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CLIENT ALERT

QUALIFIED OPPORTUNITY ZONES CREATE TAX INCENTIVES FOR INVESTMENTS

The Tax Reform law that was enacted last year created a tax incentive for investments in Qualified Opportunity Zones ("QOZs"). These tax benefits can be used for virtually any type of investment and can be "twinned" with other tax incentives such as the Low-Income Housing Tax Credit ("LIHTC"), the New Markets Tax Credit ("NMTC") and the Historic Tax Credit ("HTC").

This Client Alert provides a quick overview of Qualified Opportunity Zones ("QOZs").[i] We have also prepared a detailed analysis located **HERE** which outlines how QOZs work. In addition, we have prepared an article located **HERE** that describes how QOZs can be twinned with other credits.

QOZs are a new tax incentive for people and businesses that sell an asset and have a taxable gain that could be invested into certain low-income areas. The purpose of the QOZ program is to incentivize investment and increase the economic growth in such low-income areas. There are very few restrictions on the type of investment and qualifying investments that can qualify for deferral of existing gains and permanent avoidance of some gains.

Qualified Opportunity Zones were created as part of the Tax Reform law that was enacted on December 22, 2017, Public Law No: 115-97. The Qualified Opportunity Zone provisions are contained in Internal Revenue Code Sections 1400Z-1 (Designation of Qualified Opportunity Zones) and 1400Z-2 (Special Rule for Capital Gains Invested in Opportunity Zones).

It is expected that guidance will be issued by the U.S. Department of Treasury ("Treasury") or by the Internal Revenue Service ("IRS"). There are many open issues for which guidance is needed. The conclusions in this memo are our initial conclusions and are subject to change as guidance is released.

Quick Summary of Qualified Opportunity Zones

Basic Overview - Taxpayers who have a gain from a sale or exchange of property ("Existing Gain") can qualify for 3 types of tax benefits if they invest the amount of gain in a fund that makes an investment in a QOZ (a "QOZ Fund"):

a) Deferral of Tax on the Existing Gain – Existing Gain from the sale or exchange of property that is invested in a QOZ Fund within 180 days of such sale or exchange will have the tax due as a result of the Existing Gain deferred until the earlier of (i) December 31, 2026 or (ii) when the investment in the QOZ Fund is sold or exchanged.

b) Permanent Reduction in Tax on the Existing Gain – A reduction of the deferred Existing Gain by 10% or 15% is available for investments in a QOZ Fund held for 5 or 7 years, respectively.

c) Permanent Avoidance on New Gain – Tax on profit generated from selling the investment in the QOZ Fund (new gain, as opposed to Existing Gain) is avoided entirely if the investment is held for 10 years.

No Competition and No Limits - In contrast to Low-Income Housing Tax Credits or New Markets Tax Credits there is no cap on the amount of benefits and no competition--any investment in almost any kind of business that is located in a Qualified Opportunity Zone can qualify for the tax benefits if the appropriate rules are followed. In this regard, Qualified Opportunity Zones are similar to Historic Tax Credits in that a HTC building is eligible for the credits automatically if the various HTC and National Park Service rules are followed.

No Restriction Against Housing – Unlike the NMTC, there is no prohibition on investments in residential rental housing. Thus, twinning QOZ and LIHTC is possible.

For more information, please contact Glenn Graff, Ben Swartzendruber or any of your contacts at Applegate & Thorne-Thomsen.

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[i] Any Federal tax advice or analysis contained in this document is not intended to be an opinion. Please contact us for specific guidance related to your issues.