

Planning for 2020: Addressing K-1 Partnership and Section 1231 Property Gains

You may be aware of the Qualified Opportunity Zone Program, created by the Tax Cuts and Jobs Act of 2017, an initiative designed to encourage long-term investments in designated communities by delivering certain tax benefits (“QOZ Tax Benefits”) to investors in Qualified Opportunity Funds (“QOFs”). Generally, to receive the QOZ Tax Benefits, an investor has 180-days from the date an asset is sold to invest in a QOF. However, as a result of the U.S. Treasury Department and IRS releasing final regulations on the Qualified Opportunity Zone Program on December 19, 2019, many financial advisors, CPAs and their clients are not aware of the various options for the 180-day deadline for Section 1231 property sold in 2019 and certain K-1 gains from 2019 and beyond.

K-1 PARTNERSHIP GAINS

Most taxpayers who have or will receive a K-1 Tax Form from capital gains accrued/realized in 2019 now have three options for calculating their 180-day window. The additional flexibility in determining the 180-day window for K-1 gains results in additional planning options for financial advisors and their clients. The three calculation options are:

1. 180-days starting with the date the asset is sold;
2. 180-days beginning on the last day of the partnership’s taxable year (December 31st, 2019 for a calendar year partnership); or
3. 180-days starting on the date the partnership’s tax return is due, without any extension (March 15th, 2020 for a calendar year partnership).

Example:

Consider a partnership that recognized a capital gain in January of 2019 and passed the gain to your client via a K-1. While the 180-day window from the date the asset was sold has expired, the client could still utilize the second option above giving him until June 27, 2020 to invest in a QOF or the third option above giving him until September 10, 2020 to invest, more than a year and a half after the partnership sold the asset.

SECTION 1231 PROPERTY GAINS (Not Passed Through a K-1)

Under the final regulations, investors are no longer required to invest net Section 1231 gains but instead can invest Section 1231 gains on a gross basis. Those gains are now subject to the same timing rules as other capital gains, meaning that investor no longer has to wait until the end of the year to start his 180-day window. However, taxpayers that have capital gains from the sale of 1231 Property realized in 2019 (real property used in a trade or business) still have the option to invest on a net basis and thus start their 180-day window beginning on the last day of the taxpayer’s taxable year (December 31st with respect to a calendar year taxpayer) enabling an investment in a QOF until June 27th, 2020; provided that such taxpayer would have to similarly treat its Section 1231 gains in 2020.

For more information about the final regulations on the Qualified Opportunity Zone Program, please view:

[Final Regulations: Qualified Opportunity Zone Program](https://www.irs.gov/pub/irs-drop/td-9889.pdf) (<https://www.irs.gov/pub/irs-drop/td-9889.pdf>)

[FAQ: Final Regulations on Opportunity Zones](https://home.treasury.gov/news/press-releases/sm864) (<https://home.treasury.gov/news/press-releases/sm864>)



A quick refresher on the potential tax benefits from an investment in a Qualified Opportunity Fund can be found below.

Trio of Potential Tax Benefit



DEFER

the inclusion of capital gains invested in a Qualified Opportunity Fund as taxable income until December 31, 2026 (or the date you sell your , whichever is earlier)



REDUCE

the taxable capital gain amount through a 10% step-up in basis for investments made before December 31, 2021 and held until December 31, 2026



ELIMINATE

any capital gains taxes¹ on the appreciation of your investment in the Qualified Opportunity Fund if held at least 10 years.

TO LEARN MORE:

INVESTORS: Contact your financial advisor

FINANCIAL PROFESSIONALS: Contact Cantor Fitzgerald at (855) 9-CANTOR
cfsupport@cantor.com

¹ Assumes that the investor is a resident of a state that conforms with the federal Opportunity Zone provisions.

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110 E. 59th Street, New York, NY 10022