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New Opportunity Zones Provide Tax Investment Advantages

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A new kind of “opportunity zones” was introduced in the “Tax Cuts and Jobs Act” that became law last December. The concept is to encourage investment in certain distressed and underserved areas. To encourage that investment, investors can now reinvest gain from almost any sale and defer (and to some extent permanently eliminate) tax on that gain if invested in an opportunity zone investment. Additionally, if held long enough, it is possible to never pay tax on any post-acquisition gain on the opportunity zone investment.

TAX BENEFITS

If gain is reinvested in a “qualified opportunity fund,” or QOF, within 180 days:

- the gain is deferred until the earlier of (i) the date on which the taxpayer disposes of the investment in the QOF or (ii) December 31, 2026;
- 10% of the deferred gain is eliminated (by a step-up in tax basis) if the investment in the QOF is maintained for 5 years;
- an additional 5% of the deferred gain is eliminated (by another basis step-up) if the investment in the QOF is maintained for 7 years; and
- upon sale of the investment in the QOF, if the investment is maintained for at least 10 years, the basis in the investment can be stepped up to the fair market value of the investment at that time, effectively eliminating all post-acquisition gain on the investment.

QUALIFIED OPPORTUNITY ZONES

Each State, Washington, D.C. and the U.S. possessions have designated certain population census tracts, generally within a low-income community, to be the “qualified opportunity zones” where the QOFs must invest. A map and list of the designated qualified opportunity zones can be accessed at this site: <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx>. Colorado has a similar website at <https://choosecolorado.com/opportunity-zones/>.

QUALIFIED OPPORTUNITY FUNDS

A QOF is a corporation or a partnership organized for the purpose of investing in “qualified opportunity zone property.” The QOF must hold at least 90 percent of its assets in qualified opportunity zone property and must self-certify on its federal income tax return. Qualified opportunity zone

property includes certain businesses and property in the qualified opportunity zones.

For more information, please contact Adam M. Cohen, Sarah R. Haradon or Trent A. Timmons.

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