

Opportunity Zones Basics



Planning and Community Development
Strategic Growth Area Office
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Opportunity Zone Benefits

Federal tax incentive program

Unrealized capital gain deferral and exemption options

5- and 7-year deferrals/capital gain basis adjustments

10-year new capital gain exemptions

Designed to stimulate low income community economic activity

17% of Americans live in distressed communities

Eligible Opportunity Zone Investors

Proposed Rules:

Individuals

C Corporations

S Corporations

Shareholders

Regulated Investment Companies

Real Estate Investment Trusts

Partnerships

Partners

Pre-existing Entities

Some Pass-through Entities

Common Trust Funds

Qualified Settlement Funds

Disputed Ownership Funds

Domestic Settlement Funds

Decedent Estates

Beneficiaries

Trusts

Investment Process

Taxpayers with capital gains are eligible for deferrals and/or exemptions



Investment financial intermediaries: Qualified Opportunity Funds (QOF)



QOF invests into Qualified Opportunity Zone (QOZ)
property or business

Investment Deferrals

Deferrals conclude no later than 12/31/26

5-year deferrals: Investment must occur prior to 12/31/2021

Capital gain tax is paid at the end of the 5-year period

The capital gain basis is reduced by 10%

7-year deferrals: Investment must occur prior to 12/31/2019

Capital gain tax is paid at the end of the 5-year period

The capital gain basis is reduced by 15%

Proposed Ineligible Gains

Ordinary gains

Wages, tips, bonuses, business profits...

Debt instruments

Offsetting position transactions

Cash contributions

Straddle investments

QOZ Investments

Investment must occur within 180 days of gain

Commercial real estate

- New construction

- Renovations

Business operations

- New businesses

- Businesses expanding into QOZs

- Businesses expanding within QOZs

Supplementary Tax Credits

Historic Tax Credit:

Strong relationship

New Market Tax Credit:

Weak relationship

Low Income Housing Tax Credit:

Strong relationship

Renewable Energy Tax Credit:

Weak relationship

1031 Program (real property sales):

Weak relationship

1202 Program (small businesses):

Weak relationship

Qualified Opportunity Funds

Organized as a corporation or partnership

Subject to asset test

- 90% of assets held as QOZ property (QOZP)

- Semi-annual test

- < 90% non-compliance triggers a penalty

 - Penalty = (90% requirement – actual %) x IRS penalty rate

- Decertification rules are under development (proposed rule)

QOF must self-certify

- Tax form 8996 attached to return (proposed)

QOZ Interests

Investment must occur no earlier than 1/1/18

Investors have until 12/31/2047 to divest the investment
(Proposed rule)

The investment must be monetary

Stocks

Partnerships

QOZ Businesses

Trade/business with owned/leased tangible property

≥ 50% of income derived from active conduct

A substantial proportion of intangible property has to be used in the business activity

95% of property is qualified financial property

Cannot be a sin business: golf course, country club, hot tub facility, sun tan facility, race track, gambling facility, or liquor store

QOZ Business Property

Property can be tangible or real property

Tangible property used in a trade or business

Property purchased from an unrelated party

Property must be purchased from an entity or person with
< 20% stake in the QOZB

Purchase must take place after December 31, 2017

Substantially all the usage must be in the OZ

Proposed rule: substantially all = 70%

QOZ Business Direct Investment Requirements

90% of QOF assets must be invested in QOZ
business property or tangible property

10% of QOF liquid assets and intangible property
may be held

Rule proposal: Safe-harbor holding periods

QOF Business Indirect Investment Requirements

90% of QOF assets must be invested in QOZ stock or partnership interests

5% of QOF liquid assets plus reasonable working capital may be held

Rule proposal: Safe-harbor holding periods

Unlimited QOF intangible property may be held but must be used in the QOZ business

50% of gross income must be attributable to the QOZ

No minimum threshold for investing QOF assets into tangible property