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The First OZ Deadline Has Passed . . . What Now?

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Connect Commercial Real Estate

Courtney Tawresey was quoted in a recent *Connect Commercial Real Estate* artcile, which discusses Opportunity Zones and the ability to defer taxes on capital gain.

Munsch Hardt Kopf & Harr P.C. Senior Attorney Courtney Tawresey indicated that the additional 5% step-up means a qualifying investment must be held for seven years, while the 10% step-up requires a five-year hold. “If a taxpayer has qualifying gains that he or she would like to rollover, there is still sufficient time to enter into a qualified investment before Dec. 31,” she added. “But taxpayers should begin to plan, and engage counsel to ensure compliance.”

The full article can viewed below or by clicking here.

As anyone who has been paying attention to the Opportunity Zone program understands, the ability to defer taxes on capital gain depends a great deal on deadline adherence. The first such deadline took place in late June, 2019. On that date, investors with capital gains realized by Dec. 31, 2018, had to invest those gains into Qualified Opportunity Funds (QOFs) to take advantage of deferring taxes on those gains.

The good news? Though June 29 has come and gone, experts note that plenty of opportunities still exist for QOF investment and tax deferrals.

“June 2019 arose as a deadline only with respect to the 180-day rollover time limit,” said Walter Calvert, partner with Venable LLP. Calvert added that the deadline also applied to investors in partnerships and other certain pass-through entities with capital gain recognition at the end of 2018. “If the partnership itself hadn’t rolled over the gain, the investor or partner could have rolled over its share of the partnership’s gain, within that 180-day period,” he said.

What if a taxpayer did roll over that gain into a QOF, but didn’t make the election to defer the gain on the capital gain sale? “A 2018 amended return should be filed,” commented John Blake, CPA and Real Estate Group Chair with Klatzkin & Co. LLP.

Looking ahead, the next deadline for investors is Dec. 31, 2019. By this time, investors interested in deferring capital gain taxes until year-end 2026, and receiving the full 15% step-up in basis for the initial deferred gain need to make their QOF fund investments. Munsch Hardt Kopf & Harr PC Senior Attorney Courtney Tawresey indicted that the additional 5% step-up means a qualifying investment must be held for seven years, while the 10% step-up requires a five-year hold. “If a taxpayer has qualifying gains that he or she would like to rollover, there is still sufficient time to enter into a qualified investment before Dec. 31,” she added. “But taxpayers should begin to plan, and engage counsel to ensure compliance.”

Robert Matt, Kaufman Rossin's Senior Tax Manager, agreed that retaining qualified counsel for a better understanding of Opportunity Zone regulations is important. So is keeping an eye on the calendar once an asset has been sold, and the race begins to defer the capital gain. "The clock starts ticking once the sale closes," he said. "It's important that investors be aware of what's going on in their personal portfolios, and the partnerships they're invested in. It's best they start asking advisors, sooner rather than later, if they sell an asset."

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