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IRS Announces First Wave of Opportunity Zone Designations: Ballard Spahr

The IRS inaugurated an exciting new community redevelopment program on April 9 and April 18 when it [designated more than 4,800 Qualified Opportunity Zones \(QOZs\) in 20 states, three possessions, and Puerto Rico](#)(1). (See our e-alerts describing [what tax incentives are available for investments in QOZs](#) and [how opportunity zones are nominated, certified, and designated](#)).

Background

QOZs are economically distressed communities where taxpayers can invest on a preferential tax basis. The tax incentives allow a taxpayer, under certain circumstances, to defer tax on gain from the sale of appreciated property to an unrelated person if the gain is reinvested within 180 days of the sale in a certified investment vehicle known as a Qualified Opportunity Fund (QOF). Tax benefits available to investors under this program also include eliminating the tax on appreciation of QOF investments if the taxpayer holds its interest in the QOF for at least 10 years.

Other states and U.S. possessions had to submit nominations for zones by April 20, 2018. The IRS is expected to respond quickly to those nominations.

How States Allocated QOZs

The opening rounds of opportunity zone designations included some surprises. Unlike similar capital gain relief programs for empowerment zones and enterprise and renewal communities, the QOZ program expressly authorizes states to nominate up to 5 percent of their QOZs from tracts that are contiguous with “low-income communities” (LICs) but do not meet any of the low-income thresholds set forth under the rules for New Markets Tax Credits (generally, census tracts with a poverty rate at least 20 percent above the national average or a median family income not in excess of 80 percent of the applicable statewide or metropolitan area median). California, in particular, appears to have taken advantage of this opportunity by nominating a pair of Los Angeles-area census tracts that have annual median family incomes of \$92,000 and \$108,000, respectively.

Ballard Spahr will continue to monitor guidance from the IRS on Opportunity Zones and provide timely updates. Attorneys in the firm’s Public Finance Department and Tax Group have extensive experience working with clients on tax incentive programs for distressed communities. For further advice about Qualified Opportunity Zone designation and investment, please contact Wendi L. Kotzen, Linda B. Schakel, or Adam S. Wallwork.

1. As of the date of this alert, Treasury has certified and designated QOZs in the following states and possessions: Alabama, Arizona, California, Colorado, Delaware, Georgia, Idaho, Kentucky, Michigan, Mississippi, Missouri, Nebraska, New Jersey, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Vermont, Wisconsin, Puerto Rico, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands.

by the Public Finance Department

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