

Tax Notes

Opportunity Zone Funds: Time Sensitive Planning

Still Time to Set Up Your Own Opp Zone Fund

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After a somewhat slow start after enactment of the Tax Cuts and Jobs Act (TCJA) late in 2017, investment into Opportunity Zone Funds has grown from a trickle into a torrent. The details of the legislation are by now well documented, conferring the double barreled tax benefit of:

1. Elimination of up to 15% of the tax on eligible capital gain(s), and deferral until December 31, 2026 of any remaining tax due, and
2. Complete elimination of tax on the appreciation of the QOZF investment after a ten year holding period.

The 15% reduction in tax on the eligible capital gains (referred to number 1 above) is actually comprised of two components:

1. A 10% reduction after holding the QOZF investment for 5 years, and
2. An additional 5% reduction (totaling 15%) after holding the QOZF investment for an additional 2 years (7 years total holding period).

Which brings us to the time sensitive planning issue...

For eligible capital gains invested prior to December 31, 2019, the capital gain tax reduction will equal the full 15%.

However, for eligible capital gains invested into a QOZF after December 31, 2019, only 6+ years would remain until the original deferred capital gain becomes fully taxable on December 31, 2026. At that date, the QOZF investment would have been held less than the full 7 years. The maximum tax forgiveness available on the original gain would therefore drop from 15% to 10%.

For eligible capital gain investments made after December 31, 2021, this tax forgiveness would drop off completely.

Keep in mind, this exercise does not affect the complete elimination of tax on the appreciation of the QOZF investment after a full ten year holding period.

To date, a significant portion of our QOZF practice has been comprised of setting up single purpose QOZF's, with a single gain and one investor/taxpayer. This entire process can, under certain circumstances, be completed in as little as 10 days. This leaves time prior to year-end for QOZF investments to be made, with complete forgiveness of a full 15% of the ultimate tax due.

Contact Us

The Financial Services Tax Group at PKF O'Connor Davies is available to assist with all aspects of the new Opportunity Zone legislation. We also offer a full slate of structuring, audit, tax, and administration services for Opportunity Zone funds and their Investors.

For more information, please contact your client services partner or either of the following:

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