



OPPORTUNITY ZONES

OVERVIEW

Any taxpayer can defer capital gains in an unlimited amount provided the taxpayer invests the proceeds of that gain in an Opportunity Fund. The Opportunity Fund must invest at least 90% of the funds it receives into a designated Opportunity Zone. Provided the investment is held for at least five, seven and ten years, there may be partial forgiveness of the gain. The gain, whatever amount that may be, will be deemed sold on December 26, 2026.

An Opportunity Zone is a designated low-income community determined by the U S Treasury, or in some cases a census tract that lies contiguous to a designated Opportunity Zone. The New Market Tax Credit Program uses these low-income communities to determine eligibility. 10% of the original gain is forgiven if the Opportunity Zone investment is held for five years and 15% is forgiven if the investment is held for seven years. If an Opportunity Zone investment is held for at least 10 years, then the taxpayer will not have to declare any capital gain on that investment since the tax basis will be deemed to be the fair market value on sale.

OPPORTUNITY ZONE DESIGNATION

The Governor had a deadline of April 20, 2018, to nominate up to 25% of the qualified low-income communities as Opportunity Zones. There is a caveat that allows up to 5% of the nominated tracts to be non-qualifying tracts provided it (1) lies contiguous to a nominated tract, and (2) the median family income in the non-qualifying tract does not exceed 125% of the qualifying/nominated tract.

Arkansas has 337 qualified, low-income community census tracts in every county except Dallas County. The Governor is authorized to name 85 (25% of 337, rounded up) and up to 5 of that 85 (5% of 85, also rounded up) can be non-qualifying tracts, provided those tracts meet the limitations cited above.

QUALIFIED OPPORTUNITY ZONE BUSINESSES

This program is designed to drive investment into small businesses. Therefore, substantially all of the tangible property owned or leased by a qualified business must be in the Opportunity Zone, and the business has to get at least 50% of its income for active conduct of business and other limitations. The normal sin businesses are excluded.

