



Tax



Property



Money

Puerto Rico designated as a federal Opportunity Zone

April 18, 2018

On April 9, 2018, the Governor of Puerto Rico announced that the United States Treasury Department and the Internal Revenue Service have designated Puerto Rico as an Opportunity Zone under the U.S. *Tax Cuts and Job Act of 2017*. This designation seeks to encourage long-term investments in low-income urban and rural communities nationwide in exchange for certain fiscal benefits.

Benefits granted to Opportunity Zones

The Opportunity Zones legislation aims to foster the creation and expansion of businesses in certain communities through short-term and long-term capital gains tax deferral and the potential of significant set-up in basis. The designation as an Opportunity Zone lasts for a period of ten (10) years.

Taxpayers may elect to defer paying tax on capital gains from the sale or exchange of property, if such capital gains are invested in a Qualified Opportunity Fund, which invests at least ninety (90) percent of its assets in qualified opportunity zone property.

Qualified Opportunity Fund

Section 1400Z-2(d)(1) of the Act defines a Qualified Opportunity Fund as “any investment vehicle which is organized as corporation or partnership for the purpose of investing in a qualified opportunity zone property.”

Qualified Opportunity Zone Property

The Act defines Qualified Opportunity Zone Property as any of the following:

- **qualified opportunity zone stock:** stock in a domestic corporation that is a qualified opportunity zone business during “substantially all” of the applicable holding

period, and the stock is acquired after December 31, 2017, at its original issue in exchange for cash;

- **qualified opportunity zone partnership:** any capital or profits interest in a domestic partnership that is a qualified opportunity zone business during “substantially all” of the applicable holding period, and the interest is acquired after December 31, 2017, in exchange for cash; or
- **qualified opportunity zone business property:** tangible property used in the trade or business of a qualified opportunity zone business if the original use of the property commences with the qualified opportunity fund or the fund “substantially improves” the property, and the property acquired by purchase after December 31, 2017.

Qualified Zone Business

Basically, any trade or business in which substantially all of the tangible property owned or leased by the taxpayer is qualified opportunity zone business property.

Deferral Period

The deferral period ends the earlier of when taxpayer sells its investment in the Qualified Opportunity Fund, or December 31, 2026, at which time the taxpayer must include the amount of the gain in its gross income. The amount of the gain will be determined by subtracting the amount of excluded gain or the fair market value (whichever is less) from the taxpayer's basis in the investment.

The taxpayer's basis in the investment is initially deemed to zero, but increases as the holding period of the investment reaches certain milestone periods:

- for investments held for five years, the taxpayer's basis is increased by ten percent (10%) of the amount of deferred gain.
- for investments held for seven years, the taxpayer's basis is increased an additional five percent (5%) of the amount of deferred gain.

- for any taxpayer that holds its investment beyond the maximum deferral date (i.e., December 31, 2026) and for a minimum of 10 years, the taxpayer's basis in its investment shall be equal to the fair market value of the investment on the date it is sold or exchanged, resulting in no additional recognized gain.

What does this mean for Puerto Rico?

The new Qualified Opportunity Zone will serve to spur investment in distressed communities by providing a powerful tool for real estate investors, developers, and professionals to utilize the vast captive capital gain in the real estate and equity markets and put investments to focused use in economic development activities.

Between the influx of Federal Disaster Assistance funds and its designation as an Opportunity Zone, Puerto Rico finds itself in an attractive position to rebuild its foundations and infrastructure, rethink the socioeconomic ideologies that brought us to the current debacle and recreate its image for the entire world to see.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.



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