income housing in economically distressed communities.

Jan. 16, 2019

For many years, Congress has given tax credits for the investment in Qualified Opportunity Zones. With the passage of the Tax Cuts and Jobs Act of 2017 (TCJA), codified in the new IRC Section 1400Z, includes new incentives for the investment in qualified opportunity zones. Whereas before, the investment in qualified opportunity zones provided tax credits, IRC Section 1400Z allows for a temporary deferral of capital gains reinvested in a qualified opportunity fund.

These investments in qualified opportunity funds are intended to encourage investments to start a small business, develop abandoned properties, or provide low-income housing in economically distressed communities.

The deferral of capital gains occurs when a taxpayer invests their capital gains in qualified opportunity funds. A qualified opportunity fund can be organized in many ways. The most popular is to form these companies into corporations or limited liability companies (LLC). The purposes of investing in these funds, is to hold 90% of the entity's assets in qualified opportunity property.

To avoid the capital gain on the sale of an asset, an investor needs to reinvest the capital gain into a Qualified Investment Fund within 180 days of the date of disposition. The investor would then receive stock from a corporation, or an interest in the fund. These entities must then invest in Qualified Opportunity Zone Property. One thing that is different from differing gains into this fund is that if the investor holds the interest in the fund for at least five years, the investor receives a basis increase of the invested funds. This increase is 10% of the deferred gain. If the investor hold their interest in the fund for seven years, they receive an additional increase in basis of 5%.

However, as the current law is written, if the investment is held until December 31,

for ten years, he sells the interest in the Qualified Opportunity Fund for $500,000. Bob’s increase in basis is $30,000, giving him a total basis of $230,000, thus decreasing the amount of capital gains he has to pay on the gain.

Qualified Opportunity Zone Property includes, Qualified Opportunity Zone Stock, Qualified Opportunity Zone partnership interests, and Qualified Opportunity Zone Property.

To qualify to be an Qualified Opportunity Zone Corporation, the stock in a domestic corporation acquired after December 31, 2017, and it’s original issue of stock must be solely in exchange for cash. When the stock is issued in the corporation, it must be a Qualified Opportunity Zone Business for all of the Qualified Opportunity Fund’s holding period of the stock.

To qualify as a Qualified Opportunity Zone Partnership, the interest in the partnership must be domestic, and acquired by the Qualified Opportunity Fund after December 31, 2017, solely in exchange for cash. As is the same for corporations, when the partnership interest is issued, the partnership must be a Qualified Opportunity Zone Business, and remain one for all of the Qualified Opportunity Fund’s holding of the interest.

Qualified Opportunity Zone Business Property is tangible property used in trade or business of a Qualified Opportunity Fund if the property:

- Was acquired by purchase after December 31, 2017
- The original use of the property commences with the Qualified Opportunity Fund OR the Qualified Opportunity Fund substantially improves it
- All of the use of the property was in a Qualified Opportunity Zone during all of the Qualified Opportunity Fund’s holding period for the property.

As per Rev. Proc. 2018-16, the governor of each state and Chief Executive Officer of

those selling appreciable assets.