Opportunity Zones — for Billionaires

A federal tax break intended to draw investment to lower-income areas has become one more way for the rich to avoid paying taxes.

By The Editorial Board
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Of all the ways President Trump's 2017 tax cut has enriched the wealthy at the expense of the public interest, perhaps the most outrageous is the black comedy of "opportunity zones."

The law lets the wealthy avoid capital gains taxation by investing in projects or companies in designated geographical areas. The stated purpose is to drive big money into investment deserts — areas where wealthy investors might otherwise hesitate to tread. In reality, the tax break is being used to juice the profit margins on projects like a proposed luxury condominium development at a "superyacht marina" in ritzy West Palm Beach, Fla.

According to ProPublica, then-Gov. Rick Scott of Florida agreed to create the opportunity zone after lobbying by the owner of the marina, Wayne Huizenga Jr., the son of the billionaire founder of Waste Management and AutoNation. The Huizenga family gives generously to Republican candidates, including Mr. Scott, and Mr. Huizenga wrote a letter to Mr. Scott requesting the inclusion of the marina. Mr. Scott obliged — while deciding not to honor the request of the city government to designate nearby, less affluent areas of the same city.

The report adds to a rapidly mounting pile of evidence that the design of the opportunity zone program is allowing a massive waste of public resources for the benefit of a wealthy few.

The program, by its nature, rewards the small number of households that face significant capital gains taxation, offering them a measure of relief from that obligation. Still, many members of Congress — including a large number of Democrats — saw merit in encouraging development in downtrodden areas. But Congress failed to write a law that directed dollars into those areas, and the flaws have been compounded by the Trump administration's interpretation and administration of the program. The law, for instance, allowed the inclusion of a limited number of neighborhoods adjacent to low-income areas. As anyone who has spent time in an American city knows, this definition includes some very wealthy areas. And in the hands of the Treasury Department, the language of the law was capaciously interpreted to include fully 56 percent of the nation's census tracts, an astonishing figure.

The federal government then gave states significant discretion in picking from that list. The result, in many states, is that politicians chose to focus the tax breaks on areas already experiencing significant development. Indiana, for example, designated much of downtown Indianapolis as an opportunity zone — an area already experiencing a multibillion dollar building boom — while ignoring several lower-income neighborhoods around the designated downtown area.

The developers of the planned condominiums at the superyacht marina in West Palm Beach have not even bothered to pretend that they needed the tax break to move ahead with the project. "It worked as a market-rate rental," Jorge Perez, chairman of the development firm Related Group, told Bloomberg. "Now, it works that much better as an opportunity zone."

Similar stories of political largess are popping up around the country. The Times reported that Treasury Secretary Steven Mnuchin personally intervened to designate an opportunity zone in Nevada, including a 700-acre industrial park among whose major investors is the billionaire junk bond king — and felon — Michael Milken. Officials initially concluded the area was too affluent to qualify, but Mr. Mnuchin, a friend of Mr. Milken's, reversed that decision, The Times reported. The Treasury says Mr. Mnuchin was not aware that Mr. Milken was among the beneficiaries; Mr. Milken has denied lobbying for the change.

ProPublica has produced a series of compelling stories about similar giveaways, including a decision by the Trump administration to revise its initial list of eligible census tracts to include an affluent portion of downtown Detroit where Dan Gilbert, the billionaire founder of Quicken Loans, has amassed significant landholdings.

Similarly, Kevin Plank, the billionaire founder of Under Armour, persuaded Maryland officials to designate a Baltimore district called Port Covington, where he already was planning a giant development project. To clear room, Maryland removed a nearby low-income neighborhood from its list of opportunity zones.

Supporters of the law maintain that it will produce significant benefits. But in a further blow to the public interest, Congress stripped the legislation of any reporting requirements. The beneficiaries are not required to report the value of the tax breaks they receive, nor the value of the projects they undertake, making it impossible to assess the merits of the program. This is a basic and appalling failure of good governance.

It is not too late to correct those problems. Senator Ron Wyden of Oregon introduced legislation earlier this month to exclude wealthier areas from the opportunity zone program and to create reporting requirements. Both changes are necessary. We concur in the judgment of Representative James Clyburn of South Carolina: "The program needs to be tweaked — or it needs to experience its funeral."

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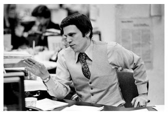

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