DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

September 6, 2018

Number: **2018-0019**
Release Date: 9/28/2018

CONEX-125001-18

UIL: 9999.98-00

The Honorable Bob Goodlatte
Member, U.S. House of Representatives
916 Main Street, Suite 300
Lynchburg, VA 24504

Attention:

Dear Representative Goodlatte:

I am responding to an inquiry from your constituent, the , asking about the tax benefits provided by the new Sections 1400Z-1 and 1400Z-2 of the Internal Revenue Code (Code). The specifically asked about the tax benefits for a qualified opportunity zone designated in .

In December 2017, Congress passed the Tax Cuts and Jobs Act, Pub. L. No. 115-97, which amended the Code to add Sections 1400Z-1 and 1400Z-2. Section 1400Z-1 provides procedural rules for designating qualified opportunity zones in certain low-income communities and communities contiguous to the low-income communities. Section 1400Z-2 provides two incentives for investing in these qualified opportunity zones. First, a taxpayer may invest deferred gains in a qualified opportunity fund, and depending on the length of time holding that investment, exclude a percentage of the original gain from tax. Second, if a taxpayer holds the investment for at least 10 years, they then may increase the basis in that investment to the fair market value at the time of sale or exchange.

The first incentive allows a taxpayer who invests gains from a sale or exchange into a qualified opportunity fund to defer paying taxes on that gain until the earlier of when the taxpayer disposes of its investment, or December 31, 2026. If a taxpayer holds an investment for at least 5 years, they may exclude 10 percent of the original gain. If the taxpayer holds the investment for 7 years, they can exclude an additional 5 percent of the original gain from tax.

The second incentive of Section1400Z-2 is the stepped-up basis in Section1400Z-2(c). If the taxpayer elects to invest deferred gain into a qualified opportunity fund, and holds that investment for at least 10 years, the taxpayer may step up the basis of the investment to the fair market value at the time the investment is sold.

A taxpayer who invests gains into a qualified opportunity fund must elect to defer the gains on a form provided by the IRS to benefit from the tax incentives provided in the statute. This form will be available soon on the IRS website. Generally, a taxpayer must invest these gains in a qualified opportunity fund within 180 days of the date of the sale or exchange giving rise to the gain.

Under Section 1400Z-2(d)(1) of the Code, a qualified opportunity fund is organized as a corporation or partnership for the purpose of investing in qualified opportunity zone property and holds at least 90 percent of its assets in such property. Qualified opportunity zone property may be in the form of stock, partnership interest, or business property.

The IRS and Department of Treasury are diligently working on guidance for taxpayers to implement Section 1400Z-2 of the Code. If you have any questions, please call or at .

Sincerely,

Shareen S. Pflanz
Acting Branch Chief, Branch 5
Office of Associate Chief Counsel
(Income Tax & Accounting)