

Qualified Opportunity Fund Investing: 15% Deadline Rapidly Approaching

McGlinchey Real Estate Update

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Time is ticking. To take advantage of the full 15% tax discount offered by the Opportunity Zone program, you'll need to get your ducks in a row quickly to meet the December 31, 2019 deadline. Unless you're investing only your capital gain income into your qualified opportunity fund, you'll need enough time to form your fund, a possible lower-tier entity and offering documents, present them to potential investors and receive equity investment in the fund.

Those active in the real estate industry are, by now, well-aware of the Opportunity Zone provisions contained within the 2017 Tax Cuts and Jobs Act. Effective January 1, 2018, the Opportunity Zone program incentivizes investment in certain low-income communities around the country designated as "qualified opportunity zones" ("QOZs") by rewarding investment in QOZs through a qualified opportunity fund ("QOF"). By investing capital gains in a QOF, an investor may:

- defer paying taxes on capital gain,
- permanently exclude up to 15% of the capital gain from federal taxation, and
- if the investment is held in the QOF for at least 10 years, permanently exclude federal capital gain taxation on the appreciation of the QOF investment.

On April 17, 2019, Treasury released its second tranche of proposed Opportunity Zone regulations, which addressed some rather significant items that had previously been left unanswered. Subsequent posts will address many of the more significant second tranche guidance.

All good things must eventually come to an end.

While the Opportunity Zone program offers significant incentives for investing in real estate and operating businesses located in Opportunity Zones, the incentives do not last forever. The program provides a timetable that reduces, and eventually eliminates, its tax benefits. So, for those desiring to maximize the program's tax benefits, sitting on your hands is not an option.

Significant Deadlines:

Deferred capital gain must be included in income on the earlier to occur of:

- the date the investor's interest in the QOF is sold or exchanged, or
- December 31, 2026.

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