

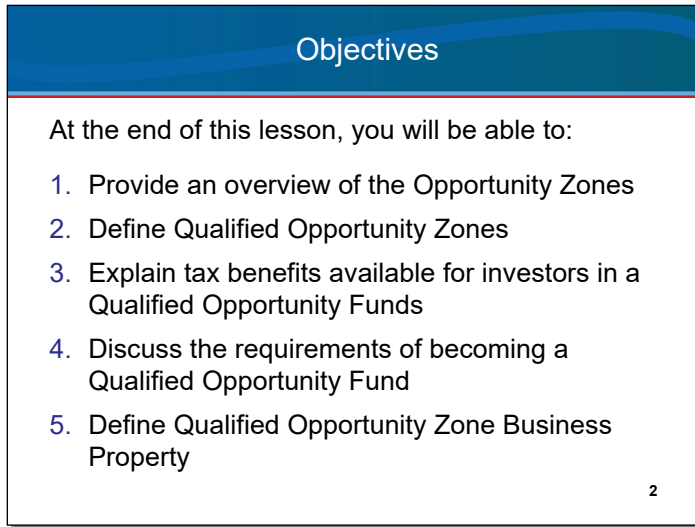
Tax Cuts and Jobs Act (TCJA)

Opportunity Zones and Qualified Opportunity Funds

Slide 1 – Opportunity Zones and Qualified Opportunity Funds



Slide 2 – Objectives



Slide 3 – Overview

Overview

- ❖ **Tax Cuts and Jobs Act of 2017(P.L. 115-97)**
 - Section 13823
 - Effective December 22, 2017
- ❖ **IRC § 1400Z-1**
 - Designation of opportunity zones
- ❖ **IRC §1400Z-2**
 - Tax incentives

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Slide 4 – Overview

Overview

- ❖ **Opportunity Zones**
 - economic development tool to encourage long-term investment and job creation in low income communities
 - investment encouraged by providing tax benefits to Investors that invest capital gains into **Qualified Opportunity Funds**
- ❖ **Qualified Opportunity Funds**
 - invest in tangible business property and/or qualified businesses located in Opportunity Zones.

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Slide 5 – Qualified Opportunity Zones

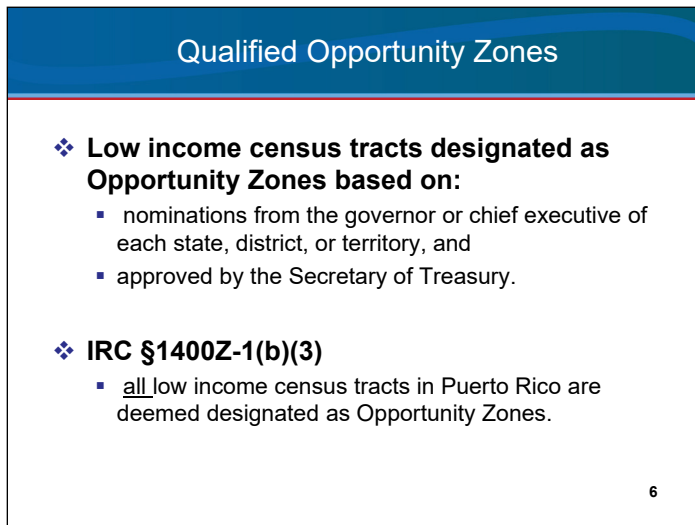


Qualified Opportunity Zones

- ❖ Nominations
- ❖ Designation

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Slide 6 – Qualified Opportunity Zones



Qualified Opportunity Zones

- ❖ **Low income census tracts designated as Opportunity Zones based on:**
 - nominations from the governor or chief executive of each state, district, or territory, and
 - approved by the Secretary of Treasury.
- ❖ **IRC §1400Z-1(b)(3)**
 - all low income census tracts in Puerto Rico are deemed designated as Opportunity Zones.

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Slide 7 – Qualified Opportunity Zones

Qualified Opportunity Zones

- ❖ **IRS Notice 2018-48**
 - 8,764 designated Opportunity Zones

- ❖ **Opportunity Zone Designation**
 - remains in place and does not change over the period of the designation, even if the boundaries of an individual census tract are redefined in future Census releases.

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Slide 8 – Opportunity Zones

Opportunity Zones

Internal Revenue Service
SB/SE

Slide 9 – Opportunity Zones Investors

Opportunity Zones Investors

- ❖ Benefits
- ❖ Computations
- ❖ New Form 8997

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Slide 10 – Opportunity Zones Investors

Opportunity Zones Investors

❖ Tax Benefit: Deferral of Eligible Gain

- In general, investors may elect to temporarily defer tax on a capital gain if that gain is invested in a **Qualified Opportunity Fund (QOF)** within 180 days of realizing the gain.
- The temporary deferral ends the earlier of the date on which the investment in a **QOF** is sold or exchanged, or December 31, 2026.

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Slide 11 – Form 8949 – Election to Defer Prior Gains

Form 8949 - Election to Defer Prior Gains

- ❖ **Form 8949-** is where investors show their election to **temporarily** defer prior gains invested in Qualified Opportunity Funds
- ❖ **Note:** when this election is made, the basis in the QOF investment becomes zero.

Form 8949, Tax Year 2018

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (g) in the separate instructions	(f) Code(s) from instructions	(g) Amount of adjustment	(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
	XX-1111111	10/1/2018				Z	(1,500,000)	(1,500,000)
	XX-2222222	02/28/2019				Z	(500,000)	(500,000)

Slide 12 – Poll Question

Poll Question

True or False

Capital gain realized from the sale of a personal residence may be elected to be deferred to the extent the amount realized was invested in a QOF.

- ❖ True
- ❖ False

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Slide 13 – Poll Question

Poll Question

An individual taxpayer sold stock and realized a capital gain in 2019. How much time, from the date of sale, does the individual have to invest the gain in a Qualified Opportunity Fund?

- A. 90 days
- B. 180 days
- C. 270 days
- D. 365 days

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Slide 14 – Poll Question

Poll Question

"What is the last year an election to defer eligible capital gains realized can be made?"

- A. 2023
- B. 2026
- C. 2027
- D. 2028

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Slide 15 – Poll Question

Poll Question

True or False

Taxpayers may elect and report the election for short-term and long-term capital gains invested in the same QOF on the same day as one sum on Form 8949?

- ❖ True
- ❖ False

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Slide 16 – Tax Benefit if Held Longer than 5/7 Years

Tax Benefit if Held Longer than 5/7 Years

- ❖ **Investment held at least 5 years**
 - the basis of such investment is increased by 10% of the amount of the deferred gain.
- ❖ **Investment held for more than 7 years**
 - the basis of such investment is increased by an additional 5% of the amount of the deferred gain.

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Slide 17 – Computations

Computations

Computing the amount of gain to report into income at the end of the deferral.

- ❖ The excess of the
 - lesser of the amount of deferred gain or the FMV of the QOF investment
 - over the basis in the QOF investment.
- ❖ Computing the basis in QOF for purposes of reporting the deferred gain.
 - Zero plus holding period basis adjustments and +/- other basis adjustments. .

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Slide 18 – Form 8949: End of Elected Deferral

Form 8949: End of Elected Deferral

- ❖ End of Elected Deferral
 - reported by investors when their investment in the QOF is disposed of, in whole, or in part, in proportion to the disposition on Form 8949.

Form 8949

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (g) in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	ABC QOF 20% PARTNERSHIP INTEREST XX-1111111	10/1/2018	6/1/2020	600,000	500,000		0	100,000
	XX-1111111	10/1/2018	6/1/2020			Y	500,000	500,000

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Slide 19 – Poll Question

Poll Question

True or False

A QOF investment is made in 2019. If the investment is held for at least 5 years, the basis of the investment is increased by 10% of the amount of the deferred gain. If the investment is held more than 7 years, the basis is increased by another 5% of the amount of deferred gain.

- ❖ True
- ❖ False

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Slide 20 – Example 1

Example 1

❖ FMV of the disposed investment is less than the original deferred gain

Form 8949

1	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the Note below and see Column (e) in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter code in column (f). See the separate instructions.		(h) Gain or (loss). Subtract column (e) from column (d) and combine the result with column (g)
						(f) Code(s) from instructions	(g) Amount of adjustment	
	ABC QOF 20% PARTNERSHIP INTEREST XX-1111111	10/1/2018	6/1/2021	400,000	400,000		0	0
	XX-1111111	10/1/2018	6/1/2021			Y	400,000	400,000

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Slide 21 – Example 2

Example 2

❖ Reporting the end of deferral where investment still held on 12/31/2026

Form 8949

1	(a) Description of property <small>(Example: 100 sh. XYZ Co.)</small>	(b) Date acquired <small>(Mo., day, yr.)</small>	(c) Date sold or disposed of <small>(Mo., day, yr.)</small>	(d) Proceeds <small>(sales price)</small> <small>(see instructions)</small>	(e) Cost or other basis. <small>See the Note below and see Column (d) in the separate instructions</small>	Adjustment, if any, to gain or loss. <small>If you enter an amount in column (g), enter a code in column (f). See the separate instructions.</small>		(h) Gain or (loss). <small>Subtract column (e) from column (d) and combine the result with column (g)</small>
	(f) Code(s) from instructions	(g) Amount of adjustment						
	XX-1111111	10/1/2018	12/31/2026			Y	425,000	425,000
	XX-2222222	2/28/2019	12/31/2026			Y	325,000	325,000

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Slide 22 – Tax Benefit if Held Longer than 10 Years

Tax Benefit if Held Longer than 10 Years

❖ If the investor holds a QOF investment for at least ten years and if the investor made a deferral election with respect to its QOF investment, the investor is eligible to elect an increase in the basis of the QOF investment to the fair market value on the date the QOF investment is sold or exchanged.

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Slide 23 – Poll Question

Poll Question

True or False

When the elected deferral of a short-term capital gain ends due to the sale of the QOF investment after it has been held more than 1 year, the deferred short-term capital gain is tax as a long-term capital gain.

- ❖ True
- ❖ False

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Slide 24 – Recordkeeping and Reporting of Investments

Recordkeeping and Reporting of Investments

- ❖ **Form 8997**
 - to be introduced in Tax Year 2019.
 - required to be attached each year the taxpayer owns an interest in a QOF with respect to which the taxpayer elected to defer capital gain.

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Slide 25 – Qualified Opportunity Fund

Qualified Opportunity Fund

- ❖ Qualification
- ❖ Certification

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Slide 26 – Qualified Opportunity Fund (QOF)

Qualified Opportunity Fund (QOF)

- ❖ To qualify as a QOF, an entity:
 - files as a partnership or a corporation for Federal income tax purposes
 - is organized for investing in Qualified Opportunity Zone (QOZ) property, and
 - holds at least 90 percent of its assets in QOZ property
- ❖ To be certified as a QOF, an entity:
 - self-certifies by completing and attaching Form 8996 to the eligible entity's Federal income tax return

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Slide 29 – Poll Question

Poll Question

True or False

Qualified Opportunity Fund only needs to file Form 8996 the first year.

- ❖ True
- ❖ False

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Slide 30 – Poll Question

Poll Question

True or False

A trust may be a Qualified Opportunity Fund

- ❖ True
- ❖ False

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Slide 31 – Poll Question

Poll Question

True or False

A Qualified Opportunity Fund must be a for-profit business.

- ❖ True
- ❖ False

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Slide 32 – Qualified Opportunity Zone Property

Qualified Opportunity Zone Property

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Slide 33 – Qualified Opportunity Zone Property

Qualified Opportunity Zone Property

- ❖ Qualified Opportunity Zone (QOZ) Property can be:
 - Qualified Opportunity Zone Stock
 - Qualified Opportunity Zone Partnership interest
 - Qualified Opportunity Zone business property
- ❖ During substantially all of a QOF's holding period of QOZ Stock and QOZ Partnership Interest, such corporation or partnership must qualify as held in a QOZ Business.

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Slide 34 – Qualified Opportunity Zone Property

Qualified Opportunity Zone Property

- ❖ Qualified Opportunity Zone Stock and Qualified Opportunity Zone Partnership interest must be held in a QOZ business.
- ❖ A Qualified Opportunity Zone business is a trade or business where “substantially all” the tangible property owned or leased by the business is Qualified Opportunity Zone business property.

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Slide 35 – Qualified Opportunity Zone Property

Qualified Opportunity Zone Property

- ❖ Qualified Opportunity Zone (QOZ) Business Property:
 - Tangible property used in a trade or business
 - Acquired by purchase after December 31, 2017
 - “Original use” or will be “substantially improved”
 - Substantially all of the use of such property is in an Opportunity Zone

Note: Property is “substantially improved” if additions made to basis within a 30 month period exceed an amount equal to the basis at the beginning of that 30 month period

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Slide 36 – Poll Question

Poll Question

Which item(s) may count towards the Qualified Opportunity Fund’s 90% asset test?

- A. QOZ Stock
- B. QOZ Partnership
- C. QOZ Property
- D. None of the above
- E. A, B & C above

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Slide 37 – Poll Question

Poll Question

What is NOT true about Qualified Opportunity Zone Business Property?

- A. It must be tangible property used in a trade or business
- B. It must be new
- C. It must be acquired by purchase after December 31, 2017
- D. Substantially all of the use of the property must be in an Opportunity Zone

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Slide 38 – Opportunity Zones Terms

Opportunity Zones Terms

- ❖ **OZ: Opportunity Zone** - an eligible census tract certified and designated as a Qualified Opportunity Zone
- ❖ **QOF: Qualified Opportunity Fund** – an eligible entity that files as a partnership or corporation for federal tax purposes, organized for the purposes of investing in Qualified Opportunity Zone Property and maintains at least 90% of its assets in QOZ Property

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Slide 39– Opportunity Zones Terms

Opportunity Zones Terms

- ❖ **QOZ Property:** Property owned by a QOF that qualifies to be counted towards the 90% asset test
- ❖ **QOZ Stock:** Stock shares owned by a QOF that qualifies to be counted towards the 90% asset test
- ❖ **QOZ Partnership:** Partnership interest owned by a QOF that qualifies to be counted towards the 90% asset test

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Slide 40 – Opportunity Zones Terms

Opportunity Zones Terms

- ❖ **QOZ Business:** A trade or business where “substantially all” tangible property owned/leased is QOZ business property
- ❖ **QOZ Business Property:** Tangible property used in a trade or business if it is acquired by purchased or lease after 12/31/2017, Original use or substantially improved, and substantially all of the use of such property is an OZ.

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Slide 41 – Opportunity Zones Resources

Opportunity Zones Resources

- ❖ Tax Reform page of IRS.GOV for current information, including links to Regulations, Revenue Rulings and other guidance on this new tax law.
- ❖ Tax Reform at the IRS web page <https://www.irs.gov/tax-reform>
- ❖ Opportunity Zones [Frequently Asked Questions](#)
- ❖ Form 8996
- ❖ Form 8949
- ❖ Form 8997

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Exhibit 1 – Opportunity Zone Resources

Common Terms

- **OZ:** Opportunity Zone – an eligible census tract certified and designated as a Qualified Opportunity Zone
 - **QOF:** Qualified Opportunity Fund – an eligible entity that files as a partnership or corporation for federal tax purposes, organized for the purposes of investing in Qualified Opportunity Zone Property and maintains at least 90 percent of its assets in QOZ Property
 - **QOZ Property:** Property owned by a QOF that qualifies to be counted towards the 90 percent asset test
 - **QOZ Stock:** Stock shares owned by a QOF that qualifies to be counted towards the 90 percent asset test
 - **QOZ Partnership:** Partnership interest owned by a QOF that qualifies to be counted towards the 90 percent asset test
 - **QOZ Business:** A trade or business where “substantially all” tangible property owned/leased is QOZ business property
 - **QOZ Business Property:** Tangible property used in a trade or business, purchased after 12/31/2017, Original use or substantially improved, and substantially all of the use of such property is in OZ
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Guidance

- [Notice 2018-48](#), Designated Qualified Opportunity Zones under Internal Revenue Code § 1400Z-2
 - [Rev. Rul. 2018-29](#), Section 1400Z-2 – Special Rules for Capital Gains Invested in Opportunity Zones
 - [REG. 115420-18](#), Investing in Qualified Opportunity Funds – NPRM 1
 - [REG. 120186-18](#), Investing in Qualified Opportunity Funds – NPRM 2
 - Tax Reform at the IRS web page <https://www.irs.gov/tax-reform>
 - Opportunity Zones [Frequently Asked Questions](#)
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Continued on next page

Exhibit 1 – Opportunity Zone Resources, Continued

Forms and Instructions

- Instructions for Schedule D (Form 1040), *Capital Gains and Losses*
 - Form 8949, *Sales and other Dispositions of Capital Assets*
 - Form 8996, *Qualified Opportunity Fund* – <https://www.irs.gov/pub/irs-dft/f8996--dft.pdf>
 - Instructions for Form 8996 – <https://www.irs.gov/pub/irs-dft/i8996--dft.pdf>
 - Form 8997, *Initial and Annual Statement of QOF Investments* – <https://www.irs.gov/pub/irs-dft/f8997--dft.pdf>
 - Instruction for Form 8997 – <https://www.irs.gov/pub/irs-dft/i8997--dft.pdf>
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