TaxNewsFlash

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Rev. Proc. 2018-16: Qualified opportunity zone, guidance to states' chief executive officers

The IRS today released an advance version of Rev. Proc. 2018-16 as guidance to the "chief executive officers" of any U.S. state, U.S. possession, and the District of Columbia regarding the procedure for designating population census tracts as qualified opportunity zones for purposes of sections 1400Z–1 and 1400Z–2 as added to the Code by the new tax law (Pub. L. No. 115-97).

Rev. Proc. 2018-16 [PDF 47 KB] clarifies the nomination process under section 1400Z-1 by informing the CEOs of each state about which census tracts in their jurisdictions are eligible to be nominated to be qualified opportunity zones and by providing the requirements and due dates for the nomination, certification, and designation of the zones.

An **IRS transmittal message** notes that the revenue procedure provides a safe harbor for applying the 25% limitation to the number of population census tracts in a state that may be designated as Qualified Opportunity Zones.

New tax law measures

The new U.S. tax law provides for the temporary deferral of inclusion in gross income for capital gains reinvested in a qualified opportunity fund and the permanent exclusion of capital gains from the sale or exchange of an investment held for at least 10 years in a qualified opportunity fund. A qualified opportunity fund is an investment vehicle organized as a corporation or a partnership for the purpose of investing in and holding at least 90% of its assets in qualified opportunity zone property. Qualified opportunity zone property includes any qualified opportunity zone stock, any qualified opportunity zone partnership interests, and any qualified opportunity zone business property.

The designation of a qualified opportunity zone is the same as the low-income community designation for the new markets tax credit. The certification of a qualified opportunity fund will be done by the Community Development Financial Institutions (CDFI) Fund, similar to the process for allocating the new markets tax credit.

- The new law provides that each population census tract in each U.S. possession that is a low-income community is deemed certified and designated as a qualified opportunity zone effective on the date of enactment.

- The new law also clarifies that the chief executive officer of the state (including the District of Columbia) may submit nominations for a limited number of opportunity zones to the Treasury Secretary for certification and designation.

- The new law clarifies that there is no gain deferral available with respect to any sale or exchange made after December 31, 2026, and there is no exclusion available for investments in qualified opportunity zones made after December 31, 2026.

Direct comments, including requests for subscriptions, to Washington National Tax. For more information, contact KPMG's Federal Tax Legislative and Regulatory Services Group at + 1 202.533.4366, 1801 K Street NW, Washington, DC 20006-1301.