(b) Recovery zone facility bond

(1) In general

For purposes of this section, the term ''recovery zone facility bond'' means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

(B) such bond is issued before January 1, 2011, and

(C) the issuer designates such bond for purposes of this section.

(2) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U–1.

(c) Recovery zone property

For purposes of this section—

(1) In general

The term ''recovery zone property'' means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect,

(B) the original use of which in the recovery zone commences with the taxpayer, and

(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

(2) Qualified business

The term ''qualified business'' means any trade or business except that—

(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).

(3) Special rules for substantial renovations and sale-leaseback

Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

(d) Nonapplication of certain rules

Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.

(Added Pub. L. 111–5, div. B, title I, § 1401(a), Feb. 17, 2009, 123 Stat. 350.)

Subchapter Z—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.

(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), 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

[1] So in original. Probably should be ''paragraph),''.

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.)

REFERENCES IN TEXT

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.

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