



Steve Bullock
Governor of Montana
Chair

Larry Hogan
Governor of Maryland
Vice Chair

Scott D. Pattison
Executive Director and CEO

December 21, 2018

Office of Associate Chief Counsel (Income Tax and Accounting)
Attention: Erika C. Reigle and Kyle C. Griffin
Internal Revenue Service (IRS)
1111 Constitution Avenue, NW
Washington, DC 20224

CC:PA:LPD:PR
(REG-115420-18)
Room 5203
Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Comments on REG-115420-18: Investing in Qualified Opportunity Funds

Dear Ms. Reigle and Mr. Griffin:

On behalf of the National Governors Association (NGA), I want to thank you for giving governors the opportunity to provide comments on the Department of the Treasury's and Internal Revenue Service's (IRS) proposed rules on Investing in Qualified Opportunity Funds (QOFs). The nation's governors are committed to spurring economic development in distressed communities.

The 70 percent threshold of tangible business property that a qualified business must hold within a zone is a positive clarification of the "substantially all" standard contained in the authorizing legislation. However, there is concern that the 50 percent of gross income test for qualified Opportunity Zone businesses may be too restrictive and inadvertently restrain the overall economic impact of the program and the achievement of legislative intent. We urge Treasury and the IRS to carefully consider these concerns and take appropriate action in subsequent rulemaking.

In order to track the efficacy of the program and reinforce QOF investments with existing state and local programs, we propose that Treasury and the IRS require simple, unobtrusive public reporting requirements for QOFs.

We also have concerns with the timeline regarding the 90 percent qualified property allocation test. The short timeline may be too demanding and could discourage the formation of QOFs that would otherwise be interested. The timeline should be extended or allow for additional flexibility to give funds ample time to raise capital and deploy it prudently. There are concerns that factors outside of the control of the funds, such as permitting or court delays, could cause penalization of the funds without further clarification of the "reasonable cause" section in the statute.



Steve Bullock
Governor of Montana
Chair

Larry Hogan
Governor of Maryland
Vice Chair

Scott D. Pattison
Executive Director and CEO

Governors would also welcome additional guidance on QOF reinvestment in Opportunity Zones. Such guidance should allow QOFs the flexibility to sell property and reinvest within Opportunity Zones without triggering a tax event, yet also should require a substantive amount of time that a QOF must hold such property in order to incentivize long-term investments.

Treasury may also wish to consider clarifying the definition of qualified Opportunity Zone businesses to include other important local actors such as municipal and rural utility districts, public joint power authorities and Community Development Financial Institutions.

Governors recognize the importance of the state-federal partnership in the Opportunity Zones program. NGA's Economic Development and Commerce Committee looks forward to working with you throughout the rulemaking process to ensure that the bipartisan, collective views of governors are taken into consideration.

Sincerely,

A handwritten signature in black ink that reads "Scott D. Pattison". The signature is written in a cursive, flowing style.

Scott D. Pattison
Executive Director and CEO
National Governors Association