

period in the hands of the qualified opportunity fund.

(iii) Related party

For purposes of subparagraph (A)(i), the related person rule of section 179(d)(2) shall be applied pursuant to paragraph (8) of this subsection¹ in lieu of the application of such rule in section 179(d)(2)(A).

(3) Qualified opportunity zone business

(A) In general

The term “qualified opportunity zone business” means a trade or business—

(i) in which substantially all of the tangible property owned or leased by the taxpayer is qualified opportunity zone business property (determined by substituting “qualified opportunity zone business” for “qualified opportunity fund” each place it appears in paragraph (2)(D)),

(ii) which satisfies the requirements of paragraphs (2), (4), and (8) of section 1397C(b), and

(iii) which is not described in section 144(c)(6)(B).

(B) Special rule

For purposes of subparagraph (A), tangible property that ceases to be a qualified opportunity zone business property shall continue to be treated as a qualified opportunity zone business property for the lesser of—

(i) 5 years after the date on which such tangible property ceases to be so qualified, or

(ii) the date on which such tangible property is no longer held by the qualified opportunity zone business.

(e) Applicable rules

(1) Treatment of investments with mixed funds

In the case of any investment in a qualified opportunity fund only a portion of which consists of investments of gain to which an election under subsection (a) is in effect—

(A) such investment shall be treated as 2 separate investments, consisting of—

(i) one investment that only includes amounts to which the election under subsection (a) applies, and

(ii) a separate investment consisting of other amounts, and

(B) subsections (a), (b), and (c) shall only apply to the investment described in subparagraph (A)(i).

(2) Related persons

For purposes of this section, persons are related to each other if such persons are described in section 267(b) or 707(b)(1), determined by substituting “20 percent” for “50 percent” each place it occurs in such sections.

(3) Decedents

In the case of a decedent, amounts recognized under this section shall, if not properly includible in the gross income of the decedent, be includible in gross income as provided by section 691.

(4) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including—

(A) rules for the certification of qualified opportunity funds for the purposes of this section,

(B) rules to ensure a qualified opportunity fund has a reasonable period of time to reinvest the return of capital from investments in qualified opportunity zone stock and qualified opportunity zone partnership interests, and to reinvest proceeds received from the sale or disposition of qualified opportunity zone property, and

(C) rules to prevent abuse.

(f) Failure of qualified opportunity fund to maintain investment standard

(1) In general

If a qualified opportunity fund fails to meet the 90-percent requirement of subsection (c)(1),² the qualified opportunity fund shall pay a penalty for each month it fails to meet the requirement in an amount equal to the product of—

(A) the excess of—

(i) the amount equal to 90 percent of its aggregate assets, over

(ii) the aggregate amount of qualified opportunity zone property held by the fund, multiplied by

(B) the underpayment rate established under section 6621(a)(2) for such month.

(2) Special rule for partnerships

In the case that the qualified opportunity fund is a partnership, the penalty imposed by paragraph (1) shall be taken into account proportionately as part of the distributive share of each partner of the partnership.

(3) Reasonable cause exception

No penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause.

(Added Pub. L. 115-97, title I, § 13823(a), Dec. 22, 2017, 131 Stat. 2184.)

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.

CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME

Sec.	
1401.	Rate of tax.
1402.	Definitions.
1403.	Miscellaneous provisions.

§ 1401. Rate of tax

(a) Old-age, survivors, and disability insurance

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to

¹ So in original. This subsection does not contain a paragraph (8).

² So in original. Probably should be “subsection (d)(1).”.