Qualified Opportunity Zone Alert

March 2026

Qualifying for Ohio Opportunity Zone Tax Credits in 2026: Key Clarifications, Structural Impacts, and Planning Considerations Under Latest Program Changes

This client update is a follow-up to the update we published in July 2025, *Ohio Opportunity Zone Tax Credits Doubled for 2026-2027*. It provides additional clarification on substantive changes made to the Ohio Opportunity Zone Tax Credit Program enacted under Amended Substitute House Bill 96 (H.B. 96) and subsequent updates to program guidelines, shares feedback from the program's administrator, the Ohio Department of Development ODOD), and offers practical guidance for investors and developers planning to pursue credits in the upcoming application cycles.

1. $5 Million Cap *Per Project*

One of the most consequential changes in H.B. 96 is the introduction of a **$5 million cap per project**, regardless of how many investors participate.

Why this matters in practice:

- Large equity-driven projects with multiple OZ investors may now be effectively competing **internally** for a fixed pool of credits.
- First-to-file dynamics may determine which investors capture allocation.
- Sponsors may need to actively **coordinate investor filings** or prioritize certain equity tranches.

Planning takeaway:

Projects with substantial equity investment should consider the number of investors, the timing of investment, and whether the size and scope might constitute separate, distinct projects.

2. Updated Definition of Qualifying Investment

"Investment" means money from any source other than grant funds that is invested to improve property located in an Ohio opportunity zone with the expectation of receiving a profit.[1]

Acquisition Is No Longer Eligible; Invested Capital Must Improve OZ Property

A qualifying investment does **not** include:

- Any investment of money which is used to acquire property located within an Ohio opportunity zone.
- Any investment of money which is used for any purpose other than to improve property located in an Ohio opportunity zone.
  - "Property" includes QOZ stock, partnership interest, and/or business property.[2]
  - The Fiscal Year 2027 Program Guidelines provide examples of what "improvements" can and cannot include.

"Donations" Allowed for Nonprofit Applicants

- ODOD has indicated that there should be no restrictions against investment that originally derives from a donation.
  - Nonprofit applicants still need to ensure that a qualifying equity investment will comply with the purpose and terms of the donations from which the investment was derived.[3]

Debt Does Not Equal Investment; Investment Derived from Debt Will Be Cured

- ODOD has indicated that, in general, invested funds that the project pays back to the applicant will likely be considered a loan and will therefore not qualify. However, funds that are paid back to the applicant that are derived from income generated by the project will qualify.[4]
    - Investment derived from return ***on*** capital qualifies; investment derived from return ***of*** capital does not.
- While there is no statutory prohibition on investment derived from debt, the program is intended to reward equity investment. ODOD may, at its discretion, set aside and request additional information for applications that do not appear to follow the program guidelines.[5]
    - Suspicious applications will be pushed to the back of the line. If investment does not clearly meet requirements, sufficient supplemental evidence should be included in the initial submission.

Planning takeaway:

ODOD is tightening requirements and cracking down on bad actors. Projects should prioritize allocating equity sources to property improvements and utilize other planned sources (i.e., debt and public grant funds) for acquisition when possible. **Careful coordination and documentation of investment terms is vital to ensuring eligible investment will qualify.**

3. Additional Documentation Required Starting in July 2026 Round

Documented Designation of Qualified Opportunity Fund Is Explicitly Required

"The fund must **be designated in its operating agreement or other governing document** as a Qualified Opportunity Fund (QOF) as defined by the federal government in 26 U.S.C. 1400Z-2."

ODOD added the bolded language above to the recently published Fiscal Year 2026 (and 2027) Program Guidelines, signaling a shift in its application requirements.

Why this matters in practice:

Ohio QOFs have always been required to 1) meet the definition of a Qualified Opportunity Fund under Internal Revenue Code (IRC) Section 1400Z-2 and 2) hold 100% of their invested assets in QOZ property **situated in Ohio** since the Ohio OZ Tax Credit program was created; **however**, in past rounds, this requirement was certified via submitting a form prepared and signed by an authorized representative of the QOF.

Planning takeaway:

This change has minimal impact on those pursuing the federal tax benefits, but there are taxpayers who have been motivated to invest in Ohio QOZs because capital gains are not a prerequisite to qualifying for the program and the taxpayers cannot or otherwise do not intend to participate in the federal program. Development projects typically involve special purpose entities (SPE) that already meet the structural qualifications of an Ohio QOF. Historically, OZ investments through an SPE were likely to qualify, even if they were not organized as an Ohio QOF from the onset. **Going forward, applicants will need to work with their legal and accounting teams to ensure their QOF structures and operating documents are compliant with the federal program and to understand their ongoing compliance exposure.**

Common Misconception:

The Ohio OZ Tax Credit program was designed to pair with the federal QOZ framework **but operates as a separate and distinct incentive, offering a short-term benefit to Ohio OZ investors.**

- Taxpayers that have capital gains to invest may participate in the federal program and may supplement their federal QOZ tax benefits with the Ohio OZ Tax Credit.
- Taxpayers that do **not** have capital gains to invest **may choose not to participate in the federal program** and still qualify for Ohio OZ Tax Credits.

Documentation of Costs Incurred and Paid for by Invested Funds

"Starting in the July 2026 round, applicants must submit evidence proving that invested funds were used to improve property(ies)."

To enforce the more rigid definition of "Investment," ODOD has added a requirement for July 2026 rounds going forward to provide evidence that investments were used to pay for improvement costs. For investments that are made at the end of the application period, applicants may not be able to provide verification of payment by the time the application opens. Pending any further changes to the requirement, documentation of costs *incurred* within the application's investment period should be considered sufficient evidence if proof of payment is not yet available.

Planning takeaway:

ODOD plans to be flexible on the new cost documentation requirement for the upcoming round but may modify the requirement depending on the quality of documents it receives.[6] Preparing a clear and concise documentation trail is crucial, even after equity is invested. Applicants should request projected costs and corresponding cost documentation through the investment period ahead of deploying investments to ensure that their full investment will qualify and that documentation will be ready for timely submittal with their Ohio OZ application.

4. Allocation Increase Creates Breathing Room in July Round, Scarcity in January Round

H.B. 96 increased the allocation of Ohio OZ tax credits in fiscal years 2026 and 2027 from $25 million to $50 million. H.B. 96 was not made effective until September 30, 2025, but the increased allocation was retroactively applied to the July 2025 round, and over $43 million in Ohio OZ tax credits were awarded when only $25 million were expected to be available.

While the doubling of annual allocation for FY 2026 and FY 2027 is meaningful, the **structural and procedural changes** made effective on September 30, 2025 by H.B. 96 materially affect how investments should be sized, structured, and timed. The urgent demand was underscored again with the recently closed January 2026 round; ODOD confirmed that the amount of credits applied for exceeded the $6,779,751.33 in remaining Ohio OZ credit awards within 30 seconds of the application opening, and no applications had been disqualified at that time.[7]

Planning takeaway:

The increased allocation[8] provides **breathing room, not certainty,** that allocation will be available for all applications submitted in the July 2026 round, which will be the first round (of two) of the fiscal year. It is possible that all $50 million will be awarded in the first (July) round, so investors should **not** assume availability in the January round and should deploy qualifying equity investment in the first half of 2026 if possible. Even if funds are available in the second (January) round, it is likely the remaining allocation will be scarce and the urgency to submit first will be much higher.

Bottom Line

H.B. 96 improved the Ohio OZ program's near-term viability but simultaneously raises the bar for execution. Projects that strategically integrate various types of equity investors are better positioned to qualify investment and compete for allocation. As the definition of investment tightens and per-project caps apply, implementing a precise investment strategy is vital to ensure qualification and compliance with the Ohio OZ Tax Credit Program. The most successful applicants will be those who:

- Size OZ equity deliberately,
- Coordinate investor participation,
- Finalize structures well ahead of application windows,
- Maintain accurate and complete investment documentation, and
- Treat the process as competitive, not administrative.

The next application round, opening July 10, 2026 at 10 a.m. ET, will award up to $50 million in Ohio OZ tax credits for qualifying investments made between January 1, 2026 and June 30, 2026. Equity investors should revisit assumptions made under prior rules and adjust strategies accordingly.

FOR MORE INFORMATION

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[1] ORC Section 122.84(A)(5)
[2] Program Guidelines, Ohio Opportunity Zone Tax Credit, Fiscal Year 2027
[3] Email from ODOD staff, February 6, 2026, on file with author.
[4] Email from ODOD staff, February 3, 2026, on file with author.
[5] Email from ODOD staff, February 3, 2026, on file with author.
[6] Email from ODOD staff, March 17, 2026, on file with author.
[7] Email from ODOD staff, February 17, 2026, on file with author.
[8] The $50 million allocation per fiscal year mentioned above starts with the July application round based on investments made between the January 1st to June 30th period preceding the application. Any remaining funds from the July round will be made available for the January round.