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KPMG report: Analysis and observations about final regulations and future of opportunity zone investments

Final regulations under section 1400Z-2 (published in the Federal Register on January 13, 2020) implement the opportunity zone provisions under the U.S. 2017 tax law (Pub. L. No. 115-97)—the law that is often referred to as the “Tax Cuts and Jobs Act” or TCJA.

These regulations finalize rules that were promulgated in two tranches of proposed regulations in October 2018 and May 2019. Read the [final regulations](#) [PDF 831 KB] (136 pages)

Overview

The statutory opportunity zone regime allows the deferral of all or part of a taxpayer’s gain that would otherwise be includible in income if the gain is invested into a qualified opportunity fund (QOF). The gain is deferred until the investment is sold or exchanged or December 31, 2026, whichever is earlier. If the investment is held for at least 10 years, investors may be able to permanently exclude gain from the sale or exchange of an investment in a QOF.

The proposed regulations (2018 and 2019) provided rules addressing basic issues such as the definition of eligible taxpayers and eligible gains, the QOF self-certification process, what qualified as opportunity zone business assets, aspects of the requirements for operation of businesses in qualified opportunity zones (QOZs), and timing of the deployment of funds to acquire and improve property in a QOZ.

The final regulations provide clarity around a host of issues that were of critical importance to both potential investors in the program and businesses interested in leveraging the incentives provided for operating in QOZs.

The final regulations also provide several new rules and expansions of previously provided safe harbors that are by-and-large highly-favorable in terms of investment, development, and operation of projects in QOZs. However, with respect to several different issues about which the government received comments, the final regulations did not provide hoped-for relief, and in some cases, the final

regulations actually restrict planning and structuring that many viewed as possible under the statute and the proposed regulations.

Read a KPMG report (January 2020) that summarizes certain important aspects of the final regulations and that offers KPMG's observations as to how these rules may be applied to capital formation of, organizing, investing in, operating, and exiting QOFs: [Analysis and observations about final regulations and future of opportunity zone investments](#) [PDF 1.5 MB] (48 pages)

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