



Tax



Taxpayer



Business

Tax relief measures for Opportunity Zones funds and investors

June 16, 2020

On Thursday, June 4, the IRS issued Notice 2020-39, which provides additional relief measures for qualified opportunity funds (QOFs) and investors affected by the COVID-19 specifically in relation to several due dates. Section 1400Z-2 of the United States Internal Revenue Code normally provides 180 days to invest a realized capital gain into a QOF to take advantage of the beneficial opportunity zone tax treatment. The recently issued Notice 2020-39, provides for an extended due date of December 31, 2020 for any 180-day period that ends on or after April 1 and before December 31, 2020.

On April 9, 2020, in response to the COVID-19 and President Trump’s disaster declaration, the IRS issued Notice 2020-23 postponing certain due dates to July 15, 2020. The July 15 extension applies to any IRS deadline between April 1 and July 15 of 2020, including the taxpayers’ 180-day deadline for rolling over gains into an opportunity zones fund. With the issuance of Notice 2020-39 the deadline is automatically extended to December 31, 2020.

Taxpayers that recognize a gain on or after October 4, 2019 and before July 4, 2020, will now have an extended due date to invest in a QOF until December 31, 2020.

Gain recognized	180-day deadline
October 4, 2019	April 1, 2020
July 4, 2020	December 31, 2020

The normal 180-day period will apply to any gain recognized after July 4, 2020 because the 180-day deadline will end in 2021.

Taxpayers who will invest a gain reported on a partnership schedule K-1 from any partnership or S-Corp, as well will receive a special treatment because they will be able to elect a different recognition date for the gain. According to the Opportunity Zones Regulations, a taxpayer investing a gain reported on a schedule K-1 can elect to begin their 180-day period on the due date of the pass through entities tax return, not including extensions (March 15, 2020) no matter when the gain was recognized during 2019. Considering the March 15, 2020 due date, the 180-day due date will be September 11, 2020, which could be extended until December 31, 2020.

When considering the new extended due date of December 31, 2020, the investor will have more time to invest into an opportunity zone fund, but from a fund’s perspective they will probably not raise the necessary capital until the end of the year.



Additional relief measures included in Notice 2020-39:

1. **90% investment standard for QOFs** - the IRS will grant an automatic waiver of the penalty to a QOF whose last day of the first 6-month period of the taxable year, or the last day of the taxable year falls anywhere within the period between April 1 and December 31 of 2020, if any failure to satisfy the 90-percent investment standard for that taxable year of the QOF is:
 - a. due to reasonable cause under section 1400Z-2(f)(3); and;
 - b. disregarded for purposes of determining whether the QOF or any otherwise qualifying investments in that QOF satisfy the requirements of section 1400Z-2 and its regulations.
2. **30-month substantial improvement period** - the relief measure applies to the 30-month substantial improvement period. Notice 2020-39 establishes that the period between April 1 and December 31, is completely disregarded for the purposes of measuring the 30-month period.
3. **relief measure for working capital safe harbor** - due to the President's declaration of disaster area, the working capital safe harbor period for any qualified opportunity zone business (QOZB), whether it's 31 months or 62 months, is automatically extended by an additional 24 months (55 months and up to 86 months).

4. **12 months reinvestment period** - if the 12-month reinvestment period of a QOF includes January 20, 2020, (date in which the disaster was identified in the major disaster declaration) that QOF will receive up to 12 additional months to reinvest in QOZ property some or all of the proceeds received by the QOF from the return of capital or the sale or disposition of some or all of the QOF's qualified opportunity zone property.

We continue with our commitment to keep you up to date with these tax-related developments.

Please contact our Tax Department should additional information is required regarding this or any other tax issue. We will be glad to assist you.



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