**Opportunity Zone Fact Sheet**

**Opportunity Zones**

* The Opportunity Zones Program attracts investments to economically distressed communities by modifying the standard tax treatment of capital gains in several ways. These modifications either delay or reduce the capital gains tax liability of investors. But to qualify for these benefits, investors must reinvest one or more capital gains in a Qualified Opportunity Fund (QOF)

**Qualified Opportunity Funds**

* The Tax Cuts and Jobs Act (TCJA) describes a QOF as any investment vehicle organized as a partnership or corporation that holds 90 percent or more of its assets in qualified opportunity zone property, other than another qualified opportunity fund.
  + There are three types of investments that can qualify:
    - (1) Partnership interests in businesses that operate in a qualified Opportunity Zone.
      * To qualify as an eligible Opportunity Zone Business, a business must demonstrate that substantially all its tangible business property is located within a Qualified Opportunity Zone (QOZ).
    - (2) Stock ownership in businesses that conduct the majority (or all) of their operations within a qualified Opportunity Zone.
      * A Qualified Opportunity Zone business must earn at least 50 percent of its gross income from business activities within a QOZ. It must do so for each taxable year. The regulations provide three safe harbors that a business may use to meet this test. These safe harbors are the:
        + Hours-of-services-received test. Based on hours worked by employees and contractors (and their employees) of the OZ business. At least 50 percent of the hours must be performed within the QOZ census tract(s).
        + Amounts-paid-for-services test. Based on compensation paid by the QOZB to employees, contractors (and their employees). At least 50 percent of the compensation must be paid to the employee and/or contractors performing services in the QOZ.
        + Necessary-tangible-property-and-business-functions test. The tangible property located within the QOZB constitutes 50 percent or more of total property within the QOZ census tract(s).

For example, A business headquartered outside an Opportunity Zone could meet the 50% gross income test if its employees and independent contractors spend most of their time inside the Opportunity Zone. While the other requirements stated above must met to qualify as a Qualified Business, founders should consider these safe harbors in determining company headquarters or planned hires.

* + - (3) Property, such as factory equipment or real estate, that is located within a qualified Opportunity Zone.
* To become a Qualified Opportunity Fund, an eligible corporation or partnership self-certifies by filing Form 8996, Qualified Opportunity Fund, with its federal income tax return. For additional information, see Form 8996 and its instructions via the IRS website. The return with Form 8996 must be filed timely, taking extensions into account.
  + An LLC that chooses to be treated either as a partnership or corporation for federal tax purposes may also organize as a Qualified Opportunity Fund.

**Treatment of QOF Investments**

* An investor can receive up to three tax benefits by reinvesting capital gains in a QOF. The first is temporary tax deferral on any capital gains reinvested in a QOF within 180 days of realization. Tax payment is deferred until the investment is sold or exchanged, or until December 31st, 2026, whichever comes first. In addition, the deferred gain can be further reduced as described below.
* The second benefit is a 10 percent step-up in basis for capital gains reinvested in a QOF if the investment is held for five years. The basis is increased an additional 5 percent for any investments held for seven years. This step-up in basis means taxpayers can exclude up to 15 percent of the value of their reinvested capital gains from their taxable income, decreasing the investor’s tax liability when they sell or can no longer defer taxation.
  + Investors must invest their capital gains in a QOF before the end of 2019 to receive the full 15 percent step-up in basis after seven years. This is because the TCJA requires investors to realize deferred gains by the end of 2026.
* Finally, QOF investors can permanently exclude from taxation any capital gains that accrue after their investment in a QOF, if the investment is held for at least 10 years. Opportunity zones increase the basis of any investment held in a QOF for 10 years to 100 percent of its fair market value on the date it is sold or exchanged.





