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IRS Releases Final Qualified Opportunity Zone Regulations

The IRS has released final Treasury regulations (<https://www.irs.gov/pub/irs-drop/td-9889.pdf>) that provide guidance on the qualified opportunity zone program under Sections 1400Z-1 and 1400Z-2, enacted as part of the 2017 Tax Cuts and Jobs Act (TCJA). (All section references are to the Internal Revenue Code of 1986, as amended.) Generally, qualified opportunity zones are designated tracts in low-income communities in which eligible taxpayers may invest and elect to defer certain gains. The final regulations adopt the regulations that were proposed in October 2018 and May 2019 (together, the “Proposed Regulations”), with some modifications based on comments received by the IRS. (See our prior coverage here (<https://www.stradley.com/insights/publications/2018/10/tax-insights-october-24-2018>), here (<https://www.stradley.com/insights/publications/2018/10/tax-insights-october-31-2018>) and here (<https://www.stradley.com/insights/publications/2019/04/tax-insights-april-24-2019>).) The final regulations address many issues raised by comments and, as such, adopt positions that include, but are not limited to, the following: (i) adopt a gross approach to Section 1231 gains, without regard to any Section 1231 losses, instead of using a net approach; (ii) determine the character of eligible Section 1231 gains, other than as gains arising from the sale or exchange of Section 1231 property, in the taxable year such gains are taken into account in computing gross income; (iii) address the 180-day investment requirement rule and its start date for certain capital gains received, for example, for RIC and REIT shareholders, partners, S corporation shareholders, and trust beneficiaries; and (iv) address the consequences of certain inclusion events, such as recapitalizations and reorganizations.

IRS Releases Proposed Regulations for Sourcing Income From Inventory Sales

The IRS has released proposed Treasury regulations (<https://www.federalregister.gov/documents/2019/12/30/2019-27813/source-of-income-from-certain-sales-of-personal-property>) on income sourcing rules as a result of certain changes made by the TCJA. Specifically, the proposed regulations address the rules for (i) determining the source of gross income from sales of certain property under Section 863(b) and proper apportionment and allocation of such income; (ii) treating foreign source income as effectively connected with the conduct of a U.S. trade or business under Section 864; and (iii) determining the source of income from the sale of personal property, including inventory property, under Section 865.



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