ECKERT SEAMANS

Opportunity Zones

OVERVIEW

Lawyers from Eckert Seamans' Tax, Real Estate, Corporate, and Public Finance practice groups have come together to help clients navigate a new tax incentive provision involving Opportunity Zones, a federal economic development tool designed to spur economic development and job creation in distressed communities by offering tax incentives to groups who invest and hold their capital gains in these designated zones. Driving investment to these underserved areas by offering capital gains deferrals and/or tax breaks that increase over a period of time aims to encourage the kind of patient, long-term investment needed to affect real social change in these low-income communities.

Eckert Seamans provides legal guidance to investors, real estate developers, business owners, fund sponsors, and lenders interested in benefitting from the Opportunity Zone tax benefit, which was created as part of the Tax Cuts and Jobs Act. Nationwide, investors are seeking to deploy billions of dollars in capital gains into Opportunity Zones through funds, created for that purpose, known as Qualified Opportunity Funds (QOF). We advise clients on how the program works, how to create and manage QOFs, and how to use it to defer capital gains and capitalize real estate projects or businesses located within an Opportunity Zone.

Through this program, investors can achieve the following three significant tax benefits:

1. The deferral of gain on the disposition for property to an unrelated person until the earlier of the date on which the subsequent investment is sold or exchanged, or December 31, 2026
2. The elimination of up to 15 percent of the gain that has been reinvested in a QOF provided that certain holding period requirements are met; and
3. The potential elimination of tax on gains associated with appreciation in the value of a QOF, provided that the investment in the QOF is held for at least ten years.

Currently, there are more than 8,700 Opportunity Zones across all 50 U.S. states, the District of Columbia, and five U.S. territories. The Commonwealth of Pennsylvania had 300 tracts designated as Opportunity Zones as of April 2018. Policymakers, investors, and community development agencies are working to understand how to best leverage this new tool in order to benefit the people in the low-income areas affected.

Using our experience with federal, state, and local development incentives, as well as tax credit programs, Eckert Seamans' team assists clients in structuring deals with the most economically-favorable terms, optimizing the full extent of the Opportunity Zones program, including:

- Identifying unique deal structures
- Opportunity Zone fund formations
- Structuring real estate and operating business investments
- Tax planning, advice, and compliance