the taxpayer for at least 10 years but fewer than 15 years;

(b) 75 percent, if prior to sale the property is held by the taxpayer the property is held for at least 15 years, but fewer than 17 years; and

(c) 100 percent, if prior to sale the property is held by the taxpayer the property is held for at least 17 years.

(3) The subtraction under this section shall be allowed only if:

(a) Throughout the holding period set forth in subsection (2) of this section, the opportunity zone property is in compliance with all applicable state or federal laws or standards, including occupational safety or health laws, rules, regulations and standards applicable for affordable housing;

(b) At the time of sale, the opportunity zone property has installed and in use a solar photovoltaic energy system or a solar thermal energy system that directly connects to an electric company's electrical system within this state or indirectly connects through the system of an electric company's retail electricity consumer or the electric system of a third

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 party that is not an electric company’s retail electricity consumer but whose system is lo-
 2 cated within this state; and

3 (c) The sale or exchange constitutes a substantially complete termination of all of the
 4 taxpayer’s ownership interest in the opportunity zone property.

5 (4) Prior to making the subtraction allowed under this section the taxpayer shall obtain
 6 verification of eligibility for the subtraction from the Oregon Business Development Depart-
 7 ment. The verification shall be in the form and manner required by the Oregon Business
 8 Development Department by rule. The taxpayer shall provide a copy of the verification to the
 9 Department of Revenue upon request.

10 **SECTION 3.** Section 4 of this 2019 Act is added to and made a part of ORS chapter 317.

11 **SECTION 4.** (1) As used in this section:

12 (a) “Affordable housing” has the meaning given that term in ORS 197.309.

13 (b) “Low-income community” has the meaning given that term in section 45D(e) of the
 14 Internal Revenue Code, except that the community must have a population of at least 1,000
 15 but not more than 49,900 at the close of the tax year.

16 (c) “Opportunity zone” means a population census tract that is a low-income community.

17 (d) “Opportunity zone property” means a project that consists of at least 50 percent af-
 18 fordable housing units by square feet and is located in an opportunity zone.

19 (2) There shall be subtracted from federal taxable income an amount equal to a per-
 20 centage of the gain recognized from the sale or exchange of opportunity zone property in the
 21 tax year, as follows:

22 (a) 50 percent, if prior to sale the property is held by the taxpayer for at least 10 years
 23 but fewer than 15 years;

24 (b) 75 percent, if prior to sale the property is held by the taxpayer the property is held
 25 for at least 15 years, but fewer than 17 years; and

26 (c) 100 percent, if prior to sale the property is held by the taxpayer the property is held
 27 for at least 17 years.

28 (3) The subtraction under this section shall be allowed only if:

29 (a) Throughout the holding period set forth in subsection (2) of this section, the oppor-
 30 tunity zone property is in compliance with all applicable state or federal laws or standards,
 31 including occupational safety or health laws, rules, regulations and standards applicable for
 32 affordable housing;

33 (b) At the time of sale, the opportunity zone property has installed and in use a solar
 34 photovoltaic energy system or a solar thermal energy system that directly connects to an
 35 electric company’s electrical system within this state or indirectly connects through the
 36 system of an electric company’s retail electricity consumer or the electric system of a third
 37 party that is not an electric company’s retail electricity consumer but whose system is lo-
 38 cated within this state; and

39 (c) The sale or exchange constitutes a substantially complete termination of all of the
 40 taxpayer’s ownership interest in the opportunity zone property.

41 (4) Prior to making the subtraction allowed under this section the taxpayer shall obtain
 42 verification of eligibility for the subtraction from the Oregon Business Development Depart-
 43 ment. The verification shall be in the form and manner required by the Oregon Business
 44 Development Department by rule. The taxpayer shall provide a copy of the verification to the
 45 Department of Revenue upon request.

1 **SECTION 5.** Sections 2 and 4 of this 2019 Act apply to tax years beginning on or after
2 **January 1, 2019.**

3 **SECTION 6.** This 2019 Act takes effect on the 91st day after the date on which the 2019
4 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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