

Publications

Client Alert: Additional Guidance Available Regarding Selection of “Qualified Opportunity Zones” Ahead of Imminent Deadline

Related Attorneys

Joseph B. Mann

Kelly B. Bissinger

Related Services

Federal Taxation

Real Estate

Tax and Economic Development
Incentives

Taxation

CLIENT ALERT | 2.19.2018

By: Joseph B. Mann and Kelly B. Bissinger

As part of federal tax reform, Congress created a new program to encourage investment in businesses that are located in low-income communities that are designated as “Qualified Opportunity Zones.” This program creates a new potential source of capital for businesses and real estate developments located in Qualified Opportunity Zones, while at the same time creating a new tax benefit for investors seeking to reduce their tax burden on taxable asset dispositions. Additional information regarding the Qualified Opportunity Zone program can be found in our prior alert “[New Federal Qualified Opportunity Zone Program.](#)”

The new program provides a process by which census tracts can be designated as Qualified Opportunity Zones. **This process is a short one, and is already underway.** Pursuant to this process, the governor of each state (and the mayor of D.C.) has until March 21, 2018 (with a possible 30-day extension) to submit a list of qualifying census tracts to the U.S. Treasury Department for potential certification as Qualified Opportunity Zones. Census tracts certified by the U.S. Treasury Department as Qualified Opportunity Zones under this process will remain so designated through December 31, 2028. For further information about this process, see our [prior client alert](#).

Generally speaking, a census tract will be eligible for designation as a Qualified Opportunity Zone if it has a poverty rate of at least 20% or a median income that does not exceed 80% of the metropolitan median income or the statewide median income. Certain census tracts that are contiguous to tracts meeting those income requirements are also eligible for Qualified Opportunity Zone designation.

The IRS has recently provided guidance on which census tracts throughout the United States meet the low-income community requirements necessary in order to be eligible for designation as a Qualified Opportunity Zone. Revenue Procedure 2018-16 (the “**Rev. Proc.**”) references an online resource, including an online mapping tool

(the “**Information Resource**”), that is available to identify census tracts that qualify for designation as Qualified Opportunity Zones based upon 2011-2015 data from the Census Bureau. Although there is more recent Census Bureau information available, the Rev. Proc. states that census tracts identified as qualifying by the Information Resource will be treated as qualifying for Qualified Opportunity Zone designation.

In addition, the Rev. Proc. provides that states may nominate census tracts based upon 2012-2016 ACS 5-Year data recently released by the Census Bureau, but would need to accompany the nomination with an analysis demonstrating eligibility. The following website provides a link to the Rev. Proc. as well as the Information Resource: <https://www.cdfifund.gov/Pages/Opportunity-Zones.aspx>.

The Ohio Development Services Agency has established a website for the public to recommend census tracts for inclusion on Ohio’s list of nominations: <http://odsa.force.com/ozf>. Online recommendations will be accepted until 4:00 p.m. on March 2, 2018. Recommendations should include your contact information, the census track number, and a brief narrative about the economic activity, current or committed, in the tract.

The State of Ohio can nominate up to 319 qualified census tracts as Qualified Opportunity Zones to the Treasury Department for consideration. The Ohio Development Services Agency has released its own interactive map showing qualifying census tracts in the State of Ohio, which can be found at the following link: https://www.development.ohio.gov/bs/bs_censustracts.htm.

Given the short time frame in which the Qualified Opportunity Zones must be nominated, taxpayers, businesses, developers and others with an interest in having particular census tracts designated as Qualified Opportunity Zones should promptly contact their Vorys attorney to discuss a strategy to provide input on the designation process.