Treasury & IRS Released Opportunity Zone Regulations

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Earlier today, the Treasury Department and IRS released long-anticipated regulations on the new Opportunity Zone provision passed as part of last year's tax law.

In the guidance, the agency clarified that almost all capital gains qualify for deferral. For partnerships realizing a capital gain, the partnership or its partners may choose the deferral. Moreover, S corporations and their shareholders, estates and trusts and their beneficiaries are subject to similar rules.

In cases where at least 70 percent of tangible business qualifies for Opportunity Zones, the property is eligible to meet the "substantially all" requirement for Opportunity Zone classification. If the asset is a building, the guidance notes that "substantial improvement" applies only to the building itself, not the land.

Alongside the guidance, the Treasury Department and IRS issued a revenue ruling that directs taxpayers on the "original use" requirement for Opportunity Zone land that was purchased after 2017.

The Brownstein Tax Team will be releasing a more comprehensive analysis in the coming days. The notice and revenue ruling are attached.