

New Mexico Apartment Advisors

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Opportunity Zones and Real Estate Capital Gains

The “Tax Cuts and Jobs Act” Congress enacted in 2017 included a provision creating Opportunity Zones. The Opportunity Zone program is an economic development tool designed to drive long-term private investment in low-income urban and rural communities. The investment can be through newly issued stock, partnership interest, or investment in business property in an Opportunity Zone. The Opportunity Zone program offers qualified partnerships and corporations with Federal capital gains tax liabilities the deferment, reduction, elimination of capital gains taxes, or step-up in basis, all depending on how long the investment in the Opportunity Zone is held.

The deadline for Governors to send their census tract nominations to the Department of Treasury was March 21, 2018. Governors could nominate up to 25% of their Low-Income Communities. States with less than 100 Low-Income Communities could nominate up to 25 Opportunity Zones. A given census tract had to meet at least one of these criteria: 1) at least a 20% poverty rate; 2) median family income below a certain threshold; 3) less than 2,000 people in the tract, and within an empowerment zone, and contiguous with another Low-Income community. The Treasury then reviewed and certified the Opportunity Zones. By June 14, 2018, the Department of Treasury had certified over 8,700 qualified census tracts across the states, territories, and District of Columbia.

New Mexico has 63 census tracts that have been designated Opportunity Zones (OZ's). They are in 22 counties, in rural, tribal and urban communities. A map can be found here: www.nmapartment.com/OppZoneMap. Search the map by address. If the address is in a brown map area, it is within an OZ.

As it relates to real estate this is what you need to know:

- The OZ designation remains in place for 10 years.
- Investments in a qualified OZ must be made through an Opportunity Fund which is a partnership or corporation established for the purpose of investing in an OZ property. The partnership/corporation self certifies by completing a form attached to their federal tax return. It must have at least 90% of its investment in OZ properties. This must be measured and proven every six months. There are tax penalties for failing to meet this threshold. A related partnership may not be created to purchase an existingly held property.
- The OZ property must be purchased within 180 days of the sale of the previous asset.
- For real estate investments to qualify either 1) The original use of the property must begin with the OZ fund. A property that has been vacant for at least a year qualifies; or 2) The OZ fund must make capital expenditures in the property in an amount at least equal to the property's acquisition cost.
- The benefits of the OZ investment depend on how long the investment is held.
 - ◆ <5 years: Deferred payment of existing federal capital gains until the date that the OZ fund property is sold or exchanged, or December 31, 2016 (whichever comes first).
 - ◆ 5-7 years: Benefits above, plus a 10% step up in basis for capital gains reinvested in the OZ fund property.
 - ◆ 7-10 years: Deferred payment of existing federal capital gains until 12/31/2026 or the date that the OZ fund property is sold or exchanged (whichever comes first), plus an additional 5% step up in basis for capital gains reinvested in the OZ fund property.
 - ◆ >10 years: A permanent exclusion from taxable income of federal capital gains from the sale or exchange of the property. This applies only to gains accrued after an investment in an OZ fund.

The IRS is expected to issue proposed regulations for the program early this fall. Stay tuned!

The map on the back shows those area in Albuquerque.



Albuquerque's Opportunity Zones

