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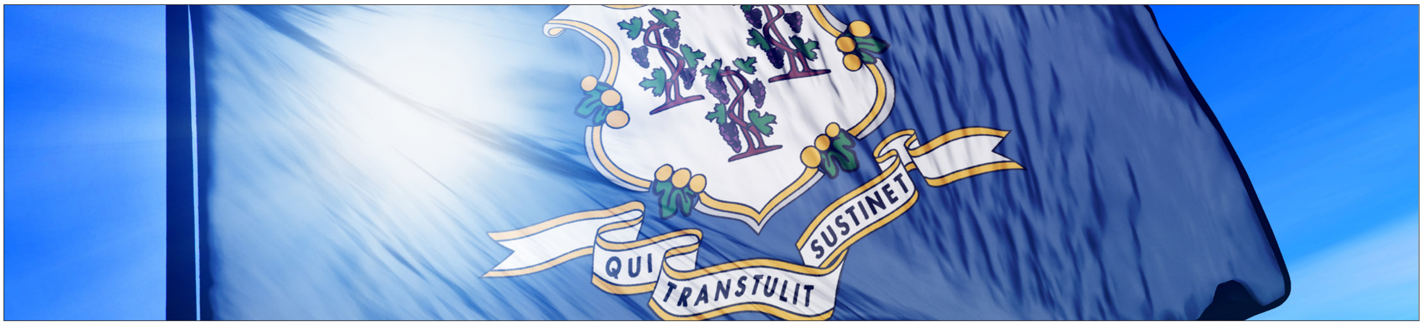

Qualified Opportunity Zones: New Chance to Reward Private Investments

By David J. McQuade | February 21, 2018

With the passage of H.R. 1, the federal "Tax Cuts and Jobs Act," Congress last December approved a new program of tax incentives to spur private investment in designated low-income community census tracts which will be known as Opportunity Zones. This new federal program allows taxpayers to defer and reduce otherwise taxable capital gains if such funds are reinvested in qualified businesses or property located in such zones.

This $7.7 billion program seeks to aid communities that have missed their share of economic growth over the past decade. The legislation authorizes the creation of Qualified Opportunity Funds which must invest 90% of their assets in qualified business or property in Qualified Opportunity Zones. Each state's governor may designate up to 25% of its census tracts that are part of or contiguous to "low-income communities" as eligible opportunity zones. Governors must submit their lists of designated census tracts to the U.S. Treasury Department by March 21st (with a possible 30-day extension). Treasury will decide and finalize nominated designations by April 30th (or 30 days thereafter). Hartford Mayor Luke Bronin already has asked Governor Dannel Malloy to declare 37 of 40 census tracts in Hartford as opportunity zones. And last week, New Britain Mayor Erin Stewart discussed this new federal program with President Trump.

The benefits for taxpayers to reinvest in Qualified Opportunity Funds flow from the deferral, reduction and potential exclusion of taxes owed on capital gains. This new program allows investors to invest the proceeds from the sale or exchange of an asset to an unrelated party into a Qualified Opportunity Fund. Under the provisions of the program, the taxpayer does not have to pay capital gains tax until the date the taxpayer sells his or her interest in the Quality Opportunity Fund or December 31, 2026, whichever comes first. If the taxpayer holds its interest in the fund for 5 years, 10% of the deferred capital gain is eliminated. If the taxpayer holds interests for 7 years, there is an additional 5% deferred capital gain elimination. Further, taxpayers who hold their interests in such funds for 10 years will not have to pay any tax on the appreciation in value of the investment of the fund following the date of the initial investment. The original capital gain tax used as the initial investment, minus any reductions, however, will be subject to capital gains tax once the interest in the fund is terminated.

Since more than $2 trillion in unrealized capital gains are sitting on the sidelines, the opportunity for private investors to support the rejuvenation of communities with pockets of poverty by investing in Qualified Opportunity Funds is significant while at the same time minimizing their individual tax burdens through the preferential tax treatment of capital gains.

The Connecticut Department of Economic and Community Development is expected to send municipalities applications in the next two weeks seeking nominations for eligible census tracts by rank order. Governor Dannel Malloy will review and make a determination on these nominations prior to forwarding the state's list to the U.S. Treasury Department.

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