

## Coal Plant Shutdowns: March 21 Deadline Looms for Qualified Opportunity Zone Designation

Related People:

J. Wylie Donald  
Alan F. Kornstein

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A funding source can be crucial to a coal-fired plant shutdown and repowering or redevelopment. The recently enacted Tax Cuts and Jobs Act (P.L. 115-97 or the Act) provides tax incentives that could benefit investors seeking to fund a shutdown and repowering or redevelopment, but states will need to act quickly to make sure the incentives are available. Governors have until March 21, 2018 (with a possible 30-day extension), to nominate certain Census tracts to be eligible Qualified Opportunity Zones (QOZs).

A QOZ is an area satisfying certain requirements based on income or poverty rates. Coal plant owners and operators, however, do not need to assess those details. The Community Development Financial Institutions Fund (CDFIF) of the Department of the Treasury has already identified all Census tracts eligible for QOZ designation. Investment in redevelopment activities in a QOZ can entitle an investor to defer recognition of capital gains arising from the sale of completely unrelated property to the extent of the amount invested in a "qualified opportunity fund" within 180 days after the sale, and the resulting deferred tax liability may be reduced if certain holding period requirements are met. A further potential tax benefit is available if the QOZ investment is held for more than 10 years, in which case the investor may be entitled to avoid capital gains tax on any post-investment appreciation in value of its interest in the fund. The qualified opportunity fund and its underlying business activities must meet numerous statutory requirements.

To ensure this powerful incentive is available to help fund shutdown and redevelopment plans, coal plant owners and operators need to ensure that their respective governors nominate the right Census tracts. This is simple to do: using the CDFIF map, confirm the plant is located in an eligible Census tract and then reach out to the governor's office to make certain the tract is on the governor's list of nominees. If the governor's office is waiting on the IRS nominating procedure, that list was just published [here](#).

The Institute for Energy Economics and Financial Analysis just published its review of the status of coal as a source for electricity generation. It does not bode well for coal-fired electricity generation. Fifteen gigawatts of coal power are anticipated to go off the grid in 2018 alone. Those plants may offer redevelopment opportunities, and if the plant is in a QOZ, those opportunities may

be more easily exploited. Even if the ultimate plan for a plant has not yet jelled, prudence dictates taking steps to designate the plant's Census tract as a QOZ. That deadline, again, is **March 21**. Check those maps. Make those calls.