

## OBBB Enhances Opportunity Zones, Qualified Small Business Stock and Other Business Perks

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July 23, 2025

The One Big Beautiful Bill Act (the "OBBB") makes some appealing changes to existing credit and incentive programs.

### **Opportunity Zones Expanded**

The OBBB made several modifications to the Opportunity Zone program. Established by the Tax Cuts and Jobs Act (the "TCJA") in 2017, the Opportunity Zone program was intended to encourage investment in businesses located in low-income communities. The program enabled taxpayers with capital gains to defer taxes by investing gains in a Qualified Opportunity Fund ("QOF"), which in turn invests in a Qualified Opportunity Zone Business ("QOZB"), which holds assets and conducts business in a Qualified Opportunity Zone. Though any active business could qualify as a QOZB, the rules of the program mean real estate is the most attractive investment.

Taxpayers who invested in a QOF were able to defer capital gains until they sold their QOF investment. Taxpayers could potentially reduce the tax on their deferred gain if they held the QOF investment for at least five years. If a taxpayer held a QOF for ten or more years, any appreciation on their QOF interest (or the assets held therein) would not be taxed at all.

Under the TCJA, the Opportunity Zone program was set to terminate after December 31, 2026. The Opportunity Zone program is now permanent, and new Qualified Opportunity Zones ("QOZ") will be designated by each state every ten years, beginning on July 1, 2026. Taxpayers who invest in a QOF may defer taxes on a capital gain for five years or until they dispose of their QOF interest, whichever is earlier. If the taxpayer holds their interest for five years, the taxable gain is reduced by 5 percent. In other words, if a taxpayer invested \$100,000 of gain in a QOF in 2026, the tax on that gain would be deferred until the five-year anniversary of their investment in 2031, at which point the taxpayer would recognize only \$95,000 of gain.

The OBBB also created the concept of Qualified Rural Opportunity Zones ("QROZ"). A QROZ is a designated low-income census tract that has fewer than 50,000 residents and which is not contiguous with any census tract with greater than 50,000 residents. Investments in a QROZ receive a 30 percent reduction in taxable gain, rather than the 5 percent reduction described above for urban zones. Therefore, if a taxpayer defers \$100,000 of gain by investing in a QOF in a QROZ 2026, they would recognize only \$70,000 of taxable gain in 2031.

QROZ investments provide additional benefits. Generally, QOFs that invest in existing property must double the basis in the property for the project to qualify. For example, if a QOF originally acquires an apartment building for \$50,000, it must invest an additional \$50,000 of improvements into the apartment building to qualify. The required basis increase for QROZ investments, however, is only 50 percent, rather than 100 percent. Therefore, a QOF that acquires an apartment building in a QROZ for \$50,000 needs to invest only an additional \$25,000 of improvements in the building.

Finally, the OBBB added new filing and information requirements for QOFs and Qualified Opportunity Zone Businesses. QOFs and QOZBs must now report property, employees, and other information to confirm that the QOF investment is providing benefits to the applicable Opportunity Zone.

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### **Low-Income Housing Tax Credits Expanded**

The OBBB made minor changes to the Low-Income Housing Tax Credit program which should make the credit more accessible.

First, with respect to the 9 percent allocated credit, the OBBB added a provision which increases the total dollar amount of credits each state may allocate by 1.12 percent every year. This should result in more 9 percent credit available for allocation each year.

Second, the OBBB reduced the overall amount of tax-exempt bond financing required to claim the full 4 percent credit. Under prior law, at least 50 percent of the total project basis had to be funded with tax-exempt bond proceeds in order to claim a credit for the whole project cost. The OBBB reduced the threshold to 25 percent, so long as the bonds are issued after December 31, 2025. This change should make 4 percent credit deals more appealing.

### **New Market Tax Credit Made Permanent**

The OBBB made permanent the New Markets Tax Credit. Going forward, taxpayers will not need to consider whether the program will be extended.

### **1202 Stock Benefits Expanded**

Under Section 1202, original investors in certain C corporations (Qualified Small Businesses) can qualify to exclude 100% of their capital gain up to a limit when they sell their stock. Before the OBBB, investors had to hold the stock for at least five years to receive the benefit. But now, under the OBBB, taxpayers can receive a partial exclusion if they hold the stock for only three or four years – a 50 percent exclusion for three years and 75 percent for four years.

The OBBB expanded the definition of a Qualified Small Business. Under prior law, because the benefit was intended for “small” businesses, the corporation had to start off with \$50 million or less in assets to qualify for the exclusion, but the OBBB raises this threshold to \$75 million. This allows larger start-ups to qualify.

The OBBB also increased the limit of the exclusion. Historically, the capital gain exclusion for Qualified Small Business stock was limited to the greater of \$10 million or the taxpayer’s stock basis multiplied by 10. Now, for stock issued after July 4, 2025, the \$10 million limit is increased to \$15 million. But the 10-times-basis limit can still be used if the amount exceeds \$15 million.

The exclusion for Qualified Small Business stock has many requirements not mentioned here; if you have any questions about this tax benefit, please contact your Miller Canfield attorney or one of the authors of this alert.