Opportunity Zones & Tax Deferral

Tax Incentives to Invest in Low-Income Communities

The Tax Cuts and Jobs Act (TCJA) created a new investment vehicle called an Opportunity Zone (OZ) to encourage investment into distressed and low-income communities throughout the United States. The goal of this OZ tax incentive program is to attract taxpayers to invest capital through private investments in businesses and real estate in distressed communities to spur economic development in these communities.

Under the TCJA, states could nominate communities they want to be designated as a Qualified Opportunity Zone to encourage economic revitalization. A Qualified Opportunity Zone retains this designation for ten years. Governors had until March 21, 2018, to submit their recommendations for Zone designations by the U.S. Treasury unless the state requested a 30-day extension to April 20, 2018. If a governor did not submit an OZ nomination by this deadline, they essentially opted-out of this tax incentive. The U.S. Treasury has approved OZ submissions for American Samoa, Arizona, California, Colorado, Florida, Georgia, Idaho, Kentucky, Michigan, Mississippi, Nebraska, New Hampshire, New Jersey, New York, Oklahoma, Puerto Rico, South Carolina, South Dakota, Vermont, U.S. Virgin Islands, and Wisconsin.

Taxpayers can defer some and potentially eliminate other capital gain taxes by investing in a Qualified Opportunity Fund ("Fund"). The taxpayer sells any type of asset that has a capital gain and invests the proceeds into a Fund with 180 days. This Fund is required to have 90 percent (90%) of the Fund assets invested in Opportunity Zones. To become a Fund, an eligible taxpayer self-certifies and completes a form that the IRS is scheduled to release in the summer of 2018.

Opportunity Zone investments provide tiered capital gains tax benefits tied to investments at five (5), seven (7) and ten (10) year time frames. The tax benefits include temporary tax deferral and a small reduction in tax liability to, under certain circumstances, complete tax exclusion. There are three levels of tax benefits:

1. Temporary deferral of capital gain taxes on gains invested in a Fund until the taxpayer exits the Fund or December 31, 2026, whichever occurs first.
2. Deferred capital gains resulting from investments in the Fund held a minimum of five (5) years are given 10% reduction in the amount taxed and investments held at least seven (7) years are given a 15% reduction.
3. If a taxpayer holds an investment for ten (10) years, the capital gains accrued on the Fund investment itself (i.e. the property profit) will receive a full step-up in basis for that ten-year period. This final benefit results in tax exclusion and is a permanent exclusion of taxable income for investments into a Fund.

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Comparing An Opportunity Zone to a 1031 Exchange

A significant advantage of an OZ is that contributions to the Fund can be any type of asset or investment and is not limited to only real property like in a 1031 exchange. However, investing in low-income communities with a ten-year investment time horizon presents a number of disadvantages. In a 1031 exchange, taxpayers can invest in any market in the United States which provides an investment advantage to obtain better investment returns by redeploying equity immediately into communities that are providing high economic growth and strong investment returns today. Moreover, since there is no predetermined holding period in a 1031 exchange, taxpayers have the chance to reinvest equity multiple times compared to the ten-year holding period required to obtain the most beneficial tax advantages in the OZ program.

Opportunity Zone	**1031 Exchange**
Allows for the investment of any type of investment	Only real property qualifies
Investment time restrictions of 5, 7 or 10 years	No time restrictions as long as held for investment
Tax deferral and possible tax exclusion after 10 years	Tax deferral
Limited to a Qualified Opportunity Zone	Can invest anywhere in the United States
Must reinvest within 180 calendar days	Must reinvest within 180 calendar days

Taxpayers should seek advice from tax and/or legal advisors to discuss both short-term and long-term investment planning objectives and to determine whether an Opportunity Zone or 1031 exchange helps to meet those objectives. Learn more by visiting the [Internal Revenue Service website] answering frequently asked questions.

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