

OPPORTUNITY ZONES

“The provision provides two main tax incentives to encourage investment in qualified opportunity zones. First, it allows for the temporary deferral of inclusion in gross income for capital gains that are reinvested in a qualified opportunity fund.... The second main tax incentive in the bill excludes from gross income the post-acquisition capital gains on investments in opportunity zone funds that are held for at least 10 years. Specifically, in the case of the sale or exchange of an investment in a qualified opportunity zone fund held for more than 10 years, at the election of the taxpayer the basis of such investment in the hands of the taxpayer shall be the fair market value of the investment at the date of such sale or exchange. Taxpayers can continue to recognize losses associated with investments in qualified opportunity zone funds as under current law.”

In short, this says that: (1) capital gains on currently held investments sold to purchase investments in opportunity zone funds will not be taxable at the time of the sale; and (2) capital gains on investments in opportunity zone funds held for at least 10 years will not at any point be taxable.

Another question you might have might be: What precisely are Opportunity Zone Funds? To answer, I will quote from the FAQ on this subject provided by the IRS: “A Qualified Opportunity Fund is an investment vehicle that is set up as either a partnership or corporation for investing in eligible property that is located in an Opportunity Zone and that utilizes the investor’s gains from a prior investment for funding the Opportunity Fund.”



Opportunity Zones Frequently Asked Questions

Q. What is an Opportunity Zone?

A. An Opportunity Zone is an economically-distressed community where new investments, under certain conditions, may be eligible for preferential tax treatment. Localities qualify as Opportunity Zones if they have been nominated for that designation by the state and that nomination has been certified by the Secretary of the U.S. Treasury via his delegation authority to the Internal Revenue Service.

Q. Who created Opportunity Zones?

A. Opportunity Zones were added to the tax code by the Tax Cuts and Jobs Act on December 22, 2017.

Q. Have Opportunity Zones been around a long time?

A. No, they are new. The first set of Opportunity Zones, covering parts of 18 states, were designated on April 9, 2018.

Q. What is the purpose of Opportunity Zones?

A. Opportunity Zones are an economic development tool—that is, they are designed to spur economic development and job creation in distressed communities.

Q. How do Opportunity Zones spur economic development?

A. Opportunity Zones are designed to spur economic development by providing tax benefits to investors. First, investors can defer tax on any prior gains until the earlier of the date on which an investment is sold or exchanged, or December 31, 2026, so long as the gain is reinvested in a Qualified Opportunity Fund. Second, if the investor holds the

investment in the Opportunity Fund for at least ten years, the investor would be eligible for an increase in basis equal to the fair market value of the investment on the date that the investment is sold or exchanged.

Q. What is a Qualified Opportunity Fund

A. Qualified Opportunity Fund is an investment vehicle that is set up as either a partnership or corporation for investing in eligible property that is located in an Opportunity Zone and that utilizes the investor's gains from a prior investment for funding the Opportunity Fund.

Q. Do I need to live in an Opportunity Zone to take advantage of the tax benefits?

A. No. You can get the tax benefits, even if you don't live, work or have a business in an Opportunity Zone. All you need to do is invest in a Qualified Opportunity Fund.

Q. I am interested in investing in an Opportunity Zone. Is there a list of Opportunity Zones available?

A. Yes. The current list of approved Opportunity Zones can be found at [Opportunity Zones Resources](#). This list will continue to be updated as more Opportunity Zones are approved. A complete list of approved Opportunity Zones will be published later this spring after all Opportunity Zones have been nominated, certified and designated.

Q. How does a taxpayer become certified as a Qualified Opportunity Fund?

A. To become a Qualified Opportunity Fund, an eligible taxpayer self certifies. (Thus, no approval or action by the IRS is required.) To self-certify, a taxpayer merely completes a form (which will be released in the summer of 2018) and attaches that form to the taxpayer's federal income tax return for the taxable year. (The return must be filed timely, taking extensions into account.)

Q. How can I get more information about Opportunity Zones?

A. Over the next few months, the Treasury Department and the Internal Revenue Service will be providing further details, including additional legal guidance, on this new incentive. More information will be available at [Treasury.gov](#) and [IRS.gov](#).

