Is investing in an opportunity fund for you?

Investing in a Qualified Opportunity Fund (QOF) or establishing your own QOF may provide significant benefits for those who have a recently realized capital gain (or will have one soon). These funds make long-term investments in property and businesses in designated lower-income areas called Opportunity Zones. Investors receive tax breaks for investing in the funds.

The chart below will help you decide if a Qualified Opportunity Fund is right for you.

Do you—or will you in the future—have recently realized capital gains?

NO

You do not have the option of receiving related tax benefits if you invest in a Qualified Opportunity Fund (QOF).

However, if you have other money you would like to invest in a QOF because you like its investment strategy and are OK with not getting the tax benefits, check with the fund: Many will accept your investment.

YES

You have the option of investing the capital gains in a Qualified Opportunity Fund (QOF) and benefiting from the related tax provisions.

But don't dawdle: Investments in QOFs generally have to be made within 180 days of realizing the gain.

Deadlines may vary based on the nature of the gain; consult your accountant or tax lawyer.

Are you comfortable having your money invested in a QOF for at least 10 years?

NO

Consider another type of investment, as the Opportunity Zone benefits require investors to have at least a 10-year hold on investments in the Zones to benefit from all the tax breaks.

Investors in QOFs who put in money that was not recently realized capital gains (and doesn't get the tax perks) do have the option of exiting in less than 10 years.

YES

Move to the next question.

Would you prefer to manage your own QOF OR invest in a larger fund managed by a firm?

IF YOU PREFER YOUR OWN FUND

Invest in a single or small number of projects

Consult a tax attorney about establishing a (or dedicating an existing) partnership or corporation to be your QOF.

Factors to consider:

- ✓ LLCs must have more than one member.
- ✓ You will need to manage regular reporting with the IRS, including:
  - The establishment of the QOF
    Form 8996
  - Integral progress
    Forms 8996 and 8997
  - Deferment on the capital gains invested in a QOF
    Form 8949
- ✓ You will need to identify appropriate property(ies) and/or a business or businesses in which to invest in one or more Opportunity Zones.
- ✓ To admit other investors to the fund, you will need to take extra steps, including making sure you are in compliance with federal and state securities laws.

Be prepared to move quickly with your investment, as the IRS evaluates funds every six months to ensure they are not sitting on cash. Funds get fined for doing so. Look into the "working capital safe harbor" and the steps required to take advantage of it.

QOF funds may not be used to buy property to land bank

The land must be used in an active trade or business and, in many cases, must be substantially improved on a fairly fast-paced time schedule.

IF YOU PREFER TO INVEST IN A MULTI-ASSET FUND MANAGED BY A FIRM

Invest in multiple projects through the firm

You will need to identify a fund or funds in which to invest.

Places to look:

- Arizona Opportunity Zones Network
- Novogradac QOF directory
- National Council of State Housing Agencies QOF directory

Report to the IRS

- Inform the IRS you are deferring taxes owed on the capital gains you are investing in your QOF.
  Form 8949

IF YOU'RE NOT SURE WHETHER TO CREATE YOUR OWN FUND OR INVEST IN SOMEONE ELSE'S

✔ Talk with your investment adviser, accountant and/or tax attorney to weigh the pros and cons of each option.

✔ Think about how actively you like to engage with your investments. Regardless of whether you decide to invest in or create a QOF, be sure to file form 8949 with the IRS to let the government know you are deferring the payment of the taxes on the capital gains you invested in a QOF.

Should I be in a hurry? I keep hearing about a December 31, 2021 deadline.

The federal legislation that created QOFs and QOZs was designed to encourage investors to move quickly, with several advantages built in depending on the investment year. Arizona is a conforming state and matches the federal tax benefit. Your accountant should assist you with the tax liabilities and benefits.

INVEST IN 2021

INVEST BETWEEN 2022 AND 2026

Regardless of when investors put recently realized capital gains into QOFs before the end of 2026, so long as they hold those investments for 10 or more years, the investors will not face federal capital gains taxes on any gains from the QOF holdings when they're sold.

One caveat: They must sell before the end of 2047.

Invest in 2021:

✔ Defer taxes owed on the original sale that generated the capital gain that goes into the QOF until 2026

✔ Taxes on the capital gain invested in QOF reduced by 10 percent

Invest between 2022 and 2026:

✔ Defer taxes owed on the original sale that generated the capital gain that goes into the QOF until 2026

✔ NO tax reduction on capital gain tax related to the asset sale that generated the capital gain to invest in the QOF

Now What?

Contact your accountant or tax attorney to self-certify by filing Form 8996 with the IRS.

✔ Search the Arizona Opportunity Zone Network

✔ Review IRS Information

- Final IRS rules governing QOFs and Qualified Opportunity Zones (QOZs), released January 2020
- April 2020 IRS corrections to rules governing QOFs and QOZs
- August 2021 IRS corrections to rules governing QOFs and QOZs and Correcting Amendment
- Latest pandemic-related extensions to some investment timeline rules

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