Bond Case Briefs

Municipal Finance Law Since 1971

Connecticut Receives Federal Approval for All Qualified Opportunity Zone Nominations.

On May 18, Connecticut Governor Dannel Malloy announced that the U.S. Department of the Treasury approved all 72 "Qualified Opportunity Zones" that had been nominated by his administration, 29 of which are located in Hartford, New Haven, Stamford and Bridgeport.

Qualified Opportunity Zones are a creation of the Tax Cuts and Jobs Act (the Act), enacted on December 22, 2017, and serve as part of a new tax incentive mechanism to spur long-term investment in economically distressed communities throughout the United States. Pursuant to the Act, U.S. states and certain territories can nominate communities to be designated as Qualified Opportunity Zones, with such nominations subject to approval by the Secretary of the Treasury.

A taxpayer who invests in a designated Qualified Opportunity Zone through a Qualified Opportunity Fund (an Opportunity Fund) is eligible for preferential tax treatment. For these purposes, an Opportunity Fund is an investment vehicle that (i) is organized as a corporation or partnership formed for the purpose of investing in Qualified Opportunity Zone property and (ii) holds at least 90 percent of its assets in Qualified Opportunity Zone property. Notably, there are some significant tax benefits that Opportunity Fund investors may be eligible to receive:

1. Tax Deferral: If an investor sells an asset and reinvests the resulting capital gain in a an entity constituting an Opportunity Fund within 180 days from the date of such sale, the investor can defer tax on the reinvested capital gain (the Deferred Gain) until the earlier of (i) the investor's disposition of its investment in the Opportunity Fund or (ii) December 31, 2026 (the Taxation Date). To defer the associated tax on the Deferred Gain, the investor must so elect when filing its U.S. federal income tax return for the year in which the Deferred Gain arose.
2. Reduction of Tax on Capital Gains: If an investor holds an Opportunity Fund investment for at least five years, such investor's basis in the Opportunity Fund (initially $0) will be increased by 10 percent of the Deferred Gain. This "step-up" in basis will be increased by an additional 5 percent of the Deferred Gain if the Opportunity Fund investment is held for at least seven years. In any event, on the Taxation Date, the taxpayer will be subject to capital gains tax on the lesser of (i) the Deferred Gain over the taxpayer's adjusted basis in the Opportunity Fund or (ii) the fair market value of the taxpayer's investment in the Opportunity Fund over the taxpayer's adjusted basis in the Opportunity Fund. In a best-case scenario (i.e., if the taxpayer holds its Opportunity Fund investment for at least seven years and the taxpayer's investment in the Opportunity Fund has appreciated), the taxpayer will generally be subject to capital gains tax on only 85 percent of its initial Deferred Gain and will have deferred the associated tax on 85 percent of the Deferred Gain for at least seven years.
3. Elimination of Tax on Realized Appreciation: If an investor holds an Opportunity Fund investment for ten or more years, the investor's basis in the Opportunity Fund will be stepped up to the fair market value of its investment on the date the investment is sold or exchanged. As a result, following 85 percent of the Deferred Gain being subject to tax at capital gains rates on the Taxation Date (item 2 above), any future appreciation of the taxpayer's interest in the Opportunity Fund subsequent to the Taxation Date will generally be tax-free to the investor if the investor

holds the Opportunity Fund investment for more than ten years.

Importantly, a taxpayer must self-certify its investment in an Opportunity Fund. No approval or action is required by the Internal Revenue Service; rather, the taxpayer must complete the appropriate form and attach it to the taxpayer's federal income tax return. Such form is not yet available, but is expected to be released by the IRS this summer.

Day Pitney Advisory

June 29, 2018

Day Pitney Author(s) Von E. Sanborn Aaron T. Kriss Jeffrey M. Kole

Copyright © 2026 Bond Case Briefs | bondcasebriefs.com