



Tax Forum | 2020

IRS Nationwide

Tax Cuts and Jobs Act (TCJA)

update:

Opportunity Zones

Objectives

At the end of this presentation, you will be able to:

- Provide an overview of Opportunity Zones
- Discuss the tax benefits for investors
- Explain the investor reporting of elections
- Explain the investor annual reporting
- Discuss disaster relief information

Acronyms

- QOF – Qualified Opportunity Fund
- QOZ – Qualified Opportunity Zone
- QOZB – Qualified Opportunity Zone Business
- QOZBP – Qualified Opportunity Zone Business Property
- QOZ Property – Qualified Opportunity Zone Property
- TCJA – Tax Cuts and Jobs Act

Opportunity Zones Overview

- **Opportunity Zones - part of TCJA**
- **IRC 1400Z-1 – Designation**
 - **Qualified Opportunity Zones**
- **IRC 1400Z-2 – Special Rules for capital gains**
 - **Tax incentives for investors**

Opportunity Zones Overview

- **Opportunity Zones**
 - economic development tool to encourage long-term investment and job creation in designated distressed communities
 - investment encouraged by providing tax benefits to Investors that invest eligible gains into **Qualified Opportunity Funds**
- **Qualified Opportunity Funds**
 - invest in tangible business property that qualifies as QOZBP and/or qualified opportunity zone businesses located in Qualified Opportunity Zones

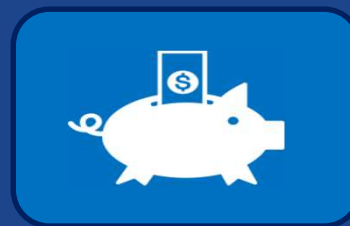
Basic section 1400Z-2 structure

Taxpayers can defer and potentially reduce taxation on eligible gains



by making timely investments in

Qualified Opportunity Funds



which invest in

QOZ Property



Qualified Opportunity Zones

- **Population census tracts designated as Opportunity Zones based on:**
 - nominations from the governor or chief executive of each state, district, or territory, and
 - approved by the Secretary of Treasury.
- **IRC §1400Z-1(b)(3)**
 - all low income census tracts in Puerto Rico are deemed designated as Qualified Opportunity Zones.

Qualified Opportunity Zones

- **IRS Notices 2018-48 and 2019-42**
 - 8,764 designated Qualified Opportunity Zones
 - Qualified Opportunity Zones have been designated in all 50 states, including Alaska, Hawaii, District of Columbia and 5 US Territories.

Qualified Opportunity Fund

- Qualification
 - To qualify as a QOF, an entity:
 - files as a partnership or a corporation for Federal tax purposes
 - is organized for investing in Qualified Opportunity Zone (QOZ) property,
 - holds at least 90 percent of its assets in QOZ property, and
 - cannot be a QOF investing in another QOF

Qualified Opportunity Fund

- Certification
 - For a qualified entity to be a QOF:
 - An eligible corporation or partnership self-certifies that the entity is a QOF by filing Form 8996 with its federal tax return.
 - The self-certification must be done annually.
 - The return that the Form 8996 is attached to must be filed timely, taking extensions into account.

Opportunity Zone Investors

Please Note:

- This presentation is focused on the Federal Tax implications and reporting with respect to investments in a QOF.
- Investors should consider investments in QOFs as they would any other investment.
- Investors need to maintain records to support their investment similar to other investments they may have.

Opportunity Zone Investors

- Benefits
- Form 8949
- Form 8997

Eligible Gains Defined

- An amount of gain is eligible gain if it:
 - Is treated as a capital gain for Federal income tax purposes, or is qualified 1231 gain,
 - Would be recognized for Federal income tax purposes and subject to tax under subtitle A of the Code before January 1, 2027, if it was not deferred, and
 - Is not from a transaction with a related party

Investors - Benefits

- Deferral of an Eligible Gain
 - In general, investors may elect to temporarily defer tax on an eligible gain if that gain is invested in a Qualified Opportunity Fund (QOF) within 180 days of realizing the gain.
 - The temporary deferral ends when an inclusion event occurs.
 - In general, an inclusion event will be the earlier of the date on which the investment in a QOF is disposed or December 31, 2026.

Investors - Benefits

- QOF Investment Held $> 5/7$ Years
 - Investment held at least 5 years
 - the basis of such investment is increased by 10% of the amount of the deferred gain.
 - Investment held for more than 7 years
 - the basis of such investment is increased by an additional 5% of the amount of the deferred gain.

Investors - Benefits

- End of Deferral – Reportable Gain is computed as follows:

Lessor of Deferred Gain or FMV of QOF Investment

Less: Basis in QOF Investment

Equals: **Reportable Deferred Gain**

Investors - Benefits

- Special Rule for Investments Held for at least 10 years:
 - If an investor holds a QOF investment for at least ten years, the investor may make an election to increase the basis of their QOF investment to the fair market value of such investment on the date that the investment is sold or exchanged.
 - If the QOF is a partnership, the basis of the QOF's assets are also increased to their fair market value on the date the investment is sold or exchanged

Investors - Benefits

- Eligible gain amounts an investor timely reinvests in a Qualified Opportunity Fund may result in:
 - Deferral of the investor's tax on the eligible gains invested until as late as December 31, 2026.
 - Basis step-ups based on the length of time the investment is held that reduce the amount of deferred gain included in gross income.
 - If held at least 10 years, the ability to elect a basis step-up equal to FMV of the QOF investment on the date it is sold or exchanged.

Investors – Form 8949

- Reporting election to temporarily defer eligible gains invested in QOFs

Form 8949, Part II, box F checked

<input checked="" type="checkbox"/> (F) Long-term transactions not reported to you on Form 1099-B								
1	(a) Description of property (Example: 100 st. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (a) in the separate instructions	(f) Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(1) Code(s) from instructions	(g) Amount of adjustment	
	XX-1111111	10/1/2018				Z	(1,500,000)	(1,500,000)
	XX-2222222	02/28/2019				Z	(500,000)	(500,000)

Investors – Form 8949

- End of elected deferral due to inclusion event, where QOF equity is reduced, in whole, or in part, in proportion to the disposition.

Form 8949, Part II, box F checked

<input checked="" type="checkbox"/> (F) Long-term transactions not reported to you on Form 1099-B								
1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (e) in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	Finch QOF Partnership - 20% Int sold	10/1/2018	11/2/2019	600,000	500,000			100,000
	XX-1111111	10/1/2018	11/2/2019			Y	500,000	500,000

Investors – Form 8949

- Reporting elected deferrals ending 12/31/2026

Tax year 2026, Form 8949, Part II, box F

<input checked="" type="checkbox"/> (F) Long-term transactions not reported to you on Form 1099-B								
1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see <i>Column (e)</i> in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	XX-1111111	10/1/18	12/31/26			Y	425,000	425,000
	XX-2222222	2/28/19	12/31/26			Y	325,000	325,000
	12-XXXXXXX	10/5/19	12/31/26			Y	63,750	63,750

Investors – Form 8997

- Annual reporting of QOF investment

Form 8997, Part I

Part I Total QOF investment holdings at beginning of tax year If different from last year's ending QOF investment holdings, attach explanation.				
(a) Qualified Opportunity Fund (QOF) EIN	(b) Date QOF investment acquired (MM/DD/YYYY)	(c) Description of QOF investment (For example, 100 shares or 25% interest)	Deferred gain held in QOF	
			(d) Amount of short-term deferred gain remaining in QOF	(e) Amount of long-term deferred gain remaining in QOF
XX-1111111	10/1/2018	Finch QOF Partnership - 60% Equity interest		1,500.000
XX-2222222	2/28/2019	Swan QOF Corporation - 100 Shares		500.000
Enter the totals, if any, from continuation sheet ▶				
Enter the totals from columns (d) and (e) ▶			0	2,000.000

Investors – Form 8997

- Annual reporting of QOF investment

Form 8997, Part II

Part II Current tax year capital gains deferred by investing in QOF				
(a) Qualified Opportunity Fund (QOF) EIN	(b) Date QOF investment acquired (MM/DD/YYYY)	(c) Description of interest acquired (For example, 100 shares or 25% interest)	Deferred gain invested in QOF	
			(d) Amount of short-term deferred gain remaining in QOF	(e) Amount of long-term deferred gain remaining in QOF
XX-3333333	8/1/2019	Pelican QOF Partnership - 25% Equity Interest	200,000	
00-XXXXXXX	10/5/2019	ELM Corporation - 75 Shares		75,000
Enter the totals, if any, from continuation sheet ▶				
Enter the totals from columns (d) and (e). See instructions for reporting on Form 8949 . . ▶			200,000	75,000

Investors – Form 8997

- Annual reporting of QOF investment

Form 8997, Part III

Part III QOF investments disposed of during current tax year				
(a) Qualified Opportunity Fund (QOF) EIN	(b) Date QOF sold or disposed (MM/DD/YYYY) I	(c) Description of interest disposed (For example, 100 shares or 25% interest)	Deferred gain included due to disposition of QOF interest	
			(d) Amount of previously deferred short-term gain now included in taxable income	(e) Amount of previously deferred long-term gain now included in taxable income
XX-1111111	11//1/2019	Finch QOF Partnership - 20% Partnership Interest		500,000
Enter the totals, if any, from continuation sheet ▶				
Enter the totals from columns (d) and (e). See instructions for reporting on Form 8949 . . . ▶			0	500,000

Check this box if you disposed of any investment(s) and didn't receive a Form 1099-B reporting the disposition from the qualified opportunity fund or other third party. See the Instructions for Form 8949 for reporting requirements of any gain or loss.

Investors – Form 8997

- Annual reporting of QOF investment

Form 8997, Part IV

Part IV Total QOF investment holdings at year end due to deferrals (see instructions)				
(a) Qualified Opportunity Fund (QOF) EIN	(b) Date QOF investment acquired (MM/DD/YYYY)	(c) Description of interest acquired (For example, 100 shares or 25% interest)	Deferred gain invested in QOF investment	
			(d) Amount of short-term deferred gain invested in QOF	(e) Amount of long-term deferred gain invested in QOF
XX-1111111	10/1/2018	Finch QOF Partnership - 40% Equity interest		1,000,000
XX-2222222	2/28/2019	Swan QOF Corporation - 100 Shares		500,000
XX-3333333	8/1/2019	Pelican QOF Partnership - 25% Equity Interest	200,000	
00-XXXXXXX	10/5/2019	ELM Corporation - 75 Shares		75,000
Enter the totals, if any, from continuation sheet				
Enter the totals from columns (d) and (e)			200,000	1,575,000

Disaster Relief

- Relief provided by Notice 2020-39
 - Investors - 180-day investment period ends April 1, 2020 through December 30, 2020
 - QOF 90% investment standard testing
 - QOF 30-month substantial improvement period

Disaster Relief

- Relief to QOZ businesses as provided by final regulations
 - QOZ businesses with a qualifying working capital assets plan.
- Relief to QOFs as provided by final regulations
 - QOF with a plan to reinvest disposition of QOZ property proceeds

Objectives

Today we have:

- Provided an overview of Opportunity Zones
- Discussed the tax benefits for investors
- Explained the investor reporting of elections
- Explained the investor annual reporting
- Discussed disaster relief information

SB/SE Focus Group Opportunities

Topic 1: Reaching Limited English Proficient Small Business Customers

Topic 2: Barriers for Timely and Accurate Tax Return Filing

Topic 3: Improving the Collection Customer Experience and Payment Options

Resources

Opportunity Zones FAQs
Opportunity Zones Resources available
at CDFIFund.Gov
Opportunityzones.gov
Notice 2018-48, list of QOZ
Notice 2019-42, 2 more QOZ

Rev Proc 2018-16-QOZ selection
Proposed Regulation 115420-18
Rev. Rul. 2018-29, Original Use
Proposed Regulation 120186-18
TD 9889 - Final Regulations
Notice 2020-39, COVID Relief

Forms, instructions and publications for the following:

- Form 8949, *Sales and Other Dispositions of Capital Assets*
- Form 8996, *Qualified Opportunity Fund*
- Form 8997, *Initial and Annual Statement of QOF Investments*
- Form 4797, *Sales of Business Property*
- Publication 544, *Sales and Other Disposition of Assets*

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