Proactive Planning for 2022 K-1s

An Advanced Tax Strategy to Help Clients

One of the many unique and powerful benefits of Qualified Opportunity Zone Funds ("QOF") is the ability to implement retroactive tax planning for realized capital gains.

To defer a capital gain, a taxpayer generally has 180 days from the date of the sale that gave rise to the gain to invest the realized capital gain, or part of it, into a QOF.

For investors that have realized capital gains in 2022 through pass-throughs (think Private Equity and Hedge Fund investments) and are now seeing those capital gains on their 2022 K-1s, there is even more latitude for them to leverage QOF benefits retroactively.

A taxpayer who receives a reported capital gain from a pass-through entity, such as a partnership, S-corporation, estate or non-grantor trust, has the option to start the 180-day investment period on any of the following dates:

- The date that the entity realized the gain; or
- The last day of the entity's taxable year, which is usually December 31; or
- The due date of the entity's tax return, without extensions, for the taxable year in which the entity realized the eligible gain, is typically March 15 for pass-through entities with calendar year-ends.

Using the most generous window, any gain realized in a pass-through entity in 2022 that is now showing up on a 2022 K-1 can be invested in a QOF as far out as September 10, 2023.

Two questions to consider:

1. Why not defer recognition of all or part of that gain until December 31, 2026, and therefore provide time to put tax-aware strategies in place to proactively plan for and minimize it while more of your capital is working for you?
2. Why not take the opportunity to place more capital in a structure that may have the opportunity for tax-free growth?

This information should not be construed as tax advice. Certain exceptions apply. Investors should consult with their own tax advisors to determine their individual benefits in a QOF investment.

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Not all investors are suitable or qualify to invest into a QOF. You should always read the offering memorandum of any QOF and consult with your financial professional before investing into a QOF.

IMPORTANT RISK FACTORS

An investment in a Qualified Opportunity Zone Fund is subject to various risks, including but not limited to:

- No public market currently exists, and one may never exist, for the interests of any Qualified Opportunity Zone Fund. Qualified Opportunity Zone Funds are not liquid.
- Qualified Opportunity Zone Funds offer and sell interests pursuant to exemptions from the registration provisions of federal and state law and, accordingly, those interests are subject to restrictions on transfer.
- There is no guarantee that the investment objectives of any particular Qualified Opportunity Zone Fund will be achieved.
- Investments in real estate are subject to varying degrees of risk, including, among other things, local conditions such as an oversupply of space or reduced demand for properties, an inability to collect rent, vacancies, inflation and other increases in operating costs, adverse changes in laws and regulations applicable to owners of real estate and changing market demographics.
- The acquisition of interests in a Qualified Opportunity Zone Fund may not qualify under Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code") for tax-deferred exchange treatment.
- The actual amount and timing of distributions paid by a Qualified Opportunity Zone Fund is not guaranteed and may vary. There is no guarantee that investors will receive distributions or a return of their capital.
- Qualified Opportunity Zone Funds depend on tenants for their revenue and may suffer adverse consequences as a result of any financial difficulties, bankruptcy or insolvency of their tenants.
- Disruptions in the financial markets and challenging economic conditions, including as a result of a pandemic such as the outbreak of COVID-19, could adversely affect a Qualified Opportunity Zone Fund.

Before purchasing interests, prospective investors should review a fund's offering memorandum, as may be supplemented from time to time, for a more complete description of the risks and other disclosure related to participating in the offering.