

“(xx) in the case of the repeal of section 1400T of such Code, financing provided before January 1, 2011, and

“(xxi) in the case of the repeal of part III [§§ 1400U-1 to 1400U-3] of subchapter Y of chapter 1 of such Code, obligations issued before January 1, 2011.”

For provisions that nothing in repeal by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

Subchapter Z—Opportunity Zones

Sec.

1400Z-1. Designation.

1400Z-2. Special rules for capital gains invested in opportunity zones.

§ 1400Z-1. Designation

(a) Qualified opportunity zone defined

For the purposes of this subchapter, the term “qualified opportunity zone” means a population census tract that is a low-income community that is designated as a qualified opportunity zone.

(b) Designation

(1) In general

For purposes of subsection (a), a population census tract that is a low-income community is designated as a qualified opportunity zone if—

(A) not later than the end of the determination period, the chief executive officer of the State in which the tract is located—

(i) nominates the tract for designation as a qualified opportunity zone, and

(ii) notifies the Secretary in writing of such nomination, and

(B) the Secretary certifies such nomination and designates such tract as a qualified opportunity zone before the end of the consideration period.

(2) Extension of periods

A chief executive officer of a State may request that the Secretary extend either the determination or consideration period, or both (determined without regard to this subparagraph),¹ for an additional 30 days.

(3) Special rule for Puerto Rico

Each population census tract in Puerto Rico that is a low-income community shall be deemed to be certified and designated as a qualified opportunity zone, effective on the date of the enactment of Public Law 115-97.

(c) Other definitions

For purposes of this subsection—

(1) Low-income communities

The term “low-income community” has the same meaning as when used in section 45D(e).

(2) Definition of periods

(A) Consideration period

The term “consideration period” means the 30-day period beginning on the date on

which the Secretary receives notice under subsection (b)(1)(A)(ii), as extended under subsection (b)(2).

(B) Determination period

The term “determination period” means the 90-day period beginning on the date of the enactment of the Tax Cuts and Jobs Act, as extended under subsection (b)(2).

(3) State

For purposes of this section, the term “State” includes any possession of the United States.

(d) Number of designations

(1) In general

Except as provided by paragraph (2) and subsection (b)(3), the number of population census tracts in a State that may be designated as qualified opportunity zones under this section may not exceed 25 percent of the number of low-income communities in the State.

(2) Exception

If the number of low-income communities in a State is less than 100, then a total of 25 of such tracts may be designated as qualified opportunity zones.

(e) Designation of tracts contiguous with low-income communities

(1) In general

A population census tract that is not a low-income community may be designated as a qualified opportunity zone under this section if—

(A) the tract is contiguous with the low-income community that is designated as a qualified opportunity zone, and

(B) the median family income of the tract does not exceed 125 percent of the median family income of the low-income community with which the tract is contiguous.

(2) Limitation

Not more than 5 percent of the population census tracts designated in a State as a qualified opportunity zone may be designated under paragraph (1).

(f) Period for which designation is in effect

A designation as a qualified opportunity zone shall remain in effect for the period beginning on the date of the designation and ending at the close of the 10th calendar year beginning on or after such date of designation.

(Added Pub. L. 115-97, title I, § 13823(a), Dec. 22, 2017, 131 Stat. 2183; amended Pub. L. 115-123, div. D, title II, § 41115, Feb. 9, 2018, 132 Stat. 161.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of Public Law 115-97, referred to in subsec. (b)(3), is Dec. 22, 2017.

The date of the enactment of the Tax Cuts and Jobs Act, referred to in subsec. (c)(2)(B), probably means the date of enactment of title I of Pub. L. 115-97, which was approved Dec. 22, 2017. Prior versions of the bill that was enacted into law as Pub. L. 115-97 included such Short Title, but it was not enacted as part of title I of Pub. L. 115-97.

¹ So in original. Probably should be “paragraph).”

AMENDMENTS

2018—Subsec. (b)(3). Pub. L. 115-123, § 41115(a), added par. (3).

Subsec. (d)(1). Pub. L. 115-123, § 41115(b), inserted “and subsection (b)(3)” after “paragraph (2)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on Dec. 22, 2017, see section 13823(d) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 1016 of this title.

§ 1400Z-2. Special rules for capital gains invested in opportunity zones**(a) In general****(1) Treatment of gains**

In the case of gain from the sale to, or exchange with, an unrelated person of any property held by the taxpayer, at the election of the taxpayer—

(A) gross income for the taxable year shall not include so much of such gain as does not exceed the aggregate amount invested by the taxpayer in a qualified opportunity fund during the 180-day period beginning on the date of such sale or exchange,

(B) the amount of gain excluded by subparagraph (A) shall be included in gross income as provided by subsection (b), and

(C) subsection (c) shall apply.

(2) Election

No election may be made under paragraph (1)—

(A) with respect to a sale or exchange if an election previously made with respect to such sale or exchange is in effect, or

(B) with respect to any sale or exchange after December 31, 2026.

(b) Deferral of gain invested in opportunity zone property**(1) Year of inclusion**

Gain to which subsection (a)(1)(B) applies shall be included in income in the taxable year which includes the earlier of—

(A) the date on which such investment is sold or exchanged, or

(B) December 31, 2026.

(2) Amount includible**(A) In general**

The amount of gain included in gross income under subsection (a)(1)(A) shall be the excess of—

(i) the lesser of the amount of gain excluded under paragraph (1) or the fair market value of the investment as determined as of the date described in paragraph (1), over

(ii) the taxpayer's basis in the investment.

(B) Determination of basis**(i) In general**

Except as otherwise provided in this clause or subsection (c), the taxpayer's basis in the investment shall be zero.

(ii) Increase for gain recognized under subsection (a)(1)(B)

The basis in the investment shall be increased by the amount of gain recognized

by reason of subsection (a)(1)(B) with respect to such property.

(iii) Investments held for 5 years

In the case of any investment held for at least 5 years, the basis of such investment shall be increased by an amount equal to 10 percent of the amount of gain deferred by reason of subsection (a)(1)(A).

(iv) Investments held for 7 years

In the case of any investment held by the taxpayer for at least 7 years, in addition to any adjustment made under clause (iii), the basis of such property shall be increased by an amount equal to 5 percent of the amount of gain deferred by reason of subsection (a)(1)(A).

(c) Special rule for investments held for at least 10 years

In the case of any investment held by the taxpayer for at least 10 years and with respect to which the taxpayer makes an election under this clause, the basis of such property shall be equal to the fair market value of such investment on the date that the investment is sold or exchanged.

(d) Qualified opportunity fund

For purposes of this section—

(1) In general

The term “qualified opportunity fund” means any investment vehicle which is organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (other than another qualified opportunity fund) that holds at least 90 percent of its assets in qualified opportunity zone property, determined by the average of the percentage of qualified opportunity zone property held in the fund as measured—

(A) on the last day of the first 6-month period of the taxable year of the fund, and

(B) on the last day of the taxable year of the fund.

(2) Qualified opportunity zone property**(A) In general**

The term “qualified opportunity zone property” means property which is—

(i) qualified opportunity zone stock,

(ii) qualified opportunity zone partnership interest, or

(iii) qualified opportunity zone business property.

(B) Qualified opportunity zone stock**(i) In general**

Except as provided in clause (ii), the term “qualified opportunity zone stock” means any stock in a domestic corporation if—

(I) such stock is acquired by the qualified opportunity fund after December 31, 2017, at its original issue (directly or through an underwriter) from the corporation solely in exchange for cash,

(II) as of the time such stock was issued, such corporation was a qualified opportunity zone business (or, in the case of a new corporation, such corpora-