

New Opportunity Zone Tax Law (2026)

Capital gains deferral and real estate development | October 2026

The One Big Beautiful Bill Act, enacted July 4, 2025, made major changes to the federal Qualified Opportunity Zone (QOZ) program. A new permanent framework begins in 2027, with rolling five-year deferral for qualifying investments.

1. Old vs. new Opportunity Zone benefits

Tax benefit	Original program	New program (2027+)
Deferral	Generally through Dec. 31, 2026	Generally 5 years
Original gain reduction	Historical 10% / 15% rules	10% after 5 years
Qualified rural investments	No special 30% reduction	30% after 5 years
Appreciation after 10 years	Potential federal exclusion	Potential federal exclusion
Program	Original zone designations	Permanent; zones redesignated periodically

2. Example: \$1 million capital gain

Assume an investor realizes a \$1,000,000 eligible capital gain and invests it in a qualifying non-rural Opportunity Fund in 2027. After five years, a 10% basis increase may exclude \$100,000 of the original gain, leaving \$900,000 subject to federal tax. If the fund investment grows to \$2,000,000 and the investor meets the qualifying ten-year holding and election requirements, the additional \$1,000,000 of appreciation may be excluded from federal capital gains tax. The original deferred gain is not permanently exempt.

3. Implications for real estate development

A qualifying real estate development can potentially attract equity from investors seeking to defer eligible gains. An investor realizing a \$3 million gain, for example, might contribute eligible proceeds to a Qualified Opportunity Fund that invests in the development. Fund, business, property, improvement, timing and reporting requirements must all be satisfied.

Key compliance considerations:

- Confirm that the property qualifies under the applicable Opportunity Zone designation.
- Structure capital through a compliant Qualified Opportunity Fund and, if applicable, a qualified Opportunity Zone business.
- Eligible gains generally must be invested within the applicable 180-day period, subject to special rules.
- Evaluate the 2027 zone redesignations and transition rules before relying on an existing designation.

4. New York tax considerations

Federal Opportunity Zone tax treatment does not necessarily flow through to New York State or New York City. New York has decoupled from certain federal Opportunity Zone provisions. Model federal, state and city tax outcomes separately, particularly when preparing investor return projections.

5. Development takeaway

The 2027 framework may improve fundraising appeal for long-term qualifying projects. Its primary benefits are temporary deferral of eligible original gains, a potential reduction in that original gain after five years, and possible exclusion of qualifying investment appreciation after ten years. Development timing, fund structure, tax residence and exit assumptions are critical.

Important: This is a general informational summary, not legal or tax advice. Exact eligibility, transition rules, tax inclusion dates, state treatment and basis adjustments should be confirmed with tax counsel and current IRS guidance before investment or fundraising.