Part III - Administrative, Procedural, and Miscellaneous

Request for Additional Comments on Issues under § 1400Z-2 Regarding Investments in Qualified Opportunity Funds and Qualified Opportunity Zone Businesses

Notice 2026-55

SECTION 1. PURPOSE

This notice requests comments on issues arising under § 1400Z-2 of the Internal Revenue Code (Code)[1], as amended by § 70421 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA), regarding investments in businesses located in qualified opportunity zones (QOZs), including on whether additional guidance is needed under § 1400Z-2 to address issues relating to qualifying investments of amounts of eligible gains made by taxpayers in qualified opportunity funds (QOFs) and investments of such funds made by QOFs in qualified opportunity zone businesses (QOZBs).[2]

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[1]Unless otherwise specified, all “section” or “§” references are to sections of the Code or the Income Tax Regulations (26 CFR part 1).

[2] Unless otherwise defined, terms used in this notice have the meanings, as applicable, provided in Notice 2025-50, 2025-43 I.R.B. 542, Rev. Proc. 2026-14, 2026-20 I.R.B. 910, Notice 2026-40, 2026-28 I.R.B. 33, or §§ 1.1400Z2(a)-1 through 1.1400Z2(f)-1 and the regulations thereunder.

SECTION 2. BACKGROUND

.01 Statutory Framework. Section 13823 of Public Law 115-97, 131 Stat. 2054, 2183-88 (December 22, 2017), commonly known as the Tax Cuts and Jobs Act (TCJA), added §§ 1400Z-1 and 1400Z-2 to the Code. Section 41115 of the Bipartisan Budget Act of 2018 (BBA 2018), Public Law 115-123, 132 Stat. 64, 161 (February 9, 2018), amended § 1400Z-1 to add a special rule for Puerto Rico. Section 70421 of the OBBBA amended prior §§ 1400Z-1 and 1400Z-2 in several ways, including establishing ongoing tax incentives for investing in qualified opportunity funds (QOFs). All references hereinafter in this notice to "prior § 1400Z-1" and "prior § 1400Z-2" refer to §§ 1400Z-1 and 1400Z-2, as in effect after amendment of the Code by both § 13823 of the TCJA, and by § 41115 of the BBA 2018, but prior to amendment by § 70421 of the OBBBA. All references in this notice to "§ 1400Z-1" and "§ 1400Z-2" refer to §§ 1400Z-1 and 1400Z-2 as amended by § 70421 of the OBBBA.

Section 1400Z-2 allows the deferral of inclusion in gross income for certain realized gains to the extent that corresponding amounts are timely invested in a corporation or partnership that meets the requirements to be certified as a QOF. If certain qualifications and holding period requirements are met, then (i) a portion of such deferred gains may be excluded from gross income, and (ii) gain on the taxpayer's investment of such amounts in a QOF may be excludable from gross income. Additionally, § 1400Z-2(e)(4) expressly delegates authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to prescribe such regulations as may be necessary or appropriate to carry out the purposes of § 1400Z-2, including: rules for the certification of QOFs; rules to ensure a QOF has a reasonable period of time to reinvest the return of capital from investments in QOZ stock and QOZ partnership interests, and to reinvest proceeds received from the sale or disposition of qualified opportunity zone property (QOZP); and rules to prevent abuse.

For amounts invested in QOFs after December 31, 2026, the OBBBA amendments to prior § 1400Z-2(b) generally provide that deferred gain is included in gross income no later than five years after the date of the qualifying investment. If an investment is held for at least five years, its basis is increased by 10 percent of the deferred gain, or by 30 percent in the case of an investment in a qualified rural opportunity fund (QROF).

For investments made after December 31, 2026, the OBBBA also amended § 1400Z-2(c) to provide that for an investment held for at least 10 years for which the taxpayer makes the election under § 1400Z-2(c), the basis of the investment is generally its fair market value on the date of sale or exchange if the investment is sold before the date that is 30 years after the investment date. In any other case, the basis is its fair market value on the date that is 30 years after the investment date.

In addition, for QOZP acquired after December 31, 2026, the OBBBA amendments to § 1400Z-2(d) replaced the former “December 31, 2017,” acquisition-date references with requirements determined by reference to an “applicable start date” for qualified opportunity zone business property (QOZBP) and an “applicable date” for QOZ stock and QOZ partnership interests.

.02 Regulations and Other Guidance under §§ 1400Z-1 and 1400Z-2.

In early 2020, the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) published final regulations (T.D. 9889) in the *Federal Register* (85 F.R. 1866 (Jan. 13, 2020), corrected by 85 F.R. 19082 (Apr. 6, 2020)) under § 1400Z-2 (§ 1400Z-2 regulations). The § 1400Z-2 regulations are comprised of §§ 1.1400Z2(a)-1 through 1.1400Z2(f)-1 and include rules concerning eligible taxpayers and eligible gains, the 180-day investment period, inclusion events that end deferral of gains, the election under § 1400Z-2(c), the 90-percent investment standard for QOFs, and requirements for qualification as a QOZB, QOZB working capital safe harbors, leased property, original use, and substantial improvement of property under § 1400Z-2.

In 2021, the Treasury Department and the IRS published a notice of proposed rulemaking in the *Federal Register* (86 F.R. 19585), which proposed rules for the reduction or elimination of withholding under §§ 1445, 1446(a), or 1446(f) of the Code on transfers that give rise to gain that is deferred under § 1400Z-2(a) and for modifications to the working capital safe harbor.

After the enactment of the OBBBA, the Treasury Department and the IRS published Notice 2025-50, 2025-43 I.R.B. 542 (2025), to provide guidance concerning the definition of a "rural area" under § 1400Z-2(b)(2)(C)(ii) and the application of the reduced substantial-improvement threshold for property in a QOZ comprised entirely of a rural area. In addition, the Treasury Department and the IRS published Rev. Proc. 2026-14, 2026-20 I.R.B. 910 (2026), to provide procedures under § 1400Z-1 for State chief executive officers to nominate population census tracts for QOZ designation effective January 1, 2027.

In July 2026, the Treasury Department and the IRS published Notice 2026-40, 2026-28 I.R.B. 33 (2026), to provide transitional guidance concerning the designation rules under § 1400Z-1, investors with gains and qualifying investments that span the December 31, 2026, transition date, the acquisition of QOZP after December 31, 2026, in previously designated QOZs, and the continued operation of QOFs and QOZBs after a previously designated QOZ's designation period expires. On September 11, 2026, the Treasury Department and the IRS published proposed regulations concerning the new information-reporting requirements and updated QOF certification and decertification procedures under §§ 1400Z-2, 6039K, and 6039L (91 F.R. 57968).

SECTION 3. REQUEST FOR COMMENTS

.01 Comments Regarding Need for Additional Guidance. The Treasury Department and the IRS request additional comments on all aspects of the implementation of § 1400Z-2 following the amendments made by the OBBBA. Commenters are encouraged to identify provisions of the § 1400Z-2 regulations or other guidance that should be retained, modified, or supplemented, and to describe in technical detail the legal analysis supporting any such changes based on the statutory text of § 1400Z-2 and other applicable provisions of the Code. Additional comments describing common transaction structures or factual examples in which existing guidance produces uncertain results would be particularly helpful. In addition to comments of a general nature, the Treasury Department and the IRS request comments in response to specific questions as discussed below.

(1) Executive Order 14394. Section 5(a) and (b) of Executive Order 14394 of March 13, 2026, *Removing Regulatory Barriers to Affordable Home Construction* (91 F.R. 13207), directs the Secretary and the Secretary of Housing and Urban Development to jointly evaluate Administration actions to better align programs and incentives with Opportunity Zone tax incentives to expand investment in single-family home construction, including considering lawful mechanisms to link grants, financing

tools, or other incentives with new or increased investment in QOFs engaged in the development and sale of single-family homes.

(a) Comments are requested on actions, consistent with existing statutory authority, through which the tax incentives provided by § 1400Z-2 could better support Department of Housing and Urban Development (HUD) programs and incentives to expand investment in single-family home construction, including considering lawful mechanisms to link grants, financing tools, or other incentives with new or increased investment in QOFs engaged in the development and sale of single-family homes. Specifically, comments are requested on any opportunities that exist to coordinate § 1400Z-2 with the New Markets Tax Credit under § 45D to promote single-family home construction in census tracts that qualify both as QOZs and as low-income communities for the purposes of the New Markets Tax Credit.

(b) Taking into account the preamble discussions of legal authority published in the *Federal Register* at 84 F.R. 18652, 18660 (May 1, 2019), and at 85 F.R. 1866, 1931-1932 (January 13, 2020), including the conclusion in the preamble to the 2020 final regulations that § 1400Z-2 permits gain deferral only at the QOF-owner level and that asset-level nonrecognition must arise under another provision of subtitle A of the Code (subtitle A), what statutory or legal authority, including § 1400Z-2(e)(4)(B), the broader grants of authority in § 1400Z-2(e)(4) and § 7805(a), or any grant of authority under another provision of the Code, is there that would support regulations under which some or all income or gain realized by a QOF engaged in developing and selling single-family homes would be deferred from inclusion in gross income if the QOF reinvests the proceeds from selling its housing inventory into its trade or business within a reasonable period of time? Commenters recommending any particular interpretation of the law are requested to set forth their legal analysis clearly and in detail, including how any such rules would interact with otherwise applicable recognition rules under subtitle A and the anti-abuse rule of § 1400Z-2(e)(4)(C). Comments are specifically requested on whether the legal analysis would differ between (i) income or gain from a QOF's direct sale or disposition of housing inventory and (ii) gain from a QOF's sale or disposition of QOZ stock or a QOZ partnership interest in a QOZB engaged in developing and selling single-family homes. Commenters are also requested to provide additional legal analysis regarding the authority under which inclusion in gross income of income or gain from the sale or disposition of housing inventory allocated to a QOF from a QOZB classified as a partnership for Federal income tax purposes could be deferred.

(c) If there were adequate statutory authority to defer inclusion in gross income of any income or gain realized on the sale or disposition of housing inventory, when should the deferred income or gain be included in gross income, and what reinvestment, holding-period, basis, character (that is, ordinary or capital), or other limitations or clarifications would be necessary to tailor any “interim-gain” rule to the limits of that statutory authority? For example, would changes to the definition of QOZBP be required, such as the rules for substantial improvement under § 1400Z-2(d)(2)(D)(ii)?

(d) Should any such deferral be limited to businesses engaged in developing and selling single-family homes, rather than making it available to other inventory selling businesses? What administrable eligibility criteria and anti-abuse safeguards would be necessary to define and enforce that limitation?

(2) Working capital safe harbor. An eligible entity must meet certain requirements to be a QOZB, including the requirement of § 1397C(b)(8) of the Code that less than 5 percent of the average of the aggregate unadjusted bases of the entity's property be attributable to nonqualified financial property, as defined in § 1397C(e). See § 1400Z-2(d)(3)(A)(ii). Section 1397C(e) excludes from nonqualified financial property reasonable amounts of working capital that are held in cash, cash equivalents, or debt instruments with a term of 18 months or less. *See* § 1.1400Z2(d)-1(d)(3)(iv). The § 1400Z-2 regulations provide QOZBs with a safe harbor for treating an amount of working capital as reasonable for purposes of § 1397C(e) if certain requirements are satisfied (working capital safe harbor). *See* § 1.1400Z2(d)-1(d)(3)(v) (providing the scope of the working capital safe harbor and conditions for eligibility).

(a) Should a QOZB be permitted to modify a working capital safe harbor plan? If so, under what circumstances should the modifications be permitted? Should a modified plan be required to remain "substantially consistent" with the original plan? How should "substantially consistent" be defined? How should these rules apply when a QOZB has more than one overlapping or sequential application of the working capital safe harbor under § 1.1400Z2(d)-1(d)(3)(v)(E)?

(b) The Treasury Department and the IRS have received questions regarding the expenditure of working capital assets on property that may not be QOZBP. Section 1.1400Z2(d)-1(d)(2) provides that a QOZB must satisfy the 70-percent tangible property standard, which requires that at least 70 percent of the tangible property owned or leased by a QOZB is QOZBP. What additional rules or guidance would be useful in clarifying how expenditures of working capital assets affect the 70-percent tangible property standard?

(3) Rules for operating businesses. What additional guidance would help operating businesses to benefit from the tax incentives in § 1400Z-2? For example, is additional guidance needed regarding the use of QOZBP, including inventory, in QOZs?

(4) Election for investments held for at least 10 years and the 30-year rule. For qualifying investments made after December 31, 2026, § 1400Z-2(c) provides a fair market value basis rule for a qualifying investment held for at least 10 years, subject to a 30-year limit. What additional guidance is needed concerning the time and manner of making the § 1400Z-2(c) election in the case of an investment that has not been sold or exchanged by the date that is 30 years after the investment was made? What valuation rules or substantiation requirements would be appropriate for determining fair market value on that date? How should subsequent appreciation or depreciation be treated after basis is determined by reference to fair market value on the 30-year date? What modifications to § 1.1400Z2(c)-1 are needed for QOFs classified as partnerships or S corporations, including rules governing dispositions of QOF assets and interests held through pass-through entities?

(5) Additional guidance for QOFs, QOZBs, and inclusion events.

(a) Are additional rules needed regarding corporations and partnerships that are either QOFs, QOZBs, or investors in QOFs?

(b) Should gain arising from an inclusion event be eligible for deferral under § 1.1400Z2(a)-1(b)(11)(iv) only if the inclusion event is treated as a sale or exchange?

(c) Should the rules regarding the inclusion of the deferred gain under § 1400Z-2(b) be clarified in regulations to address situations where there are debt-financed distributions or debt-financed losses that impact the calculation of the deferred gain?

(d) Should the rules regarding disguised sales under § 1.1400Z2(a)-1(c)(2) be modified?

(6) Opportunity Zone investment in Tribal and Alaska Native communities. Certain population census tracts designated as QOZs overlap with areas in Tribal and Alaska Native communities, including trust lands, Alaska Native Villages, and Tribal areas in Oklahoma. The OBBBA amendments to § 1400Z-2 provide enhanced benefits for qualifying investments in rural areas. The Treasury Department and the IRS request comments on how the Opportunity Zone incentive has been used in Tribal and Alaska Native communities, as well as any suggested clarifications that may encourage investment in QOZs on Tribal and ANCSA lands.

.02 Procedures for Submitting Comments.

(1) Deadline. Written comments should be submitted by November 23, 2026. Consideration will be given, however, to any written comment submitted after November 23, 2026, if such consideration will not delay the issuance of guidance.

(2) Form and manner. The subject line for the comments should include a reference to Notice 2026-55. All commenters are strongly encouraged to submit comments electronically. Comments may be submitted in one of two ways:

(a) Electronically via the Federal eRulemaking Portal at *https://www.regulations.gov* (type IRS-2026-1156 in the search field on the *https://www.regulations.gov* homepage to find this notice and submit comments); or

(b) By mail to: Internal Revenue Service, CC:PA:LPD:PR (Notice 2026-55), Room 5203, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

(3) Publication of comments. The Treasury Department and the IRS will publish for public availability any comment submitted electronically or on paper to the IRS's public docket on *https://www.regulations.gov*.

SECTION 4. DRAFTING AND CONTACT INFORMATION

The principal author of this notice is the Office of Associate Chief Counsel (Income Tax & Accounting).