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# Instructions for Form 8996

(Rev. December 2018)

## Qualified Opportunity Fund

Section references are to the Internal Revenue Code unless otherwise noted.

### General Instructions

#### Future Developments

For the latest information about developments related to Form 8996 and its instructions, such as legislation enacted after this form and instructions were published, go to [www.irs.gov/form8996](http://www.irs.gov/form8996).

#### Purpose of Form

The Tax Cuts and Jobs Act (TCJA), section 13823, added section 1400Z-1 to provide for the designation of certain low-income communities as qualified opportunity zones and added section 1400Z-2 to provide certain benefits for investments in these qualified opportunity zones through investment in qualified opportunity funds (QOF). Taxpayers that invest in qualified opportunity zone property through a QOF can defer the recognition of certain gains. See [Definitions](#) below.

A corporation or partnership uses Form 8996 to certify that it is organized to invest in qualified opportunity zone property. In addition, a corporation or partnership files Form 8996 annually to report that the QOF meets the investment standard of section 1400Z-2 or to figure the penalty if it fails to meet the investment standard. See [Definitions](#) next. See also the [Opportunity Zones Frequently Asked Questions](#) page on [IRS.gov](http://IRS.gov) for more information and guidance.

#### Definitions

**Qualified opportunity zone.** For a complete list of qualified opportunity zones, see [Notice 2018-48](#), [2018-28 IRB 9](#).

**Qualified opportunity fund (QOF).** A QOF is an investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (other than another QOF). A QOF must hold at least 90% of its assets in qualified opportunity zone property.

The 90% investment standard is determined by the average of the percentage of qualified opportunity zone

property held in the QOF as measured on:

1. The last day of the first 6-month period of the tax year of the QOF, and
2. The last day of the tax year of the QOF.

See the instructions for [Part I](#) if this is the first year the corporation or partnership self-certifies as a QOF and the corporation or partnership selects a month other than the first month of the tax year as the first month in which it chooses to be a QOF.

If you fail to satisfy this 90% investment standard, you may have to pay a penalty for each month the QOF does not satisfy the investment standard. See [Part II](#) and [Part III](#) of these instructions for more details.



*If a corporation or partnership is organized in a U.S. possession, it may be a QOF only if it is organized for the purpose of investing in [qualified opportunity zone property](#) that relates to a trade or business operated in the U.S. possession in which the corporation or partnership is organized.*

#### Qualified opportunity zone property.

Qualified opportunity zone property includes qualified opportunity zone stock, a qualified opportunity zone partnership interest, and qualified opportunity zone business property.

**Qualified opportunity zone stock** is any stock of a domestic corporation that a QOF acquires after 2017 from the corporation, either directly or through an underwriter, solely in exchange for cash. The corporation must be a [qualified opportunity zone business](#), defined later, when the stock is purchased. The corporation must be organized for the purpose of being a qualified opportunity zone business. The corporation must qualify as a qualified opportunity zone business for substantially all of the time the QOF holds the stock.

A corporation organized in a U.S. possession is a domestic corporation for this purpose only if the corporation conducts a [qualified opportunity zone business](#) in the U.S. possession in which the corporation is organized.

**Qualified opportunity zone partnership interest** is any capital or

profits interest in a domestic partnership that a QOF acquires after 2017 in exchange for cash. The partnership must be a [qualified opportunity zone business](#) when the QOF acquires the interest. The partnership must be organized for the purpose of being a qualified opportunity zone business. The partnership must qualify as a qualified opportunity zone business for substantially all of the time the QOF holds the interest.

A partnership organized in a U.S. possession is a domestic partnership for this purpose only if the partnership conducts a [qualified opportunity zone business](#) in the U.S. possession in which the partnership is organized.

**Qualified opportunity zone business property** is tangible property that a QOF acquires after 2017 and uses in a trade or business and that satisfies both of the following tests.

1. The use of the property in the qualified opportunity zone originates with the QOF, or the QOF substantially improves the property; and
2. During substantially all of the QOF's holding period for such property, substantially all of the use of such property was in a qualified opportunity zone.

To satisfy the test in (1) above, the QOF substantially improves property if, during any 30-month period beginning after the date of the acquisition of such property, additions to basis with respect to such property in the hands of the QOF are more than an amount equal to the adjusted basis of such property at the beginning of such 30-month period in the hands of the QOF.

**Qualified opportunity zone business** is a trade or business if substantially all of its owned or leased tangible property is qualified opportunity zone business property, defined earlier, and if the trade or business satisfies all of the following tests.

1. The business generates at least 50% of its total gross income from the active conduct of a qualifying trade or business;
2. The business uses a substantial part of its intangible property in the active conduct of any such business;

3. Less than 5% of the average of the total unadjusted basis of the property of the business is from nonqualified financial property; and

4. The business is not a private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises.

**U.S. possession.** Guam, the Commonwealth of the Northern Mariana Islands (CNMI), American Samoa, the U.S. Virgin Islands, and Puerto Rico.

**Nonqualified financial property.** Debt, stock, partnership interests, options, futures contracts, forward contracts, warrants, notional principal contracts, annuities and other similar property. The definition does not include reasonable amounts of working capital held as cash, cash equivalents, or debt instruments with a term of 18 months or less.

## Who Must File

Corporations or partnerships that are organized and operated as a QOF must file Form 8996 annually with one of the following tax returns.

- Form 1120, U.S. Corporation Income Tax Return.
  - Form 1120-F, U.S. Income Tax Return of a Foreign Corporation, but only if the corporation is organized in a U.S. possession. See note below.
  - Form 1120-REIT, U.S. Income Tax Return for Real Estate Investment Trusts.
  - Form 1120S, U.S. Income Tax Return for an S Corporation.
  - Form 1065, U.S. Return of Partnership Income.
- File Form 8996 by the due date of the tax return (including extensions).

**Note.** Only [QOFs](#) organized in a [U.S. possession](#) should fill out and attach this form with their Form 1120-F.

## Specific Instructions

### Name and Employer Identification Number

Enter the same information as shown on the QOF's applicable tax return under [Who Must File](#).

### Part I

Complete Part I to certify that the corporation or partnership was

organized to operate as a QOF. See [Definitions](#).

### Line 3

Check "Yes" if you are certifying that this is the first period in which you are a QOF, and fill out line 4.



*If you answer "Yes" in line 3, your organizing documents must include a statement of your purpose of investing in qualified opportunity zone property by the end of your first QOF year. The documents should include a description of the qualified opportunity zone business(es) that the QOF expects to engage in, either directly or indirectly through a first-tier operating entity.*

If you check "No," you are indicating that you have certified in a prior year that you are a QOF. Continue to [Part II](#) and [Part III](#) to determine if the QOF met the investment standard for this tax year.

### Line 4

Provide the first month in which you chose to be a QOF.

**Example 1.** A new corporation is formed on January 5, 2018, for the purpose of operating a QOF, but it does not receive until April 2018 any investment under a deferral election under section 1400Z-2(a). The corporation may choose any month from January through April 2018 to use as a certification date. This example also applies to pre-existing corporations or partnerships that become a QOF.

### Part II

Complete Part II annually and attach it to your applicable tax return listed under [Who Must File](#) above. Part II determines whether you meet the 90% investment standard for a QOF. See [Definitions](#).

**Value determination.** If you prepare a financial statement that you file with the SEC or with a federal agency other than the Internal Revenue Service or if you have a certified audited financial statement that is prepared in accordance with U.S. GAAP, then use the value of the assets reported on this financial statement. In other cases, use the QOF's cost basis of the asset on the date of acquisition by the QOF.

**Cash as qualified opportunity zone property of a qualified opportunity zone business.** You can exclude reasonable amounts of working capital from the value of property that is treated as nonqualified financial property. See [Definitions](#). A reasonable amount of

working capital satisfies all of the following tests.

1. The working capital is designated in writing for the acquisition, construction, and/or substantial improvement of tangible property in a qualified opportunity zone.

2. There is a reasonable written schedule for the expeditious consumption of the working capital to achieve the goal set out in (1) above.

3. The working capital will be completely consumed no later than 31 months after the amounts are first invested in eligible interests in the relevant QOF.

4. The working capital is consumed in a manner that is substantially consistent with the requirements in items (1) through (3).

### Line 5

Enter the value of qualified opportunity zone property (see [Definitions](#)) held by the QOF on the last day of the first 6-month period of the tax year.

**Special rule for first year of QOF.** If you answered "Yes" on line 3, the 6-month period starts from the month you indicated on line 4. Line 5 may be blank depending on the tax year and the month indicated on line 4.



*If you check "Yes" on line 3, but do not list the first month in which you choose to be a QOF on line 4, the 6-month period of the QOF starts on the first day of your tax year, even if the QOF bought no qualified opportunity zone property until later in the year.*

**Example 2.** Virginia, Joe, Laura, and Ishmael formed a new partnership in January 2018 for the purposes of operating as a QOF, but it does not receive until July 2018 any investments under a deferral election under section 1400Z-2(a). The partnership has a calendar year tax year. The QOF may choose any month from January through July 2018 to use as its first month for certification. It chooses April 2018. The first 6-month period for the QOF asset test ends on September 30. January to March are not considered for purposes of the 6-month period.

**Example 3.** The facts are the same as in Example 2, except the partnership chooses July 2018 as the certification date. The first 6-month period for the QOF assets ends on December 31. The 6 months from January through June are not considered, and lines 5 through 7 will be blank.

## Line 6

Enter the value of total assets held by the QOF on the last day of the first 6-month period of the tax year.

If you checked "Yes" on line 3, the 6-month period starts from the month you indicated on line 4. Line 6 may be blank depending on the tax year and the month indicated on line 4. See the discussion for line 5 and see [Example 3](#) in *Line 5*.

## Line 7

If the figure entered on line 7 is less than 90% (.90), a penalty may apply. See [Part III](#) of the instructions for more details. Enter -0- if lines 5 and 6 are blank.

## Line 8

Enter the value of qualified opportunity zone property (see [Definitions](#)) held by the QOF on the last day of the tax year.

**Note.** If you answered "Yes" on line 3, the tax year may be less than 12 months.

## Line 9

Enter the value of total assets held by the QOF on the last day of the tax year.

**Note.** If you checked "Yes" on line 3, the tax year may be less than 12 months.

## Part III

Complete Part III annually and attach it to your applicable tax return listed under [Who Must File](#) above. Part III determines whether you are subject to a penalty. See [Qualified opportunity fund](#) in *Definitions*.

## Line 12

If lines 5 and 6 are blank, then divide line 11 by 1.0 instead of 2.0, and enter the result.

## Line 13

If you checked "Yes," the QOF met the 90% investment standard. Attach the form to your tax return to report you met the investment standard for the current tax year.

If you checked "No," the QOF failed to meet the 90% investment standard. Go to Part IV to figure the penalty for each month the QOF did not satisfy that investment standard. The IRS will issue a notice regarding the penalty reported on line 13. This notice will include instructions on the penalty, the reasonable cause relief process, and payment instructions.

## Part IV

Complete Part IV if you checked "No" on Part III, line 13. Use Part IV to figure the penalty for each month that the QOF did not hold at least 90% of its assets in qualified opportunity zone property. See [Definitions](#).

**Accounting period.** Columns (a) through (l) in Part IV assume that the QOF was in existence for the full tax year (January to December for calendar year or 12 consecutive months for fiscal year). See [Pub. 538, Accounting Periods and Methods](#) for more information on accounting periods.



*If you answered "Yes" on Part I, line 3 and the QOF did not exist for the full tax year, you will not use all of the columns in Part IV. Instead, use the month listed on Part I, line 4 as your Month 1 (see column (a) of Part IV of the form), and continue using the other columns as needed to complete the tax year.*

**Example 4.** The facts are the same as in [Example 2](#) under the Part I, line 5 instructions. In that situation, the partnership entered April on Part I, line 4. The answer to Part III, line 13 was "No." When filling out Part IV, the partnership will enter months only in columns (a) through (i), since April would be Month 1 and December would be Month 9.

## Lines 1 and 3

See [Value determination](#) for information on what figure to enter on these lines.

## Line 5

The figure to enter here is the interest rate for each calendar quarter, which

the IRS will determine during the first month in the preceding quarter. These rates are published quarterly in an IRS news release and in a revenue ruling in the Internal Revenue Bulletin (IRB). Go to [www.irs.gov/irb](http://www.irs.gov/irb) for the IRBs. You can subscribe to IRS Newswire to receive news releases of the quarterly interest rates, and IRS GuideWire to receive emails with a link to the revenue rulings in which the quarterly interest rates are published by going to [www.irs.gov/uac/e-news-subscriptions-2](http://www.irs.gov/uac/e-news-subscriptions-2).

## Line 7

Divide line 6 by 12 even if you answered "Yes" in Part I, line 3 and the QOF did not exist for a full tax year. This is because the underpayment rate used on line 5 is annualized.

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## Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Code section 6103.

The average time and expense required to complete and file this form will vary depending on individual circumstances. For the estimated averages, see the instructions for your income tax return.

If you have suggestions for making this form simpler, we would be happy to hear from you. See the instructions for your income tax return.

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