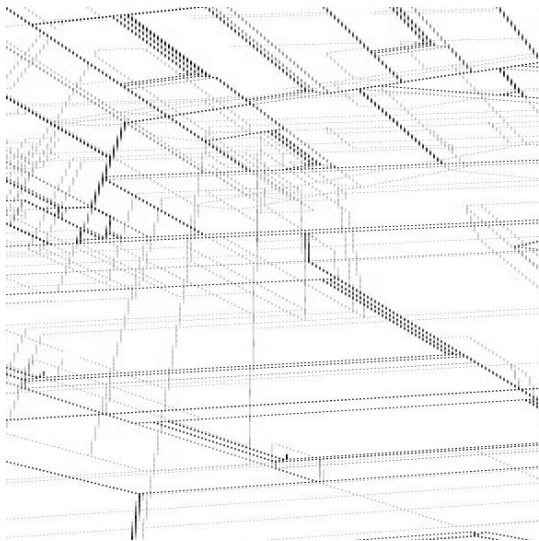




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Delivering Current Legal News to Our Clients



New Opportunity Funds Support Qualified Opportunity Zones

Over one hundred pages into the Tax Cuts and Jobs Act lies a potentially important and exciting community-based tax incentive program. In an effort to encourage development and support in low income distressed communities, the Act provides for the possible deferral, reduction, and even abatement of capital gains taxes

Tax Deduction Eliminated for Confidential Sexual Harassment/Abuse Settlements

In response to the flood of #metoo allegations, the new tax bill specifically limits the ability to deduct attorneys' fees and settlements relating to sexual harassment allegations if the agreement contains a confidentiality provision, thus forcing employers to choose between confidentiality and the ability to take a tax deduction.

As of now, here's what we don't know:

- Whether the IRS will read the text literally, which would result in (1) no deductions for attorney's fees, even without a nondisclosure clause, and (2) disallow plaintiff employees from deducting their attorney's fees;
- How much of a payment can be allocated to sexual harassment/abuse when other claims are involved;
- When to expect technical amendments and/or government guidance;
- Which employers (and plaintiff

typically more urban areas.

Supported by congressional leaders and private citizens alike, the program directs governors in each state to designate Opportunity Zones (totaling about a quarter of the state's high poverty areas) for certification by the Treasury Department. Once approved, those designated areas would receive financial and other developmental support from investments in Opportunity Funds. Investors in the Opportunity Funds who qualify will receive federal relief from unrealized capital gains taxes.

Tax credit and deduction programs for, among others, low income housing and historic preservation have been largely successful over the years. Promoters of this venture hope to stimulate and extend similar financial investment and support more broadly throughout the country into communities in need.

Fred Parker advises businesses, tax exempt organizations, and individuals in federal and state tax controversy and compliance matters.

The government may issue guidance or regulations on this issue in the future.

Until then, here is **what is known**:

- Employers will have to choose between (1) confidentiality of settled #metoo allegations, and (2) deducting related payments and attorney's fees; and
- This applies to all payments made after December 22, 2017.

Any clients defending against sexual harassment allegations should be mindful of this provision and seek guidance from their legal and accounting professionals when determining whether to include confidentiality provisions in a settlement agreement.



Taking Advantage of the New Paid-Leave Tax Credit

A new federal tax credit is available to employers for offering paid family and medical leave to employees. The basics:

- Available for tax years 2018 and 2019 only—for now.
- Does not apply to wages paid as required by state or local law—CA, NJ, RI, and now NY, all require paid family leave.
- Creditable benefit must cover at least 50% of normal wages for at least 2 weeks—to a maximum 100% of normal wages for 12 weeks.
- Credit (general business tax) equals 12.5% of benefit wages when 50% of normal wages are paid, increasing by 0.25% for every 1% over 50%, to a **max credit of 25%**.

- Full-time and part-time employees must both be eligible—part-timers must get a prorated amount of the time available to full-timers.
- Applies only to employees who have been employed for 1 year or more and who in that year earned no more than 60% of the highly compensated employee threshold amount (for 2017, that was \$120,000, so \$72,000).
- Written policy required, which must include specific no-retaliation language.

Interested in taking full advantage of this credit? Contact **Gardner Skelton** for an effective revision of your leave policies.



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