Investment Incentives in New Jersey's Newly Designated "Opportunity Zones" Are One Step Closer to Reality

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The U.S. Department of the Treasury has approved 169 New Jersey tracts that were nominated for the Opportunity Zone designation by Governor Murphy. The Opportunity Zone program was enacted in December 2017 as part of the federal Tax Cuts and Jobs Act, in order to stimulate long-term capital investments in low-income communities across the country.

Under the program, investors have the ability to defer their capital gains from the sale or exchange of any property with an unrelated party if the gain is then reinvested into an Opportunity Fund within a 180-day period from the date of sale or exchange. Investors are also able to reduce their capital gains invested in Opportunity Funds, with specific benefits for those who hold onto their investments for at least five years, seven years and ten years. Investments held in a fund for ten years or more will be viewed as having no gain upon sale or transfer of the Opportunity Fund investment.

Low-income communities defined as a census tract have either (a) a poverty rate of at least 20 percent or (b) a median family income that does not exceed 80 percent of the statewide or metropolitan area median family income (depending on whether the tract is located within a metropolitan area or not). Governor Murphy was authorized to designate up to 25 percent of eligible census tracts as an Opportunity Zone. The selected tracts take into account key economic indicators including income, property values, and unemployment rate and consider geographic distribution, transit accessibility and the value of current investments.

The U.S. Treasury must now develop regulations to establish Opportunity Funds, which will ultimately drive the investments in the designated Opportunity Zones. A Qualified Opportunity Fund is defined as any investment vehicle organized as a partnership or corporation, specifically to invest in a qualified Opportunity Zone property, and that holds at least 90 percent of its assets in the qualified Opportunity Zone property. Investors must be sure to maintain the 90 percent requirement, as failure to do so will result in substantial penalties.

The official announcement from the New Jersey Department of Community Affairs, along with the list of the designated tracts and maps of the designated areas can be found here.

Parties interested in learning more about Opportunity Zones in New Jersey should contact the authors of this Alert, **Robert S Goldsmith** and **Mitchel S. Kay**.