



Government Affairs
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CC:PA:LPD:PR (REG-120186-18)
Internal Revenue Service
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Dear Sir/Madam:

On behalf of the approximately 140,000 members of the National Association of Home Builders (NAHB), I am writing to offer comments on the proposed regulations regarding investing in qualified opportunity zones.

Thank you for the incredible amount of work that has gone into issuing the regulations necessary to implement new section 1400Z-2 of the Internal Revenue Code. These proposed regulations provide needed clarity in addition to fair and thoughtful adjustments to the proposed regulations issued in 2018 (REG-115420-18). In particular, NAHB appreciates and supports the agencies' clarification to the working capital safe harbor regarding delays due to governmental approvals.

In summary, NAHB encourages the agencies to:

- Provide additional flexibility for vacant property and reduce the

Commencement of Original Use

The agencies' proposal to commence the original use on the date the tangible property is placed in service for purposes of depreciation or amortization provides a simple and clear definition. NAHB supports the agencies' approach.

Treatment of Vacant Property

Section 1400-Z2(d)(1)(D)(i)(II) requires that for tangible property to be an eligible investment, the original use of the property must commence with the Qualified Opportunity Fund (QOF). Alternatively, the statute allows tangible property to qualify if the QOF substantially improves the property. A property is considered substantially improved when its additional basis is increased so as to exceed its purchase price (excluding land value).

In our comments on the regulations issued in 2018 (REG-115420-18), NAHB argued that the regulations should delineate between tangible property that is already contributing to the economic activity of the Qualified Opportunity Zone (QOZ)—

significant renovation that greatly exceeds the substantial improvement requirements. A nearby second property may require less renovation work to place it back into service. If these assets are evaluated individually, the developer would be required to make additional, unneeded investments into the second property to hit the substantial improvement threshold, but at the result of higher rents in order to recoup those costs. Allowing these assets to be aggregated would allow the developer to better allocate investment dollars and deliver a more affordable product by minimizing investment undertaken solely to meet the substantial improvement requirement, while ensuring that the aggregate investment fulfills the legislative intent.

Real Property Straddling a Qualified Opportunity Zone

The proposed regulation seeks to provide needed clarity regarding real property that falls both within and outside a QOZ. The agencies propose to follow rules similar to that used for Empowerment Zones. In this case, real property straddling a QOZ would qualify if the unadjusted cost of the real property within the QOZ is greater than the unadjusted cost that falls outside of the QOZ. NAHB believes this is a reasonable and straight-forward approach.

Working Capital Safe Harbor

The agencies' proposal to allow for a 31-month safe harbor for cash used to acquire, construct, and rehabilitate tangible property, as well as to develop a trade or business, is appropriate to meeting the congressional intent of Section 1400Z-2. In our comments on the regulations issued in 2018 (REG-115420-18), NAHB raised concerns