

# Deadlines Extended – IRS Provides Relief to Qualified Opportunity Funds and its Investors

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On June 4, 2020 the IRS released Notice 2020-39 (the Notice) providing relief to Qualified Opportunity Funds (QOFs) and their investors in response to COVID-19.

The Notice provides that the 180-day investment period for taxpayers who had to make a qualifying investment in a QOF on or after April 1, 2020, and before December 31, 2020 has been extended to December 31, 2020. Previously under IRS Notice 2020-23, the 180-day timeline was already extended through July 15, 2020 for some taxpayers.

For QOFs, the Notice has provided a deemed “reasonable cause” exception to the penalty imposed upon a QOF if it fails to meet its semi-annual asset tests, such tests require the average percentage of the QOF’s qualified opportunity zone property on those dates to equal at least 90 percent of the QOF’s assets, also known as the 90-percent investment standard. Under the Notice, if the QOF fails the 90-percent investment standard on any testing date from April 1, 2020 through December 31, 2020, then the QOF is deemed to have failed due to “reasonable cause” under IRS Code Section 1400Z-2(f)(3). As a result, the QOF will not be liable for penalties associated with failing the 90-percent investment standard. Further, such failure will not disqualify the entity as a QOF or any investment in the QOF from being a qualifying investment.

Additionally, the 30-month substantial improvement with respect to property held by a QOF or a Qualified Opportunity Zone Businesses (QOZB) has been tolled for the period between April 1, 2020 and December 31, 2020, while the Notice reminds taxpayers that due to the pandemic the requirements of the 31-month working capital safe harbor for a QOZB to expend its working capitals has been extended for up to an additional 24 months. Finally, the notice reminds taxpayers that if a QOF has received proceeds from the return of capital or the sale or disposition of some or all of the QOF’s qualified opportunity zone property, then the QOF receives up to an additional 12 months to reinvest such proceeds in the manner intended prior to the pandemic.

For more information or assistance, contact Justin Hoyle or any member of Nexsen Pruet's corporate practice group.

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