



Tax



Individual



Investment

Opportunity Zones update

April 13, 2021

As the new Opportunity Zone Fund industry keeps evolving, it is important to check in and update you on what you should be in the know, and what you should be looking forward in the next couple of months.

In the know

- On February 11, 2021, H. R. 970 was introduced in the United States Congress to extend the election and statutory inclusion date for deferred capital gains from December 31, 2026 to December 31, 2028. At the moment, no conforming legislative bill has been introduced in the Puerto Rico legislature to amend Section 1031.06 of the Puerto Rico Internal Revenue Code. The federal legislative process should be monitored to see if local public policy makers will follow the federal extension of incentives,
- If this Bill becomes a law:
 - statutory inclusion date will be postponed from December 31, 2026 to December 31, 2028, so investors will be taxed on the deferred income tax on the eligible gain on taxable year 2028.
 - investors will have until December 31, 2023 to invest eligible capital gains into Qualified Opportunity Funds and have a 10% or 15% step up in their capital gain. Currently, the 10% step up is available for gains invested up to December 31, 2021 which is the date in which the holding period until the statutory inclusion date will satisfy the 5-year holding period. As introduced, the H.R. allows gains invested up to December 31, 2021 to enjoy a 15% step up.
- As President's Biden tax plan continues to be a topic of conversation with its potential increase in capital gains tax at the United States federal level, Opportunity Zone Funds might be an alternative strategy for certain taxpayers. Investors should be aware that timely modifications of current investment strategies and proper planning for future ones might be needed in case of a modification of federal capital gains rate tax provisions.

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preparation of this article.

- The designation of census tracts as Qualified Opportunity Zones was done using the last United States census data when the legislation was approved (2010). Said designation remains in effect for 10 years after the designation and ending on December 31 of said year (i.e., December 31, 2028). With the publication of data for the 2020 Census, there is uncertainty as to whether, and to what extent, this new data will result in adjustments in census tract boundaries in connection to Opportunity Zones incentives.

Looking forward

- Qualified Opportunity Funds and Qualified Opportunity Zone Businesses have statutory tests that should be complied with to maintain their respective designations and protect capital gain deferral for investors. Even though IRS Covid-19 relief related to Opportunity Zones continue to be in effect until June 2021, Qualified Opportunity Funds and Businesses should continue maintaining records with respect to data related to the tests (i.e. 90% investment standard; 70% tangible asset test, etc.).

Click [here](#) for our Alert on IRS relief measures.

We are committed to keeping you up to date with relevant developments in connection to Opportunity Zones. Please contact our Tax Department should you require additional information regarding this or any other tax issue. We will be glad to assist you.



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