



## **EIG Opportunity Zones Coalition - Technical Assistance Working Group Call**

Conference Call Agenda

Friday, March 20, 2020

1:00 - 2:00 pm ET

**Dial-in:** 646-558-8656; Meeting ID: 212 115 324

or <https://zoom.us/j/212115324>

Coalition Portal: <https://eig.org/opportunityzones/coalition>; Password: EIGOZcoalition

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- **Potential Impacts of COVID-19 on Opportunity Zones**

- June 30 testing date for the 90 percent asset test
- 24-month additional working capital safe harbor for federally declared disaster areas
- Other issues/questions?

- **Submitted Topics and Questions on Final OZ Regulations**

1. Brownfields
  - a. Would a Superfund (which is a heightened level of distress over brownfields) site qualify for original use also?
  - b. If a non-brownfield property is located in the same census tract as another site that is a brownfield, would it qualify for original use or does it have to be contained within the exact brownfield site? i.e. is it based on census tracts (similar to New Markets tax credit distress qualifiers) or the specific parcel of land?
  - c. What about a scenario where the site has been remediated but is still listed by the EPA as a brownfield site on their online database?
  - d. Can a brownfield site that was already remediated still qualify under the brownfield allowances to meet original use?
2. Investor Capital Gains Timing
  - a. If an investor has \$1MM in gains coming from a partnership, would it be allowable for them to invest \$300,000 during the original 180 days time frame from the recognition of the gain and then be able to invest the remaining \$700,000 of gain in another window of time, say within the 180 days of the partnership's year end or tax return submission? (i.e. are there multiple windows of allowance based on the initial gain passed on to the investor?)
3. Intangible Asset Rules



- a. How are people defining intangible assets for the purpose of demonstrating their use in a QOZ? For example, there may be a company in a zone whose employees will do direct sales and marketing activities in the zone, but how do you determine where the intangible brand asset is being used if the product is being marketed across the nation?
4. Cash being included as a good asset in the QOZB tangible property test
  - a. Do we have insight as to whether Treasury is going to revise the QOZB cash issue where cash is not currently factored in the tangible property test (numerator or denominator)?
5. Regarding the effective date/transition rules, does the consistency requirement apply to all sections of the regs as a whole or on a section by section basis?
6. Does all land need to be more than insubstantially improved? Does improving a building on land satisfy this requirement? (page 206)
7. As a result of changes in the language of the regulations from the proposed to the final version, is the 2-year disguised sale rule only applicable if part of the transfer to the partnership is not treated as a contribution? (page 388)
8. The last sentence on page 440 says that the outside and inside basis adjustments that are allowed upon a 10-year sale are applicable “without regard to the amount of deferred gain that was included under Section 1400Z-2(b)(1) or the timing of that inclusion.” What does this mean? Is it consistent with the comments on page 48 and the provision on page 438 that state that an inclusion event ends the 10-year exclusion benefit (except with respect to Section 731 gain per page 113 and 439)?
9. Can an election to exclude gain on a 10-year sale be made on an extended return? Page 444 appears to indicate that the election must be made on a return that is filed before the original due date, without extension.
10. How is “month” defined for purposes of applying the QOF 6-month exclusion for recent contributions? Can 12/30/19 and/or 12/31/19 contributions be excluded for the 6/30/20 test? (page 456)
11. If a QOF is utilizing the 6-month cure period to qualify an investment in an entity as QOZBP, why does the QOF need to file its federal income tax return for the taxable year of the QOF containing the testing date on a date that is not later than when the cure is achieved? Did they mean to say earlier than? (page 457)



12. How is the de minimis sin business test applied? In particular, when is the gross income test applied and when is the property (square footage) test applied? Example 1 indicates that both tests are satisfied – are both tests required to be satisfied? (page 482)
  
13. The final regulations state that “Betterments to land within the meaning of §1.263(a)-3(j)(1)(i) may be added to the basis of the purchased land and included for purposes of section 1400Z-2(d)(2)(D)(ii) if the betterments are paid for by the eligible entity.” Section 1400Z-2(d)(2)(D)(ii) is the substantial improvement requirement. What is the relevance of this provision if vacant land does not need to be substantially improved? (page 496)

- **Open Discussion**

- **Next Steps**

- Next Coalition Call: Thursday, April 2, 2:00 - 3:00 pm ET