



June 2018

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Treasury and IRS Release Final Designations of Qualified Opportunity Zones

By [Michael Haun](#) & [Anna Twardy](#)

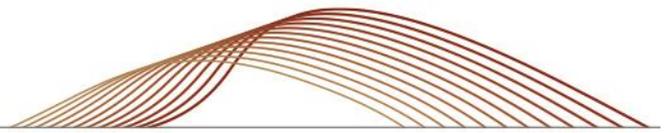
On December 22, 2017, President Trump signed into law the Tax Cuts and Jobs Act (the "Act"). The Act added new Sections 1400Z-1 and 1400Z-2 to the Internal Revenue Code of 1986, as amended (the "Code") providing for a new tax incentive related to "qualified opportunity zones" ("QOZs") that allows for gain deferral or elimination depending on how long an investment in QOZ property is held by a qualified opportunity fund. The Internal Revenue Service ("IRS") released guidance for U.S. states and territories to nominate areas to be designated as QOZs. That process is now complete, and the U.S. Department of the Treasury ("Treasury") and the IRS have released the final designations of QOZs.

Nomination Process for Qualified Opportunity Zones

Pursuant to Rev. Proc. 2018-16, the chief executive officer of each state had until March 21, 2018 to nominate tracts within the state to be a QOZ. However, they could request a 30-day extension of the Secretary's deadline. All 56 U.S. states and territories either submitted nominations for QOZs or requested an extension by the March 21, 2018 deadline. The Secretary had to certify the nominations and designate nominated tracts as a QOZ within 30 days of receiving notice of a nomination; however, the Secretary's deadline could be extended 30 days by a state's chief executive officer. Eligible QOZs were based on 2011-2015 American Community Survey data from the Census Bureau that identified over 41,000 population census tracts that were eligible for designation as a QOZ. All low-income community population census tracts in Puerto Rico were automatically designated as QOZs, effective as of the date of the enactment of the Act, pursuant to the Bipartisan Budget Act of 2018 signed by President Trump on February 9, 2018.

Final Designations of Qualified Opportunity Zones

On June 14, 2018, the Treasury and IRS announced the final round of designations for QOZs. The final list of designations recognizes QOZs in all 50 states, the District of Columbia, American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. A list and a map of the final QOZs can be accessed on the Treasury's Community Development Financial Institutions Fund website here: <https://www.cdfifund.gov/pages/opportunity-zones.aspx>. Potential investors can use these final designations to determine areas in which qualified opportunity funds should invest. However, investors may want to wait for more guidance that is needed to determine how to structure such funds.



Forthcoming Guidance for Qualified Opportunity Zones

More guidance is expected to come from the Treasury and IRS for this new incentive later this year. The IRS released a frequently asked questions page on QOZs that suggests a qualified opportunity fund will be created via self-certification on an investor's tax return, but the IRS has not yet created this new form. This issue, among others, such as what requirements have to be met in order to make an investment in a qualified opportunity fund and how to reinvest proceeds from sales of QOZ property are expected to be included in the upcoming guidance.



If you have any questions concerning these developing issues, please do not hesitate to contact either of the following Paul Hastings lawyers:

Chicago

Anna Twardy
1.312.499.6025
annatwardy@paulhastings.com

Los Angeles

Michael D. Haun
1.213.683.6119
michaelhaun@paulhastings.com

Paul Hastings LLP

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