The Bulletin

Nathaniel Muller Law Offices

O-Zones
A new tax incentive for real estate investors

Real estate professionals have a new tool to help match clients with opportunities that suit their investment goals. A relatively overlooked section of the 2017 federal tax overhaul offers patient investors a deal that could be too good to turn down.

Qualified opportunity zones program means that in return for rolling over the profits from the sale of a capital asset like real estate or company stock into certain economically disadvantaged areas, investors can delay paying capital gains taxes on those profits through 2026.

If an investor retains an opportunity zone investment for at least 5 years, 10% of the initial investment is excluded from being taxed. After 7 years of retaining the investment, that figure increases to 15% exclusion from taxation.

Opportunity zones are similar in some ways to 1031 like-kind exchanges, which permit real estate investors to defer taxes on gains from the sale of a property by reinvesting the proceeds of the sale into another property or properties of at least the same amount, within 6 months. A key difference is that 1031 like kind exchanges do not allow investors to permanently exclude any portion of their profit from taxes, which the opportunity zone program allows for investments held for at least 5 years.

To take advantage of the tax benefits, the investors need to invest capital gains in vehicles known as qualified opportunity funds, which aggregate money from investors and use it to acquire and improve properties in opportunity zones, within 180 days of the sale of an asset. Investors can choose to work with an existing opportunity fund that plans to invest in an area or type of property they want to put money into, or form their own fund. Opportunity funds must invest at least as much in improving a property as they pay for it, and are required to invest 90% of their assets in properties located in opportunity zones.

To qualify as an opportunity zone, an area must have an individual poverty rate of at least twenty percent (20%) and median family income of no more than 80% of the median income for the area where it is located, or border an area that meets those criteria. An area designated as an opportunity zone based on its proximity to a low-income district has somewhat looser criteria: median income that is no more than one hundred 125% of that area's median income. The US Treasury Department certifies the opportunity zones.

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