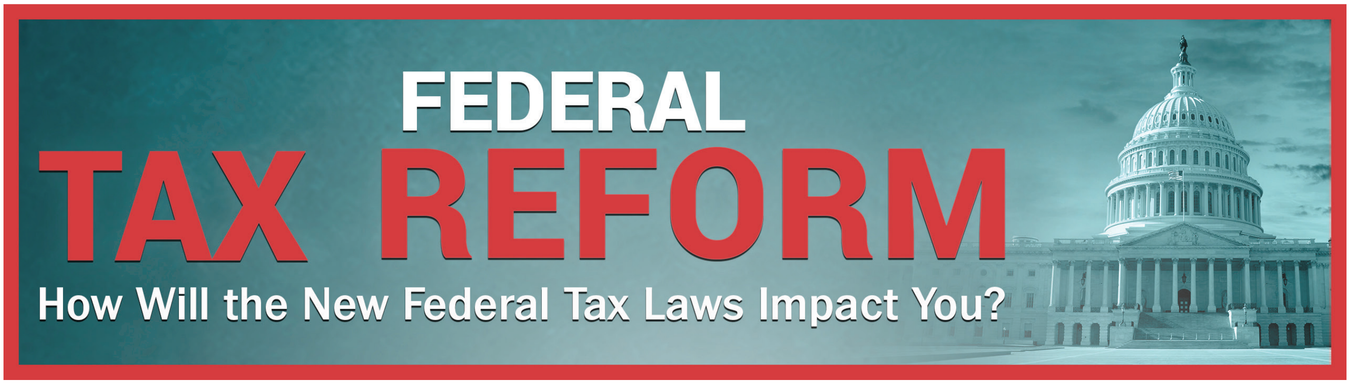
Bowles Rice
ATTORNEYS AT LAW

Important Information from the Bowles Rice Tax Team



Tax Benefits for Investments in Qualified Opportunity Funds

The recently enacted Tax Cuts and Jobs Act (TCJA) introduces two elections, one to defer gain from the sale of property that is reinvested in an investment in a Qualified Opportunity (QO) Fund and another to permanently exclude gain from the sale or exchange of the investment in the QO Fund. These elections can provide substantial tax benefits for taxpayers who can satisfy the detailed and quite complex set of rules.

Designation of a QO Zone. Under the TCJA, a state's chief executive officer (CEO) (generally, a governor or the mayor of the District of Columbia) can designate certain census tracts that are low-income communities as Qualified Opportunity Zones (QO Zones). The state's CEO has 90 days (plus, another 30 days under an extension) after Dec. 22, 2017 to nominate a tract by notifying IRS in writing of the nomination. IRS then has to certify the nomination and designate the tract as a QO Zone within 30 days (plus, another 30 days under an extension) after receiving the notice. Thus, the designation has to occur in 2018 and will remain in effect for ten calendar years.

QO Funds. A QO Fund is an investment vehicle organized as a corporation or a partnership for the purpose of investing in a QO Zone. The QO Fund can't invest in another QO Fund and has to hold at least 90% of its assets in QO Zone property (i.e., any QO Zone stock, any QO Zone partnership interest, and any QO Zone business property). A QO Zone property has to meet many requirements, including that substantially all of the entity's business property is used in a QO Zone. A penalty can apply to the QO Fund if it fails to meet the 90% requirement.

Temporary gain deferral election. If a taxpayer invests gains from the sale or exchange of property with an unrelated person in a QO Fund within the 180-day period beginning on the date of the sale or exchange, the taxpayer can elect to defer the gain from the sale or exchange.

Recognition of deferred gain. The taxpayer defers the gain until the later of the date on which the investment is sold or exchanged, or Dec. 31, 2026. At that time, the taxpayer includes the excess of (1) the gain over the lesser of the amount of deferred gain or the fair market value of the investment as determined on that date over (2) the taxpayer's basis in the investment.

Basis in the investment. A taxpayer's basis in the investment is zero unless any of the following increases apply: (a) 15% of the deferred gain if the investment is held for five years, (b) 10% of the deferred gain if the investment is held for seven years; and (c) any deferred gain recognized at the end of the deferral period.

Permanent gain exclusion election. At the taxpayer's election, a taxpayer can exclude any post-acquisition capital gains on an investment in a QO Fund if the investment in the QO Fund has been held for ten years.

When elections can't be made. A taxpayer can't make either election if there's already an election in effect with respect to the same sale or exchange. Also, a taxpayer can't make a temporary deferral election with respect to any sale or exchange after Dec. 31, 2026.

Questions?

If an investment in a QO Fund sounds like an attractive opportunity that you would like to hear more about, please contact a member of the Bowles Rice Tax Team.

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