

Qualified Opportunity Zones and Related Developments

The Opportunity Zone Program

- The Opportunity Zones program was introduced as part of the Tax Cuts and Jobs Act of 2017
- The framework for the program is included in two sections of the Internal Revenue Code:
 - Section 1400Z-1: Governed the process for designating census tracts as “qualified opportunity zones”
 - Section 1400Z-2: Governs eligibility of investments for the tax benefits available under the program
- Proposed Treasury Regulations were released in October 2018 and on April 16, 2019, helping to provide clarity on many of the questions left unanswered in the original statute.

*See: <https://www.irs.gov/newsroom/opportunity-zones-frequently-asked-questions>.

Public Policy Motivations

- The bipartisan think-tank, Economic Innovation Group (“EIG”)* introduced the concept of the opportunity zone to address certain ongoing economic problems:
 - Recovery from the Great Recession has been uneven, with certain areas fully recovering while other areas still suffer from high unemployment
 - Areas that continue to struggle with high unemployment also struggle with attracting new investment
 - Investors who have done well in the past decade want to cash out or reinvest their capital gains, but do not want to pay capital gains taxes

*See: <https://eig.org/wp-content/uploads/2015/04/Unlocking-Private-Capital-to-Facilitate-Growth.pdf>

Program Framework

- The Opportunity Zones program is an attempt to address both underinvestment in low-income areas and investor concern about paying capital gains taxes
 - Allows for deferral of tax on any capital gains reinvested in a “qualified opportunity fund”
 - Qualified opportunity funds must have at least 90% of their assets invested in businesses located in any area designated as a “qualified opportunity zone”
 - Areas designated as “qualified opportunity zones” were nominated by the governors of each U.S. state and territory

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