1031 EXCHANGE versus QOZ 2.0
QUALIFICATION REQUIREMENTS COMPARED

Big Picture

1031 EXCHANGE

Offers unlimited deferral of capital gain, in both time and amount, and has been a mainstay of real estate investment for decades — but qualification is burdensome and can shut out the investor entirely.

QOZ 2.0

Offers deferral for up to 5 years, plus partial and full forgiveness of capital gain that isn't available under a 1031 exchange — and qualification requirements are far looser.[i]

1. Like-Kind Requirement?

1031 EXCHANGE

Yes. Both the original asset sold and the replacement asset purchased must be real estate held for business or investment.

QOZ 2.0

No. Capital gains from any source — not just real estate — may be deferred by investing in a QOF.

2. 45-Day Identification Requirement?

1031 EXCHANGE

Yes. Investor has 45 days from sale of the relinquished asset to identify potential replacement properties in writing, under one of three limits: the 3-property rule[ii], the 200% rule[iii], or the 95%-of-value rule[iv].

QOZ 2.0

No. No identification rule applies to deferral by investing in a QOF — the fund's sponsor handles the underlying asset selection.

3. 180-Day Rollover Deadline?

1031 EXCHANGE

Yes. Investor must close on the replacement asset(s) within 180 days of the sale of the original asset.

QOZ 2.0

Yes, but with a big caveat. The 180-day deadline applies, but for partnership pass-through gains, the clock starts at the entity's tax-return due date (potentially more than 12 months after sale of the underlying property).

4. Qualified Intermediary?

1031 EXCHANGE

Yes. Sale proceeds cannot be touched by the investor — a third-party "qualified intermediary" must hold the funds until reinvestment.

QOZ 2.0

No. No restriction applies to the receipt, handling, or comingling of sale proceeds — the concept is simply irrelevant.

5. "Boot" Rule?

1031 EXCHANGE	QOZ 2.0
Yes. Any boot[v] received from the sale disqualifies *that portion* of a taxpayer's gain from 1031 deferral. As a result, to fully defer gain requires an increase in mortgage debt on the replacement-property purchase at least equal to any cash pulled out from sale of the relinquished property.	No. The only comparable rule is that investment must be made in the QOF of an amount that is at least equal to the amount of gain the investor wishes to defer.

6. Same-Taxpayer Requirement?

1031 EXCHANGE	QOZ 2.0
Yes. The exact same taxpayer — person or entity — that owned the original real estate must purchase the replacement real estate.[vi]	No. The only comparable requirement is that the taxpayer wishing to defer the gain must be the investor in the QOF.

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i Most of the "heavy lifting" in this regard is performed by the qualified opportunity fund itself — in other words, ST will deal with it.
ii 3-property rule: Identify properties of any total value, if no more than 3 properties are identified. Purchase must be from among those 3.
iii 200% rule: Identify any number of properties, if their total value does not exceed 200% of the original asset's value; purchase must be from among identified properties.
iv 95% rule: Identify any number of properties and properties of any total value, but at least 95% of the total value all properties must be purchased.
v "Boot" is cash pulled-out of the exchange ("cash boot") and net debt relief (amount of mortgage paid-off at sale minus amount of mortgage on new property; "mortgage boot"). Because it is not considered like-kind property, capital gain realized from sale of the relinquished property is taxed up to the amount of boot received in the exchange. Negative mortgage boot offsets cash boot received, but not vice versa. (Note: Depreciation recapture, a specific category of capital gain that is taxed at a higher rate than ordinary capital gain, is always the first capital gain to be taxed when less than all gain is being deferred.)
vi This can "stick" an investor seeking to diversify or avoid the burdens of ownership with owning real estate on their own, unable to pool resources with other investors.