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OPPORTUNITIES DON'T LEAD TO DEALS

INVESTORS TENTATIVE ABOUT DISTRESSED-ZONE TAX INCENTIVE

By Hannah Madans

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Tax Talk: Attorney Matthew Ertman said the opportunity zones tax incentive has generated a lot of discussion. Photo by Thomas Wasper

A federal tax incentive aimed at boosting development in economically distressed communities is driving up phone call volume for many tax lawyers in Southern California. But one year into the program, lawyers say those calls haven't exactly translated into a windfall for business.

Known as "opportunity zones," the much-hyped program was part of the Tax Cuts and Jobs Act, which became law Dec. 22, 2017. It provides tax benefits to investors by allowing them to defer taxes on capital gains if they invest that money in opportunity zone funds.

The program is far from simple. The tax benefits apply only to certain qualified funds, and there are several time windows to keep track of.
That complexity is part of what's kept potential investors from diving in — and hiring lawyers to handle the deals.

Cox Castle & Nicholson's Erik Loomis, a firm partner based in Century City, said he spent roughly 200 unbilled hours last year just talking to people about the program — a hefty investment of time he's not sure will pay off.

"Maybe we're making some money now, but we're not at a break-even point by any means," he said.

Gaining an understanding

Opportunity zone funds aren't limited to real estate investors. The tax benefit applies to investments of money from capital gains, which means many other kinds of businesses and savvy investors have expressed interest, lawyers said.

Loomis said many internet and technology companies sit on large gains for which they get a pricey tax bill. "For them, a program like this is incredibly attractive," he said.

Investors have six months after realizing a capital gain to invest in the zone funds, and those properties must then be significantly improved within 30 months. Investors can defer capital gains taxes by investing in the fund for seven years.

But there remain many unanswered questions about the program, said David Nahai, a partner at downtown-based Lewis Brisbois Bisgaard & Smith. And that's another thing that could be keeping people away.

Many of the funds are new, and they don't have a track record to evaluate when considering investment, he said.

“We’re looking at a program that is very, very attractive to people who have realized capital gains, and it’s a great opportunity for them to defer those gains. But the devil’s in the details, and there is a lot of clarification that still needs to come,” Nahai said.