TaxNewsFlash

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First round of opportunity zones released, under new tax law

The IRS and U.S. Treasury Department today announced the first round of opportunity zone designations in 18 states, under measures in the new tax law (Pub. L. No. 115-97, enacted December 22, 2017).

The list of opportunity zones is available on a **Treasury webpage** dedicated to opportunity zone resources.

As noted in a related **Treasury release**, these qualified opportunity zones retain this designation for 10 years. Investors can defer tax on “any prior gains” until no later than December 31, 2026, provided that the gain is reinvested in a qualified opportunity fund. Also, if the investor holds the investment in the qualified opportunity fund for at least 10 years, the investor would be eligible for an increase in its basis, in an amount equal to the fair market value of the investment on the date that it is sold.

KPMG observation

It is not clear whether the Treasury’s use of the words “any prior gains” is intended to signal that pre-enactment gains and gains other than capital gains may be eligible for this deferral.

Future guidance

The release also states that the IRS and the Treasury intend to issue additional information on qualified opportunity funds. This future guidance will address the certification of opportunity funds that are required to have at least 90% of fund assets invested in opportunity zones.

Background

The new U.S. tax law generally provides for the temporary deferral of inclusion in gross income on gains reinvested in a qualified opportunity fund and the permanent exclusion of gains from the sale or exchange of an investment held for at least 10 years in a qualified opportunity fund. A qualified opportunity fund is an investment vehicle organized as a corporation or a partnership for the purpose of investing in and holding at least 90% of its assets in qualified opportunity zone property. Qualified opportunity zone property includes any qualified opportunity zone stock, any qualified opportunity zone partnership interests, and any qualified opportunity zone business property.

The IRS in February 2018 issued Rev Proc. 2018-16 as guidance to the “chief executive officers” of any U.S. state, U.S. possession, and the District of Columbia regarding the procedure for designating population census tracts as qualified opportunity zones for purposes of sections 1400Z–1 and 1400Z–2 as added to the Code by the new tax law.

For more information, contact a tax professional with KPMG’s Washington National Tax:

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