GUIDE

Investing in "Opportunity Zones"

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Double Taxable Benefits for Act 22.

They could get to increase the tax base of their sold assets up to 15 %,

plus do not pay any a taxes on the appreciation of the value of their investment in the Qualified Opportunity Fund.

A set of provisions to stimulate new investment in low-income communities throughout the United States were included in the tax reform bill passed on December 2017. These provisions, known as the "Opportunity Zones Program", grant individual and corporate investors the opportunity to defer taxes from capital gains when they reinvest the earnings in the designated Opportunity Zones or communities. Additional incentives may be accrued for over five, seven to ten years if the investment is maintained; therefore, promoting the kind of patient capital that distressed communities do not have.

Under this provision, Puerto Rico received the designation as an "Opportunity Zones" community.

<u>Opportunity Zones Program</u>

The Opportunity Zones Program offers three tax benefits to investors in low-income communities through the qualified Opportunity Fund:

1. Temporary deferral of inclusion in taxable income for capital gains reinvested in an Opportunity Fund: To be recognized as such, the deferred gain must be received on or before December 31, 2026.

2. A step-up in establishing the basis for capital gains reinvested in an Opportunity Fund: The basis is increased by 10% if the investment in the Opportunity Fund is held by the taxpayer for at least five years; and by an additional 5% if held for at least seven years, thereby excluding the original gain to up to 15% from taxation.

3. Permanent exclusion from taxable income of capital gains accrued after an investment in an Opportunity Fund from the sale or exchange of an investment in an Opportunity Fund if an Act 22

investor holds the investment or if the investment is maintained for at least ten years by a non-Act 22 incentive program.

Treatment of gains

You may elect to defer the tax on some or all of the gains. If during the 180-day period you had invested in one or more of the Qualified Opportunity Funds an amount that was less than your entire gain, you may still elect to defer paying tax on the part of the profit, up to the amount that you invested in that manner.

Election

No election concerning a sale or exchange will be eligible after December 31, 2026. This includes:
Deferral of gain invested in an opportunity zone property
The year of inclusion Profit shall be included as income for the taxable year on which such investment is sold or exchanged, or on December 31, 2026.

Qualified Opportunity Fund

The term "qualified opportunity fund" means:
a) Any investment vehicle organized as a corporation or a partnership that invests on the qualified opportunity zone property (other than another qualified opportunity fund); and holds at least 90 percent of its assets within the qualified opportunity zone property. This is determined by the average of the percentage of the qualified opportunity zone property owned in the fund as measured on the last day of the first 6-month period of the taxable year.

Qualified Opportunity Zone Property

The fund must hold at least 90 percent of its assets on a Qualified Opportunity Zone Property, which includes Qualified Opportunity Zone Stock, Qualified Opportunity Zone, Partnership Interest, or Qualified Opportunity Zone Business Property. Each form of Opportunity Zone Property must meet the following specifications:

Stock: Qualified Opportunity Zone Stock is any stock of a domestic corporation that was obtained by the fund after Dec. 31, 2017, from the corporation, either directly or through an underwriter, and solely in exchange for cash.

The corporation must be located within a Qualified Opportunity Zone Business when purchasing the stock.

If the corporation is a new corporation, then it must be organized to be a Qualified Opportunity Zone Business.

The corporation must qualify as a Qualified Opportunity Zone Business for a substantial duration of the Fund's holding period.

Partnership interest: A Qualified Opportunity Zone Partnership Interest is any capital or profit interest on a domestic partnership that was acquired after Dec. 31, 2017 by the fund in exchange for cash. The partnership must be a Qualified Opportunity Zone Business when purchasing the interest or, in the case of a new partnership, it must be organized as a Qualified Opportunity Zone Business. The partnership must qualify as a Qualified Opportunity Zone Business for a substantial duration of the fund's holding period.

What is a Qualified Opportunity Zone Business?

A Qualified Opportunity Zone Business means a business that substantially owns or leases all of its tangible property in Qualified Opportunity Zone Business Property. The business must also generate at least 50 percent of its total gross income from active business with "a substantial portion of the intangible property of such entity used in the active conduct of any such business"; and it includes "less than 5 percent of the average of the aggregate unadjusted bases of the property of such entity attributable to nonqualified financial property."

The business cannot be a "private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises."

Business property

Qualified Opportunity Zone Business Property is tangible property acquired after Dec. 31, 2017, and used in a Qualified Opportunity Zone trade or business. It also includes either the use of the property in the Qualified Opportunity Zone originated under the fund; or if the fund substantially improves the property as long as, "during substantially all of the Qualified Opportunity Fund's holding period for such property, substantially all of the use of such property was in a Qualified Opportunity Zone."

Property is considered substantially improved if, "during any 30-month period beginning after the date of acquisition of such property, additions to basis with respect to such property in the hands of the qualified opportunity fund exceed an amount equal to the adjusted basis of such property at the beginning of such 30-month period in the hands of the qualified opportunity fund."
For example, if the original use of the property does not begin with the fund and the fund acquired the property for $100,000, then it is required to invest an additional $100,000 into the property for it to qualify as a Qualified Opportunity Zone Business Property. There is no limitation preventing the Fund from borrowing cash to purchase or improve the property.