TAX PLANNING WITH OPPORTUNITY ZONES

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Investing in the Zone

A Brief Overview of the Tax-Advantaged Investment Strategy

The Qualified Opportunity Zone Program ("QOZ Program"), created by the Tax Cuts and Jobs Act of 2017 ("TCJA"), is a tax-incentive program designed to encourage long-term private sector investments in designated communities known as Qualified Opportunity Zones ("QOZs") by delivering certain tax benefits to investors through investment vehicles called ("QOFs").

- QOZs are designated census tracts throughout the United States that have been selected by state governors for inclusion in the program.
- A QOF is an investment vehicle organized as either a partnership or corporation that holds at least 90% of its assets in QOZ property. QOFs can invest in a wide variety of real estate and new or existing businesses and can hold single or multiple assets. QOZ property includes interests held by the QOF in a Qualified Opportunity Zone Business ("QOZB").
- A QOZB is a business in which at least 70% of tangible assets qualify as QOZ business property owned or located in a QOZ. At least 50% of the gross income earned by the business must be from the active conduct of the business in the QOZ and generally may not be a "Sin Business."
- Taxpayers with eligible capital gains from the sale of a prior investment may invest those gains within a 180-day period in a QOF and achieve potential tax benefits.
- Investments in QOFs are intended to help drive real estate development, job creation and overall economic growth in lower income communities.

Understanding Eligibility

What is an "Eligible" Gain?

A capital gain is eligible for deferral if it is from the sale or exchange of property with an unrelated party (not more than 20 percent common ownership) and the gain is treated as a capital gain (short-term or long term) for federal income tax purposes, including gains from:

- Businesses or Business Interests
- Real Estate
- Stock
- Collectibles
- Mutual Funds
- Cryptocurrency

What is an "Eligible" Taxpayer?

QOZ regulations provide that taxpayers eligible to elect gain deferral include:

- **Individuals**
- **C Corporations** — Including regulated investment companies and real estate investment trusts
- **Partnerships, and certain other pass-through entities**

Important Deadlines

The QOZ Program final regulations were released on December 19, 2019 by the U.S. Treasury Department addressing much of the uncertainty from the QOZ Program's original legislation under the 2017 Tax Cuts and Jobs Act.

Generally, to receive the QOF Program tax benefits, eligible capital gains must be reinvested in a QOF within 180 day from the sale of an asset.

K-1 Partnership Gains

The QOZ Program final regulations provide additional flexibility for K-1 partnership gains resulting in additional planning options for financial advisors. Assuming a calendar-year partnership, K-1 partnership gains realized on or after January 1, 2024 and January 1, 2025, have until September 11, 2025, and September 11, 2026, respectively, to complete an investment in a QOF.

Investors with K-1 gains have three options for calculating their 180-day window resulting in additional planning options for financial advisors and their clients:

1. 180 days starting with the date the asset is sold by the partnership;
2. 180 days beginning on the last day of the partnership's taxable year (December 31st for a calendar-year partnership); or
3. 180 days starting on the date the partnership's tax return is due, without any extension (March 15th for a calendar-year partnership).

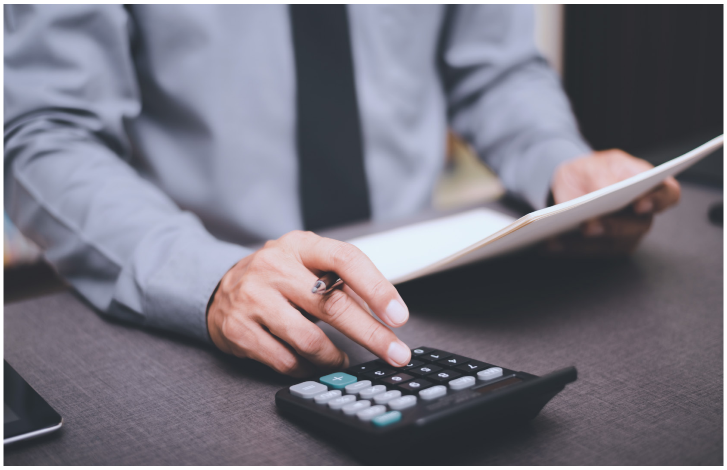
Outlook for Extension and Improvements: Toward "OZ 2.0"

As of now, new investments in QOFs will only be accepted until December 31, 2026. However, there is growing bipartisan momentum in Washington to extend and enhance the QOZ Program, especially with key provisions of the TCJA set to expire at the end of 2025.

This proposed legislation (often dubbed "OZ 2.0") includes a suite of reforms to extend the investment period and strengthen the incentive's impact and accountability.

Potential Tax Benefits of Investing in a QOF

Potential tax benefits associated with the QOZ Program fall into two main categories:



Deferral

Generally, if a taxpayer invests the capital gain from the sale of a qualifying asset into a QOF within 180 days of recognizing the gain, taxes on such proceeds may be deferred until the earlier of December 31, 2026[1] or the disposition of the QOF interest.

Elimination

Investors who hold their investment for at least ten years receive a step-up in basis which means they pay no tax on the appreciation of their QOF investment upon disposition (so long as such disposition occurs prior to January 1, 2048), regardless of the size of the potential profit.[2] In addition, the step-up in basis eliminates any depreciation recapture tax that would otherwise be owed upon sale.

All investments involve risk, and the realization of the benefits is dependent on proper structuring and the structure and performance of the future investments selected. Not all investments will provide all of these benefits.

1 A 10% step-up in basis was available for investments made prior to December 31, 2021, and an additional 5% step-up in basis was available for investments made prior to December 31, 2019.

2 Assumes that the investor is a resident of a state that conforms with the QOZ Program or a no state income tax state, otherwise the investor will owe tax on any realized gain in investor's state.

An investment in real estate carries certain risks including but not limited to a lack of liquidity and potential loss of principal.

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Risk Factors

- Investors in QOFs will need to hold their investments for certain time periods in order to receive the full QOZ Program tax benefits. A failure to do so may result in the potential tax benefits to the investor being reduced or eliminated.
- If a fund fails to meet any of the qualification requirements to be considered a QOF, the anticipated QOZ Program tax benefits may be reduced or eliminated. Furthermore, a fund may fail to qualify as a QOF for non-tax reasons beyond its control, such as financing issues, zoning issues, disputes with co-investors, etc.
- Distributions to investors in a QOF may result in a taxable gain to such investors.
- The tax treatment of distributions to holders of interests in a QOF are uncertain, including whether distributions impact the aforementioned QOZ Program tax benefits.
- A QOF must make investments in Qualified Opportunity Zones, which carries the inherent risk associated with investing in economically depressed areas.
- Any additional legislation or administrative guidance may reduce or eliminate the expected potential QOZ tax benefits or increase the burden of compliance with the QOZ Program.
- Investors in a QOF may not be able to take advantage of the QOZ Program's tax benefits if they do not properly make a deferral election on IRS Form 8949.
- A QOF may encounter significant opposition from local communities, political groups, or unions, which may damage their goodwill and reputation and adversely affect operations.
- An investment in a QOF is speculative, illiquid, and involves a high degree of risk. This is no guarantee that investors will receive any return.

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