



# What Is An Opportunity Zone? – Rosenberg & Estis Member Adam Sanders Guest Contributor

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## **Opportunity Zones**

Opportunity Zones are a new community development program established by Congress in the Tax Cuts and Jobs Act of 2017 to encourage long-term investments in low-income urban and rural communities nationwide with less regulation found in other similar programs, such as New Market Tax Credits and Low-Income Housing Tax Credit Programs. The Opportunity Zones program provides a tax incentive for investors to re-invest capital gains into Opportunity Zone Funds that are dedicated to investing into Opportunity Zones designated by the chief executives of every U.S. state and territory. With any new government program comes the need for additional guidance and regulation to answer questions that taxpayers and experienced professionals have unique to their own purposes and/or their clients' purposes. As a result, the United States Treasury Department has been diligently reviewing voluminous amounts of requests from such taxpayers and professionals and is expected to deliver such additional guidance and regulations before the end of this month.

While the Opportunity Zone world eagerly awaits the release of the proposed and interim regulations and sub-regulatory guidance from the Treasury Department, real estate developers and investors of all sizes continue to proceed with their plans of utilizing the Opportunity Zone Program by purchasing property in designated Opportunity Zones through Opportunity Zones Funds or by setting up larger Opportunity Zone Funds to pool together investors with capital gains to invest. Even though there are many outstanding questions regarding the program that require additional regulations and guidance, there is enough of both in the legislation that created the program and elsewhere in the tax code to allow such developers and investors to safely proceed with proper guidance from legal, tax and accountant professionals. In doing so, such developers and investors are getting a head start with the program before the competition for Opportunity Zone properties and eligible investor capital gains becomes more intense and competitive once the regulations and guidance are announced and digested.

Aside from the major tax deferral benefits that the program provides, there are practical benefits that make this program unique and a valuable tool for the non-institutional real estate developer that should be noted:

1. Since an Opportunity Zone Fund can be any investment vehicle organized as a corporation or partnership for the purpose of investing in a Qualified Opportunity Zone Property, the barrier to entry is low and permits developers of all sizes, not just larger institutional developers, REITs, Insurance Companies and funds, to create their own Opportunity Zone Fund for which to provide their investors with such tax deferral benefits.
2. By providing an avenue for investors to receive such tax deferral benefits, developers with narrow margins to begin with and that are using all their resources to make one or two projects a reality, can feel less pressure to promise difficult-to-meet high returns by calculating in the tax deferral savings that the investors will receive on their initial capital gain and their future capital gain from the investment into the Opportunity Zone Fund. Thereby, providing the same effective return/benefit to the investor at a lower cost to the project and developer.



Article author Adam R. Sanders joined Rosenberg & Estis, P.C. in 2016 and is a member with the firm's Transactional Department. His practice focuses on representing clients in a wide variety of commercial real estate and business transactions and matters, including acquisitions and sales, financing, leasing, construction, portfolio structuring, cooperative and condominium boards representation, New Markets Tax Credits, and general corporate representation in the real estate, entertainment and web/technology industries.

This article concerning Opportunity Zones was contributed by Rosenberg & Estis, a law firm with a strong presence in all facets surrounding the New York real estate market.

Article author and firm Member Adam Sanders represents New York-based property owners and developers with acquisitions and developments of real property in and around New York City.