



IRS Provides Much-Needed Relief for OZ Investors, QOFs and OZ Businesses

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In Notice 2020-39, which was released on Thursday, June 4, 2020, the IRS provided critical relief to qualified opportunity zone (OZ) investors, qualified opportunity funds (QOF) and OZ businesses due to the COVID-19 pandemic. The key components of Notice 2020-39 are as follows:

- *Extension of the 180-Day Investment Period*– If the end of an OZ investor's 180-day investment period falls on or after April 1, 2020 and before December 31, 2020, the last day of the investor's investment period is extended to December 31, 2020. Notably, this is a further extension of the IRS's prior relief provision that extended the 180-day investment period ending between April 1, 2020 and July 14, 2020 to July 15, 2020.
- *Effective Deferral of 90% Asset Test*– Any failure of a QOF to satisfy its 90% asset test on a testing date occurring beginning April 1, 2020 and ending December 31, 2020 is automatically deemed to be due to reasonable cause and is disregarded for purposes of determining whether such QOF (or any otherwise qualifying investments in that QOF) satisfies the QOF requirements under IRC Section 1400Z-2 (and the related Treasury Regulations). QOFs must still complete IRS Form 8996 (Qualified Opportunity Fund) for each affected taxable year, but any penalty that otherwise would apply to a failed testing date between April 1, 2020 and December 31, 2020 should be zero.
- *Extension of the 30-Month Substantial Improvement Period*– For purposes of satisfying the 30-month substantial improvement requirement for OZ business property, the period beginning April 1, 2020 and ending December 31, 2020 is disregarded. In other words, the 30-month period is tolled for that period, giving QOFs, or OZ businesses, as applicable, eight additional months to substantially improve tangible business property.
- *Extension of Working Capital Safe Harbor Period*– OZ businesses holding working capital assets prior to December 31, 2020 and utilizing, or intending to utilize, the 31-month safe harbor for such assets, have an additional 24 months to expend their working capital, so long as they otherwise satisfy the safe harbor requirements under the Treasury Regulations.
- *Extension of 12-Month Reinvestment Period*– If a QOF's 12-month reinvestment period includes January 20, 2020, such QOF has up to an additional 12 months to reinvest its return of capital or sale proceeds in other OZ property; provided, however, that the QOF holds the proceeds continuously in cash or cash equivalents and invests the proceeds in the manner originally intended prior to January 20, 2020.

These extensions and deferrals should provide OZ investors, QOFs and OZ businesses with additional time to identify worthwhile investments, construct OZ property and/or properly expend funds for new and emerging OZ businesses. Absent this relief, many OZ investors and QOFs may have opted to withdraw from the program, leaving OZ businesses and developers of OZ property with large funding gaps. Participants in the OZ program should consult their tax advisors to understand and optimize the extensions and deferrals afforded by Notice 2020-39.

Please note: This alert contains general, condensed summaries of actual legal matters, statutes and opinions for information purposes. It is not meant to be and should not be construed as legal advice. Readers with particular needs on specific issues should retain the services of competent counsel.

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