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Final Regulations on Opportunity Zones

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On December 19, 2019, the Internal Revenue Service (the "IRS") and the U.S. Department of the Treasury (the "Treasury") issued final regulations (the "Final Regulations") under section 1400Z-2 of the Internal Revenue Code[1] regarding the opportunity zone program, which was enacted as part of the law commonly referred to as the "Tax Cuts and Jobs Act".[2] The opportunity zone program is designed to encourage investment in distressed communities designated as "qualified opportunity zones" ("opportunity zones") by providing tax incentives to invest in "qualified opportunity funds" ("QOFs") that, in turn, invest directly or indirectly in the opportunity zones.

The opportunity zone statute left many uncertainties regarding the fundamental operations of the opportunity zone program. The IRS and Treasury issued two sets of proposed regulations under section 1400Z-2 in October 2018 and April 2019 (the "Proposed Regulations"). The Proposed Regulations were discussed in two of our earlier blog posts, found here and here. The Final Regulations address the many comments received in response to the Proposed Regulations and retain the basic approach and structure set forth in the Proposed Regulations, but include clarifications and modifications to the Proposed Regulations. The Final Regulations are generally taxpayer-favorable, and incorporate many of the provisions requested by commentators. However, there are certain provisions that are worse for taxpayers than under the Proposed Regulations.

The Final Regulations will be effective on March 13, 2020, and are generally applicable to taxable years beginning after that date. For the portion of a taxpayer's first taxable year ending after December 21, 2017 that began on December 22, 2017, and for taxable years beginning after December 21, 2017 and on or before March 13, 2020, taxpayers and QOFs generally may choose to apply the Final Regulations or the Proposed Regulations, so long as, in each case, they are applied consistently and in their entirety.

This blog summarizes some of the important aspects of the Final Regulations. It assumes familiarity with the opportunity zone program.

Read the full post on the *Tax Talks Blog*.

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