

How a Real Estate Investor Can Grow a New Development Tax-Free in an Opportunity Zone

Are you contemplating rolling over capital gains from the sale of appreciated property in a traditional “1031” exchange? A new option may permit you to not simply defer gain but also eliminate tax on new gain. If you invest in real estate in a Qualified Opportunity Zone, you may have the ability to grow the new development so that the appreciated gains in the value of the property are tax-free when you reach your exit strategy.

How to know if your venture is eligible?

Do you or your investors have capital gain from the disposition of appreciated property?

- Did you or an investor sell a prior business and wish to invest the proceeds in a new business and/or real estate project?
- Do you or an investor have stock that increased in value that has been or will be sold to generate proceeds to invest in a new business and/or real estate project?
- Do you or an investor have appreciated real estate that has been or will be sold and the funds rolled over into the new venture in the manner of a “1031” exchange?
- Are there other appreciated assets (even baseball cards or Bitcoin) that would typically result in capital gain taxation that will be used to invest in the project?

If so, you or the investor with the gain likely will be eligible to make a “qualifying investment” in a Qualified Opportunity Fund.

Will your venture be located in a Qualified Opportunity Zone?

- There are over 8,000 zones (defined by census tracts) in the United States and its territories.
- Many zones represent emerging markets.
- To qualify, real estate should be located within a zone.
- A business venture need not do business exclusively within a zone but must meet one of the “safe harbors” for its activities to be sufficiently centered in a qualifying zone.

If so located, your venture is likely to be a “Qualified Opportunity Zone Business.”

Does your venture entail investment in real estate improvements, equipment or leased tangible property?

- Will there be new construction on a parcel located within a Qualified Opportunity Zone?

- Will new equipment be purchased or leased?
- Will a vacant building (largely vacant for at least three years) be redeveloped?
- Will a “brownfield” site be developed following environmental remediation?
- If existing property is being re-used for the venture, will there be a “substantial improvement” to increase its value?

In any of the first four cases, the property used by your venture will likely be “Qualified Opportunity Zone Business Property.” In the last case, the “substantial improvement” must double the value of the non-land portion of the property. If the “substantial improvement” is completed within the 30 months of acquisition, then the investment will qualify.

If your venture can meet these thresholds – that is, you or your investors will make a “qualifying investment” in a Qualified Opportunity Fund that, in turn, holds investments in “Qualified Opportunity Zone Business Property” – then very significant tax incentives will result.

First, taxation of **the otherwise-taxable capital gain that is invested will be deferred** until 2026.

Second, if the qualifying investment is held for five years, the **tax on the original gain will be reduced by 10 percent**.

Finally, and most significantly, if the qualifying investment is held for 10 years, **the gain in value of ventures within a Qualified Opportunity Fund will be completely free from capital gain taxation**.

Using a Qualified Opportunity Fund allows your venture to grow and appreciate in value with a considerable tax incentive once you reach your exit strategy.

Any qualifying transaction can be structured as a Qualified Opportunity Fund!

Those who wish to undertake a qualifying transaction can self-certify their fund with the Internal Revenue Service. Although careful accounting is required, there is no application or approval process.

Even small transactions can be structured to obtain the potential tax incentives in a cost-effective manner.

Vandenack Weaver LLC offers:

- Streamlined and automated entity-formation process.
- Tax and transaction structuring to optimize results.
- Transaction documentation reflecting Qualified Opportunity Fund requirements.
- Accounting and tax-preparation support.

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