LANDMARK PROPERTIES

Opportunity Zones as an alternative to a 1031 exchange



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As co-founder and CEO of the Economic Innovation Group from 2013 to 2018, Steve conceived and designed the Opportunity Zones program.

A 1031 exchange has served real estate owners well for a century: trade one property for another and defer the tax. It also comes with rules. The entire sale price, basis and gain, has to roll into like-kind real property, with replacement debt, inside a 45-day identification window and a 180-day closing window.[1] A Qualified Opportunity Fund gives investors a second path, and the improvements Congress made in 2025 make it a stronger one. Three differences matter.

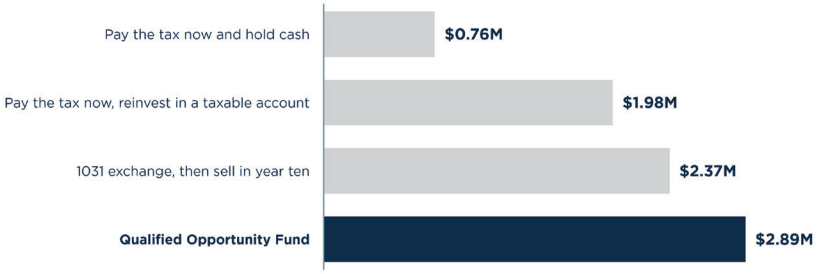
First, only the gain goes in. The original basis comes back to the investor on day one to use however they like, and the gain can come from any asset: a business sale, a stock position, a building.[2] There is no like-kind test, no identification period and no debt to replace, just 180 days from the sale and the freedom to choose the investment on its merits.

Second, the deferred gain comes due at year five, reduced by a 10 percent step-up (30 percent in rural funds) that is now available to every investor who holds that long.[3] A well-structured fund plans for that date: refinancing proceeds once a development stabilizes, and operating distributions along the way, can cover the tax without selling anything.[4]

Third, after ten years every dollar of appreciation is free of federal tax, and a fair-market-value basis election at exit eliminates depreciation recapture.[5] There is no replacement property to find and no next exchange to run, and the new 30-year exit window lets the investor choose the moment.

A $1 million gain after ten years and all taxes: $2.89M in an Opportunity Zone fund, $2.37M through a 1031 exchange that is eventually sold

Illustrative after-tax value of the gain portion only, four choices



Assumes a $1 million gain, 23.8% federal tax, 12% annual appreciation, a ten-year hold and no state tax. The 1031 column assumes a sale in year ten with no further exchange, so the full gain is taxed at sale. The fund column pays the year-five tax on the original gain, less a 10% step-up, from other resources.

The fund is also the best answer to a 1031 that does not close. When a replacement property cannot be identified in 45 days or acquired in 180, the gain becomes taxable, but it does not have to stay that way: the same gain can be rolled into a Qualified Opportunity Fund within 180 days of the original sale, and when a failed exchange straddles a year end, advisors can often run that window from the date the exchange funds are released.[6] The two paths also end differently. A 1031 defers until the next exchange or the owner's death; a fund returns the investor's capital, with appreciation free of federal tax, at any point from year ten to year thirty.[5] That is liquidity in the investor's lifetime, on the investor's schedule.

The two tools work together as well. An investor can exchange one building and place a separate gain in a fund. For a gain that is not real estate, an exchange that fell through, or an owner who would rather compound than keep trading, the fund is the simpler path.

Landmark Properties develops purpose-built student housing in campus-adjacent locations, an asset class whose demand does not move with the real estate cycle, which is what makes a ten-year hold underwritable.

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Key Differences at a Glance

Feature	Section 1031 Exchange	Qualified Opportunity Zone (QOZ)
Eligible Source of Gain	Real estate (like-kind business or investment property)	Capital gains from almost any asset (stock, business, real estate, crypto)
What Must Be Reinvested	Entire sale proceeds (principal + gain) to defer 100% of tax	Only the capital gain portion (original principal can be invested elsewhere)
Reinvestment Timeline	45 days to identify replacement property; 180 days to close	180 days from the date of the capital gain realization to invest in a QOF
Qualified Intermediary (QI)	Required	Not required
Geographic Limits	Anywhere in the United States	Restricted to designated low-income census tracts (Opportunity Zones)
Tax Deferral Duration	Indefinite (can keep rolling over into new 1031 exchanges)	Deferred through designated dates/holding windows
Tax Elimination / Basis Step-Up	Eliminated permanently at death via a step-up in basis for heirs	Fund's own appreciation is 100% tax-free if held for at least 10 years
Asset Conrol	Investor owns and manages the replacement real estate	Investment is made passively in a Qualified Opportunity Fund (QOF)

Sources & Notes

[1] Internal Revenue Code §1031 (like-kind exchanges, limited to real property since the Tax Cuts and Jobs Act of 2017); Treas. Reg. §1.1031(k)-1 (45-day identification and 180-day exchange periods, qualified intermediaries, replacement debt). irs.gov
[2] IRC §1400Z-2(a) (deferral of any eligible capital gain invested in a Qualified Opportunity Fund within 180 days; only the gain, not the full proceeds, need be invested); Treas. Reg. §1.1400Z2(a)-1.
[3] IRC §1400Z-2(b) as amended by Public Law 119-21, the One Big Beautiful Bill Act (July 4, 2025): 10 percent basis increase after five years, 30 percent for qualified rural opportunity funds. irs.gov
[4] Treas. Reg. §1.1400Z2(b)-1 (inclusion events; debt-financed distributions permitted within partnership disguised-sale limits).
[5] IRC §1400Z-2(c) as amended (fair-market-value basis election for investments held ten years, available through year 30); Treas. Reg. §1.1400Z2(c)-1 (the election eliminates depreciation recapture on a qualifying exit).
[6] Treas. Reg. §1.1031(k)-1(j)(2) (a failed exchange whose funds are received in the following tax year is reported under the installment method) and Treas. Reg. §1.1400Z2(a)-1(b)(11) (the 180-day period for installment-sale gains may run from the date each payment is received or from the last day of the taxable year). Timing on a specific transaction should be confirmed with tax counsel.

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