

Opportunity Zones

www.irs.gov

www.ffiec.gov

**Overview for Community Development Investments in Qualified
Opportunity Zone Funds**

The Tax Cuts and Jobs Act of 2017:

Opportunity Zones and Qualified Opportunity Funds

- **Opportunity Zones (OZ)** are specially created geographic districts, consisting of a single census tract or that single tract combined with designated, contiguous, census tracts that allow investors to receive substantial tax breaks for investment capital.
- **Qualified Opportunity Funds (QOF)** are pools of investible funds consisting of the equity earned by investors' from the sale of their previous holdings – e.g., real property holdings, shares of stock, etc.
- **The Bargain:** Investors obtain Tax Incentives, if they Invest in Community Development.
 - The Opportunity Fund invests pooled equity in properties or businesses located within the Opportunity Zone through purchases of and improvements to those properties or businesses
 - Investors are able to defer/reduce capital gains on funds they invest
 - The OZ Fund can take advantage of additional economic development incentives and tax tools such as TIFF, PACE, CDBG, NMTC, FHLB and Labor Training Grants

Three Types of OZ Tax Benefits for Investors

- **Deferral of Capital Gains and Step Up in Basis on Pre-Acquisition Equity**
 1. After the investor holds the property for 5 years, the tax basis of the original investment is increased by 10%,
 2. After the investors hold the property for 7 years, the tax basis is increased by 15%, and
- **Plus Permanent Elimination of Gains from Sale of OZ Qualified Business**
 3. After 10 years, investors can permanently avoid any capital gains tax on the post-acquisition gains.

Please consult your tax attorney before making an investment.

Qualified OZ Business Property

1. Is purchased through the OZ Fund
 - After December 31, 2017
 - With investments of equity from the sale of prior investments, if invested in the OZ Fund within 180 days of that sale
2. Property must be tangible assets used in a Trade or Business,
3. It must be originally used or substantially improved by the Qualified OZ Fund
 - Used in a Qualified OZ Fund for improvement of commercial enterprises and/or multifamily complexes and,
 - Substantially improved, which means enhanced an additional investment equivalent to the purchase price within 30 months
4. 90% of the OZ Fund must be invested in Opportunity Zone Business.

Qualified Census Tracts are listed on the Internal Revenue Service website www.irs.gov.

- Cross reference the census tract number with the OZ list.
- Qualified Census Tracts also include Contiguous Census Tracts.
- Capital gains benefits do not apply to Unqualified Census Tracts and Unqualified Businesses such as tanning parlors and liquor stores.
- These benefits can be combined with
 - 100% Expensing,
 - Increased Expensing Cap and,
 - Accelerated Depreciation

Please consult your tax attorney before making an investment.

OZ will Enhance Community Development

- OZ will help investors, including banks, put money back into the community to help LMI individuals and revitalize geographies.
- Through the OZ, investors and banks will be able to help meet the credit needs of its assessment area (AA), including its OZ, through its use of qualified loans, services and investments.
- OZ will increase the probability that the bank and/or wealth department will be able to make a CD Loan and/or investment in each of the bank's AAs and meet needs of Opportunity Zones.

Why is an OZ investment Good for Investors and the Community?

- Qualified census tracts will receive attention from investors, who will generate economic activity in LMI areas where 20% of the families are in poverty.
- Some OZ-Qualified Low Income Community census tracts are commercial and industrial areas, increasing the likelihood of meeting small business growth goals.
- OZ investments provide much more flexible tax benefits compared to Section 1031 Exchanges.
- OZ investors can combine OZ tax breaks with newly modified expensing and depreciation rules to optimize after tax returns.

Comparison of OZ Tax Benefits and 1031 Exchange

- OZs require capital gains to be reinvested, while 1031 Exchanges require that all capital be reinvested.
- After the investment is held for 5 years, the tax basis in the original equity is increased by 10%, and after 7 years, the tax basis is increased by 15%.
- For Sec.1032 Exchanges, capital gains are fully taxable when the property is sold.
- For OZ investments, the investor can sell after 10 years and pays 85% of the capital gains tax on the original equity investment, but zero capital gains on the sale of the property purchased through the OZ Fund.

Please consult your tax attorney before making an investment.

Amount of Gains and Type Eligible for Tax Benefits

- Gain from the sale to, or exchange with, an unrelated person of any property held by the taxpayer (Sec. 1400z.2.(a)(1) of the Tax Cuts and Jobs Act.)
- The investment of the equity must go into a Qualified Opportunity Zone Fund (self certified with IRS) for investments in QOZ Businesses within 180 days.
- Please see the list of unqualified businesses such as casinos or golf courses.
- The Gains that are not Eligible include:
 - 1) ordinary income,
 - 2) interest and dividends from previous investments and,
 - 3) IRA distributions.

Please consult your tax attorney before making an investment.

What Kinds of Gains Enjoy the Tax Benefits of the Opportunity Fund for a sale since 2017?

- **Asset Types**

1. Real Estate
2. Business Assets
3. Stock

- **Types of Gains**

1. Long- and short-term capital gains
2. Gains From a 1031 exchange
3. From sales of real properties, including those in other states and properties not located in an OZ

Please consult your tax attorney before making an investment.

Five Ways Investments could achieve Community Development in Opportunity Zones

1. Affordable housing for low- or moderate-income (LMI) individuals,
2. Activities that promote economic development by providing financing for small businesses or small farms,
3. Activities that revitalize or stabilize LMI geographies, distressed or underserved non-metro middle-income areas, or designated disaster areas,
4. Activities that support, enable, or facilitate projects or activities that meet “eligible uses” criteria described by HUD as a designated target areas,
5. Activities that increase capacity of nonprofits to provide community services for LMI individuals, whose target clients are at least 51% LMI.

OZ Investments Promote Community Development for LMI Persons

- ✓ Promotes Economic Development Objectives.
- ✓ Facilitates job creation, workforce facilities for LMI people.
- ✓ Improves conditions for LMI people, including education, health or social services, community facilities.
- ✓ Upgrades the infrastructure in a LMI census tract.
- ✓ Facilitates small business through Economic Development Corporations.
- ✓ Improves commercial building stock and increases retail activity (basic necessities) in LMI areas.
- ✓ Revitalizes space that has become outdated such as a military base, an old sprawling shopping mall or abandoned manufacturing facility.



Kim Kuhle
Sr. Consultant, CRA
ADI Compliance Consulting, Inc.
402-817-3394
kkuhle@adiconsulting.com

Thank you