BACKGROUND

In 2017, a congressional act of tax legislation has triggered a unique investment opportunity within the alternative markets. This emerging alternative asset opportunity has the potential to attract tens of billions of dollars from approximately $2.3 trillion in unrealized capital gains currently embedded in investment portfolios.

The Investing in the Opportunity Act, created under the Tax Cuts and Jobs Act of 2017 (TCJA), can very well be considered the most impactful federal tax incentive program for equity capital investments in low-income communities ever enacted. This incentive is designed to tap the country's vast unrealized corporate and individual capital gain positions and redeploy their newly minted profits into promising real estate and other business ventures within predetermined "zones" of urban, suburban, and rural communities within all fifty states, U.S. territories and the District of Columbia. If the policy is successful, it will help seed the next generation of enterprise and opportunity in the country's left-behind locales.

Under the Act, investors can receive either stock or an interest in the Qualified Opportunity Fund (QOF), and the QOF in turn must invest the capital amount(s) in the Qualified Opportunity Zone Property. If investors hold the interest in the QOF for at least five (5) years, they will be able to defer their capital gains tax reporting by five (5) years and will receive a step up in cost basis equal to ten (10) percent of the deferred capital gains amount invested in the QOF. If investors choose to hold their interest in the QOF for an additional two (2) years (or seven years total), they will receive an incremental step-up to their cost basis that equals an additional five (5) percent of the deferred gain invested in the QOF.

The maximum time investors can defer their capital gains reporting is by Dec. 31, 2026. It is important to recognize that the last extended deferral date of Dec. 31, 2026 is the final date in which all deferred investments must be reported, regardless of any increase in basis that investors may have received for holding the property for five (5) years or longer. Therefore, the earlier investors take advantage of the IOA, the higher the tax deferral reporting benefit.

Nevertheless, the most compelling aspect of the IOA and the largest potential wealth creation opportunity for investors is not the basis step up and tax deferral extension to Dec 31, 2026, but is in the generous tax treatment to investors who continue holding their QOF investment beyond Dec. 31, 2026. Investors, who hold their QOF investment for a minimum of 10 years, will receive the full basis step up, equal to the fair market value of the QOF investment. In other words, all appreciation from the QOF investment held for at least ten years will be capital gains tax-free, until the maximum holding date year of 2045. If circumstances occur where investors hold the QOF investment for less that the ten (10) year period, the following guidelines apply; a QOF investment held until the year 2021 will receive an additional ten (10) percent increase in QOF investment's cost basis, where a QOF investment held until the year 2019 will only receive a five (5) percent increase in the QOF investment's basis.

Agora AltX

DEFINITIONS

Opportunity Zone: A census tract, which has been designated by the Governor of that state as eligible to receive private investments through Opportunity Funds.

Opportunity Fund: Private investment vehicle, certified by the Treasury, to aggregate and deploy capital in Opportunity Zones for eligible uses defined as Opportunity Zone Property.

Opportunity Zone Property: Asset types eligible for investment under the Opportunity Zones Program.