



December 2, 2019

Laurie E. Brimmer
Senior Tax Analyst
Internal Revenue Service
Room 6526
1111 Constitution Ave NW
Washington, Dc 20224

Re: Comment Request for Form 8997, Initial and Annual Statements of Qualified Opportunity Fund Investments (84 FR 52176)

Dear Ms. Brimmer:

I write on behalf of a broad coalition of stakeholders to provide comments in response to the Comment Request for draft Form 8997, Initial and Annual Statements of Qualified Opportunity Fund Investments published on October 1, 2019 (84 FR 52176). The Comment Request invites comments on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.¹

In responding to whether the collection of information is necessary for the proper performance of the functions of the agency, and whether the information shall have practical utility, we believe that the information requested is necessary to support the Internal Revenue Service's ("IRS's") authority to require taxpayers to report information necessary to ensure compliance with section 1400Z-2. Specifically, the form reports a beginning balance of deferred gains as a result of investment in Qualified Opportunity Funds ("QOFs") (Part I), increases and decreases to

¹ 84 Fed. Reg. at 52,176.



deferred gains (Parts II and III, respectively), and an ending balance of deferred gains as a result of investment in QOFs (Part IV). For each Part, the form requires the investor to report:

- QOF EIN – This allows the IRS to confirm that the QOF satisfies the statutory and regulatory requirements and, therefore, is a qualifying investment.
- Date the QOF investment was acquired or disposed of – Including the dates the QOF interest is acquired and disposed of are necessary to track the amount of gain deferred under section 1400Z-2(a)(1), the period of deferral under section 1400Z-2(b), compliance with the 180-day period in section 1400Z-2(a)(1)(A), and entitlement to the basis increases under section 1400Z-2(b)(2)(B)(iii) and (iv).
- Description of the interest acquired – This allows the IRS to correctly apply the rules relating to corporate or partnership QOFs.
- Amount of short-term and long-term gain invested in the QOF or included in income – The amount of short-term and long-term gain informs the IRS of the character of any deferred gain, which is retained when the gain is eventually included in income under Prop. Treas. Reg. § 1.1400Z2(a)-1(b)(5). The amount of gain included in income permits the IRS to determine whether the investor correctly applied the inclusion rules of Prop. Treas. Reg. § 1.1400Z2(b)-1.

Therefore, we recommend that the final version of Form 8997 should retain the above information.

Regarding ways to enhance the quality, utility, and clarity of the information to be collected, we recommend that Part III of Form 8997 be expanded. Part III asks for information regarding dispositions of QOF investments; however, it does not cover all applicable inclusion events under Prop. Reg. 1.1400Z2(b)-1(c), such as distributions. We recommend that Form 8997 be modified to request information about all events that result in inclusion events. This suggestion is consistent with the IRS's authority to ensure tax compliance and would result in better tracking by the IRS of taxpayers' potential accelerations of deferred gain.

We also note that there is an ambiguity regarding how to report mixed-funds investments, which are investments in a QOF that consist of both a qualifying investment that results in deferral and a nonqualifying investment that does not result in deferral. If an investor had solely a nonqualifying investment, the investor would assumedly report it in Parts I and IV, and in columns (d) and (e), the investor would list the amount of deferred gain as zero. However, for a mixed-funds investment, under the current version of the form, it may not be clear that the



amount reported as deferred does not pertain to the entire investment. We recommend that the IRS provide guidance in the instructions to Form 8997 as to how mixed-funds investments be reported, and make any changes to Parts I and IV that are necessary to accurately reflect these types of investments.

We appreciate the ability to provide feedback on Form 8997 and your consideration of these recommendations. If you have any questions about these comments, please contact Catherine Lyons, Manager of Policy and Coalitions, at catherine@eig.org.

Sincerely,

John Lettieri
President and CEO
Economic Innovation Group

cc: Hon. David Kautter, Assistant Secretary (Tax Policy), Department of the Treasury
Hon. Charles P. Rettig, Commissioner, Internal Revenue Service
Jeffrey Van Hove, Senior Advisor, Department of the Treasury
Krishna P. Vallabhaneni, Tax Legislative Counsel, Department of the Treasury
Sunita B. Lough, Deputy Commissioner, Services and Enforcement
Ken Corbin, Commissioner (Wage & Investment), Internal Revenue Service
Hon. Michael Desmond, Chief Counsel, Internal Revenue Service
Kathryn Zuba, Associate Chief Counsel (Procedure & Administration), Internal Revenue Service