Re: 2023 Tax Planning: Qualified Opportunity Zones

Dear Client,

The Tax Cuts and Jobs Act includes changes for businesses and individuals. One of these is the creation of the opportunity zones tax incentive, an economic development tool that allows people to invest in distressed areas. This incentive's purpose is to spur economic development and job creation in distressed communities by providing tax benefits to investors. Low income communities and certain contiguous communities qualify as opportunity zones if a state, the District of Columbia or a U.S. territory nominates them for that designation and the U.S. Treasury certifies that nomination.

A taxpayer may elect to defer the taxation of capital gain realized from the sale or exchange of property to an unrelated party by reinvesting the capital gain in a qualified opportunity zone fund (QOF). The taxpayer must reinvest the proceeds within 180 days of the sale or exchange. The reinvestment may be made by transferring cash or property to the QOF. A taxpayer may choose to defer taxation on only a portion of the capital gain. It is not necessary to reinvest all of the capital gain from the sale or exchange that generated the capital gain.

Qualified Opportunity Fund (QOF)

A qualified opportunity fund (QOF) is a corporation or a partnership that holds at least 90 percent of its assets in qualified opportunity zone property.

- if the investor holds the QOF investment for at least five years, the basis of the QOF investment increases by 10% of the deferred gain;
- if the investor holds the QOF investment for at least seven years, the basis of the QOF investment increases to 15% of the deferred gain;
- if the investor holds the investment in the QOF for at least 10 years, the investor is eligible to elect to adjust the basis of the QOF investment to its fair market value on the date that the QOF investment is sold or exchanged.

Qualified Opportunity Zone (QOZ) Property

QOZ business property is tangible property that a QOF acquired by purchase after 2017 and uses in a trade or business:

- the original use of the property in the QOZ commenced with the QOF or QOZ business or the property was substantially improved by the QOF or QOZ business; and
- for 90% of the holding period the QOF or QOZ business held the property, substantially all (generally at least 70 percent) of the use of the property was in a QOZ.

Several hundred such zones have been designated by the IRS. The taxpayer does not need to live in the zone.

If the taxpayer reinvests any capital gain into a QOF within 180 days after the sale, tax on the gain is not due until December 31, 2026 or, if earlier, the date the taxpayer sells their investment in the fund. Additionally, if the taxpayer does not sell their investment for ten years, any appreciation in the value of the investment is not taxed at all.

Contact Us

Please call our office to learn more about the rules on the qualified opportunity zones to determine the ways you may qualify to defer the recognition of capital gain.

Sincerely,

EWK *Legal, Tax & Accounting Services*

For clients interested in deferring recognition of capital gains by investing in a qualified opportunity zone fund or qualified opportunity zone business. (04/07/2023)