



opportunity zones overview

MSK Client Alert

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practice areas

tax and trusts & estates

tax planning

Part One: Section 1031 vs. QOF

Historically, a like-kind exchange under Internal Revenue Code Section 1031 was the preferred mechanism for the deferral of gain from the sale of certain types of assets. As a result of the 2017 Tax Cuts and Jobs Act ("TCJA"), 1031 exchange treatment is now limited to exchanges of *real property*. If executed properly, a 1031 exchange allows investors to defer paying capital gains tax – potentially indefinitely – on the sale of property by reinvesting the sales proceeds into a new property. However, an investor is taxable on any capital gains realized on the sale to the extent that any sales proceeds are not reinvested.

While the TCJA limited 1031 exchange treatment to real property, it also introduced a new tax-advantaged investment program – the Qualified Opportunity Fund ("QOF") – under Code Sections 1400Z-1 and -2. Similar to section 1031, an investor may defer the recognition of certain capital gains to the extent that the investor reinvests such gains in a QOF.

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