

116TH CONGRESS
1ST SESSION

S.

To amend the Internal Revenue Code of 1986 to require reporting for qualified opportunity funds, to make modifications to opportunity zones, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to require reporting for qualified opportunity funds, to make modifications to opportunity zones, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Opportunity Zone Re-
5 porting and Reform Act”.

6 SEC. 2. INFORMATION REPORTING ON QUALIFIED OPPOR-
7 TUNITY FUNDS.

8 (a) IN GENERAL.—

1 “(C) qualified opportunity zone business
2 property held by the fund on each such date,

3 “(D) tangible property not described in
4 subparagraphs (A), (B), or (C) and held by the
5 fund on each such date, and

6 “(E) intangible property (including cash
7 and cash equivalents) not described in subpara-
8 graphs (A), (B), or (C) and held by the fund
9 on each such date,

10 “(4) the name, address, and taxpayer identifica-
11 tion number of—

12 “(A) each corporation in which the quali-
13 fied opportunity fund owns stock, and

14 “(B) each partnership in which the quali-
15 fied opportunity fund owns a capital or profits
16 interest,

17 “(5) with respect to each qualified opportunity
18 zone business which is conducted by the qualified
19 opportunity fund, by a corporation in which the
20 qualified opportunity fund owns stock, or by a part-
21 nership in which the qualified opportunity fund owns
22 a capital or profits interest—

23 “(A) the identity of the entity conducting
24 the qualified opportunity zone business, and

1 “(B) each North American Industry Clas-
2 sification Code that applies to such trade or
3 business,

4 “(6) with respect to each qualified opportunity
5 zone business which is conducted by the qualified
6 opportunity fund or by a corporation or partnership
7 controlled by the qualified opportunity fund—

8 “(A) the value (as of each date described
9 in section 1400Z-2(d)(1)) of—

10 “(i) the tangible property of such
11 business, and

12 “(ii) the intangible property (including
13 cash and cash equivalents) of such busi-
14 ness, and

15 “(B) the average monthly number of full-
16 time equivalent employees of such business dur-
17 ing the reporting period,

18 “(7) with respect to each qualified opportunity
19 zone business property held by the fund or by a cor-
20 poration or partnership controlled by the qualified
21 opportunity fund—

22 “(A) the qualified opportunity zone with
23 respect to the property,

24 “(B) the date the property was acquired,
25 and

1 “(C) in the case of real property—
2 “(i) the square footage of such prop-
3 erty,
4 “(ii) the number (if any) of residential
5 units on the property, and
6 “(iii) the aggregate costs incurred
7 with respect to such property related to—
8 “(I) land acquisition,
9 “(II) new construction, and
10 “(III) rehabilitation,
11 “(8) with respect to each person who has in-
12 vestments in the qualified opportunity fund during
13 the reporting period—
14 “(A) the name and taxpayer identification
15 number of such person,
16 “(B) the date or dates on which such in-
17 vestments were made, and
18 “(C) the total amount of such investments,
19 and
20 “(9) such other information as the Secretary
21 may require.
22 “(c) DEFINITIONS.—For purposes of this section—
23 “(1) IN GENERAL.—Any term used in this sec-
24 tion which is also used in subchapter Z of chapter

1 1 shall have the meaning given such term under
2 such subchapter.

3 “(2) CONTROL.—The term ‘control’ has the
4 meaning given such term under section 954(d)(3).

5 “(3) FULL-TIME EQUIVALENT EMPLOYEES.—
6 The term ‘full-time equivalent employees’ means,
7 with respect to any month, the sum of—

8 “(A) the number of full-time employees (as
9 defined in section 4980H(c)(4)) for the month,
10 plus

11 “(B) the number of employees determined
12 (under rules similar to the rules of section
13 4980H(c)(2)(E)) by dividing the aggregate
14 number of hours of service of employees who
15 are not full-time employees for the month by
16 120.

17 **“SEC. 6039L. INFORMATION ON PERSONS INVESTING IN**
18 **QUALIFIED OPPORTUNITY FUNDS.**

19 “(a) IN GENERAL.—Every taxpayer who makes an
20 investment in a qualified opportunity fund shall provide
21 an annual statement (at such time and in such manner
22 as the Secretary may prescribe) containing the informa-
23 tion described in subsection (b).

24 “(b) INFORMATION FROM INVESTORS.—The infor-
25 mation described in this subsection is—

1 “(1) the name, address, and taxpayer identifica-
2 tion number of the taxpayer,

3 “(2) the name and taxpayer identification num-
4 ber of the qualified opportunity fund in which the
5 investment was made,

6 “(3) the date such investment was made in a
7 qualified opportunity fund and the amount of such
8 investment, including a separate statement of the
9 amount of any such investments which are gain for
10 which an election was made under section 1400Z-
11 2(a)(1),

12 “(4) the date of the disposition of the invest-
13 ment, and

14 “(5) such other information as the Secretary
15 may require.

16 “(c) DEFINITIONS.—Any term used in this section
17 which is also used in subchapter Z of chapter 1 shall have
18 the meaning given such term under such subchapter.”.

19 (2) PENALTIES.—Part II of subchapter B of
20 chapter 68 of the Internal Revenue Code of 1986 is
21 amended by inserting after section 6725 the fol-
22 lowing new section:

1 **“SEC. 6726. FAILURE TO COMPLY WITH INFORMATION RE-**
2 **PORTING REQUIREMENTS RELATING TO**
3 **QUALIFIED OPPORTUNITY FUNDS.**

4 **“(a) IN GENERAL.—If—**

5 **“(1) any person is required to file a return**
6 **under section 6039K or a statement under section**
7 **6039L for any period, and**

8 **“(2) fails—**

9 **“(A) to file such return or statement on or**
10 **before the required filing date, or**

11 **“(B) fails to include all of the information**
12 **required to be shown on the return or state-**
13 **ment or includes incorrect information,**

14 **such person shall pay a penalty of \$10,000.**

15 **“(b) REDUCTION WHERE CORRECTION IN SPECIFIED**
16 **PERIOD.—If any failure described in subsection (a)(2) is**
17 **corrected on or before the day 30 days after the required**
18 **filing date, the penalty imposed by subsection (a) shall be**
19 **\$250 in lieu of the amount determined under such para-**
20 **graph.**

21 **“(c) DE MINIMIS ERRORS.—If—**

22 **“(1) there are 1 or more such failures described**
23 **in subsection (a)(2)(B) relating to an incorrect dol-**
24 **lar amount, and**

25 **“(2) no single amount in error differs from the**
26 **correct amount by more than \$25,**

1 then no correction shall be required, and, for purposes of
2 this section, such return or statement shall be treated as
3 having been filed with all correct required information.

4 “(d) PENALTY IN CASES OF INTENTIONAL DIS-
5 REGARD.—If 1 or more failures described in subsection
6 (a)(2) are due to intentional disregard of the filing re-
7 quirement (or the correct information reporting require-
8 ment), then, with respect to each such failure—

9 “(1) subsections (b) and (c) shall not apply,
10 and

11 “(2) the amount of the penalty determined
12 under subsection (a) shall be twice the amount
13 which would be determined without regard to this
14 paragraph.

15 “(e) INFLATION ADJUSTMENT.—

16 “(1) IN GENERAL.—In the case of any failure
17 relating to a return or statement required to be filed
18 in a calendar year beginning after 2020, each of the
19 dollar amounts in subsections (a) and (b) shall be
20 increased by an amount equal to such dollar amount
21 multiplied by the cost-of-living adjustment deter-
22 mined under section 1(f)(3) for the calendar year
23 determined by substituting ‘calendar year 2019’ for
24 ‘calendar year 2016’ in subparagraph (A)(ii) thereof.

1 “(2) ROUNDING.—The amount of any increase
2 under paragraph (1) shall be rounded to the nearest
3 multiple of \$100 (\$10 in the case of any increase in
4 the amount under subsection (b)).”.

5 (3) CLERICAL AMENDMENTS.—

6 (A) The table of sections for subpart A of
7 part III of subchapter A of chapter 61 of such
8 Code is amended by inserting after the item re-
9 lating to section 6039J the following new items:

“Sec. 6039K. Returns with respect to qualified opportunity funds.

“Sec. 6039L. Information on persons investing in qualified opportunity funds.”.

10 (B) The table of sections for part II of
11 subchapter B of chapter 68 of such Code is
12 amended by inserting after the item relating to
13 section 6725 the following new item:

“Sec. 6726. Failure to comply with information reporting requirements relating
to qualified opportunity funds.”.

14 (b) INFORMATION RETURNS OF QUALIFIED OPPOR-
15 TUNITY FUNDS MADE PUBLIC.—

16 (1) REQUIREMENT TO DISCLOSE.—Subchapter
17 B of chapter 61 of the Internal Revenue Code of
18 1986 is amended by inserting after section 6104 the
19 following new section:

20 “SEC. 6104A. PUBLICITY OF INFORMATION REQUIRED
21 FROM QUALIFIED OPPORTUNITY FUNDS.

22 “(a) IN GENERAL.—Each qualified opportunity fund
23 shall make publicly available on the website specified in

1 section 6039K(b)(1) a copy of each information return
2 filed under section 6039K(a) at all times during the 3-
3 year period beginning on the last day prescribed for filing
4 the return (determined with regard to any extension of
5 time for filing).

6 “(b) EXCEPTIONS FROM DISCLOSURE REQUIRE-
7 MENT.—The information made public under subsection
8 (a) shall not include—

9 “(1) any taxpayer identification number in-
10 cluded on the return,

11 “(2) the information described in paragraph (8)
12 of section 6039K(b), and

13 “(3) such other information as identified by the
14 Secretary to the extent the exclusion of such infor-
15 mation is consistent with the purposes of this sec-
16 tion.

17 “(c) QUALIFIED OPPORTUNITY FUND.—For pur-
18 poses of this section, the term ‘qualified opportunity fund’
19 means a fund described in section 1400Z-2(d).”.

20 (2) PENALTY.—

21 (A) IN GENERAL.—Section 6685 of such
22 Code is amended—

23 (i) by inserting “or the requirements
24 of section 6104A” after “section 6104”,
25 and

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1 (ii) by striking “FOR CERTAIN TAX-
 2 EXEMPT ORGANIZATIONS” in the head-
 3 ing thereof.

4 (B) CONFORMING AMENDMENT.—The item
 5 relating to section 6685 in the table of sections
 6 for part I of subchapter B of chapter 68 of
 7 such Code is amended by striking “for certain
 8 tax-exempt organizations”.

9 (3) CLERICAL AMENDMENT.—The table of sec-
 10 tions for subchapter B of chapter 61 of such Code
 11 is amended by inserting after the item relating to
 12 section 6104 the following new item:

“Sec. 6104A. Publicity of information required from qualified opportunity
 funds.”.

13 (c) EFFECTIVE DATE.—The amendments made by
 14 this section shall apply to taxable years beginning after
 15 the date of the enactment of this Act.

16 **SEC. 3. MODIFICATION OF TRACTS QUALIFIED TO BE DES-**
 17 **IGNATED AS QUALIFIED OPPORTUNITY**
 18 **ZONES.**

19 (a) DISQUALIFICATION OF CERTAIN CENSUS
 20 TRACTS.—

21 (1) CENSUS TRACTS WITH HIGH MEDIAN FAM-
 22 ILY INCOME.—Paragraph (1) of section 1400Z-1(c)
 23 is amended to read as follows:

24 “(1) LOW-INCOME COMMUNITIES.—

13

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), the term ‘low-income com-
3 munity’ has the same meaning as when used in
4 section 45D(e).

5 “(B) EXCEPTION.—

6 “(i) IN GENERAL.—Such term shall
7 not include any census tract if the median
8 family income for such tract exceeds 120
9 percent of the national median family in-
10 come (as determined based the most recent
11 data published by the Bureau of the Cen-
12 sus on the date of the enactment of the
13 Opportunity Zone Reporting and Reform
14 Act).

15 “(ii) SPECIAL RULE.—Clause (i) shall
16 not apply to any census tract if—

17 “(I) the poverty rate for such
18 tract is at least 20 percent, and

19 “(II) less than 10 percent of the
20 population of such tract is enrolled in
21 an institution of higher education (as
22 defined in section 101 of the Higher
23 Education Act of 1965).”.

24 (2) CONTIGUOUS CENSUS TRACTS.—Section
25 1400Z–1 of such Code is amended by striking sub-

1 section (e) and redesignating subsection (f) as sub-
2 section (e).

3 (b) TREATMENT OF PREVIOUSLY DESIGNATED
4 TRACTS.—Section 1400Z–1 of the Internal Revenue Code
5 of 1986, as amended by subsection (a)(2), is amended by
6 adding at the end the following:

7 “(f) TREATMENT OF CERTAIN CENSUS TRACTS.—

8 “(1) IN GENERAL.—Except as provided in sec-
9 tion 1400Z–2(d)(2)(D), any census tract (other than
10 a census tract in Puerto Rico) which is not a low-
11 income community and which was designated as a
12 qualified opportunity zone before the date of the en-
13 actment of the Opportunity Zone Reporting and Re-
14 form Act shall not be treated as a qualified oppor-
15 tunity zone on or after such date of enactment.

16 “(2) REPLACEMENT ZONES.—

17 “(A) IN GENERAL.—A State may des-
18 ignate a low-income community as a qualified
19 opportunity zone to replace a census tract the
20 status of which as a qualified opportunity zone
21 was terminated by reason of paragraph (1).

22 “(B) SPECIAL RULES.—For purposes of
23 this subchapter—

24 “(i) the determination period with re-
25 spect to a designation under subparagraph

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1 (A) shall be the 90-day period beginning
2 on the date of the enactment of such Act,
3 as extended under subsection (b)(2), and
4 “(ii) the period for which any such
5 designation is in effect shall be the period
6 beginning with the date such designation
7 takes effect and ending with the last day
8 of the 10th calendar year beginning on or
9 after the designation date as a qualified
10 opportunity zone for the census tract
11 which it is replacing as such a zone by rea-
12 son of the termination under clause (i).”.

13 (c) TREATMENT OF EXISTING INVESTMENTS.—Sec-
14 tion 1400Z–2(d)(2)(D) of such Code is amended by add-
15 ing at the end the following new clause:

16 “(iv) SPECIAL RULE FOR INVEST-
17 MENTS IN CERTAIN CENSUS TRACTS.—

18 “(I) IN GENERAL.—For purposes
19 of applying this paragraph, the use of
20 property in a qualified census tract
21 shall be treated as use of property in
22 a qualified opportunity zone if the
23 original use of such property occurred
24 before November 6, 2019, or in the
25 case of property acquired before such

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1 date, the property was substantially
2 improved before the close of the 30-
3 month period beginning with the
4 month of the acquisition.

5 “(II) QUALIFIED CENSUS
6 TRACT.—For purposes of this clause,
7 the term ‘qualified census tract’
8 means any census tract which is not a
9 low-income community and which was
10 designated as a qualified opportunity
11 zone before the date of the enactment
12 of the Opportunity Zone Reporting
13 and Reform Act.”.

14 **SEC. 4. MAINTENANCE OF GEOGRAPHIC BOUNDARIES OF**
15 **QUALIFIED OPPORTUNITY ZONES.**

16 Section 1400Z–1(e) of the Internal Revenue Code of
17 1986, as redesignated by section 3(a)(2), is amended by
18 adding at the end the following new sentence: “Such des-
19 ignation shall apply to the geographic area as in effect
20 at the time such tract is designated without regard to
21 whether adjustments are made to the boundaries of the
22 census tract so designated.”.

1 SEC. 5. MODIFICATION OF PROHIBITION ON CERTAIN
2 TYPES OF TRADES OR BUSINESS AS QUALI-
3 FIED OPPORTUNITY ZONE BUSINESSES.

4 (a) IN GENERAL.—Section 1400Z–2(d)(3)(A)(iii) of
5 the Internal Revenue Code of 1986 is amended by striking
6 “in section 144(c)(6)(B)” and inserting “subsections
7 (a)(8)(B) or (c)(6)(B) of section 144 or section 147(e)”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall take effect on November 6, 2019.

10 SEC. 6. OTHER MODIFICATIONS RELATED TO QUALIFIED
11 OPPORTUNITY FUNDS.

12 (a) APPLICATION OF QUALIFIED OPPORTUNITY
13 ZONE BUSINESS RULES TO TRADES OR BUSINESSES
14 CONDUCTED BY QUALIFIED OPPORTUNITY ZONE
15 FUNDS.—

16 (1) IN GENERAL.—Section 1400Z–2(d)(1) of
17 the Internal Revenue Code of 1986 is amended to
18 read as follows:

19 “(1) IN GENERAL.—The term ‘qualified oppor-
20 tunity fund’ means any investment vehicle—

21 “(A) which is organized as a corporation
22 or a partnership for the purpose of investing in
23 qualified opportunity zone property (other than
24 another qualified opportunity fund) that holds
25 at least 90 percent of its assets in qualified op-
26 portunity zone property, determined by the av-

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1 erage of the percentage of qualified opportunity
2 zone property held in the fund as measured—

3 “(i) on the last day of the first 6-
4 month period of the taxable year of the
5 fund, and

6 “(ii) on the last day of the taxable
7 year of the fund, and

8 “(B) any trade or business of which is a
9 qualified opportunity zone business.”

10 (2) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect as if included in
12 section 13823 of Public Law 115–97.

13 (b) CLARIFICATION OF SUBSTANTIALLY ALL.—

14 (1) IN GENERAL.—Section 1400Z–2(d) of the
15 Internal Revenue Code of 1986 is amended—

16 (A) by striking “during substantially all”
17 each place it appears in paragraphs
18 (2)(B)(i)(III), (2)(C)(iii), and (2)(D)(i)(III)
19 and inserting “for not less than 90 percent”,

20 (B) by striking “substantially all of the
21 use” in paragraph (2)(D)(i)(III) and inserting
22 “not less than 90 percent of the use”, and

23 (C) by striking “in which substantially all”
24 in paragraph (3)(A)(i) and inserting “in which
25 not less than 90 percent”.

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1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect as if included in
3 section 13823 of Public Law 115–97.

4 (c) CERTAIN PROPERTY EXCLUDED FROM QUALI-
5 FIED OPPORTUNITY ZONE BUSINESS PROPERTY.—

6 (1) IN GENERAL.—Section 1400Z-2(d)(2)(D) of
7 the Internal Revenue Code of 1986 is amended—

8 (A) in clause (i), by inserting “(other than
9 self-storage property, stadium property, or dis-
10 qualified residential rental property)” after
11 “tangible property”, and

12 (B) by adding at the end the following new
13 clauses:

14 “(iv) SELF-STORAGE PROPERTY.—The
15 term ‘self-storage property’ means property
16 designed and used for the purpose of rent-
17 ing or leasing individual storage space to
18 occupants who are to have access to such
19 space for the purpose of storing and re-
20 moving personal property.

21 “(v) STADIUM.—The term ‘stadium
22 property’ means any facility (or appur-
23 tenant real property) which, during at
24 least 5 days during any calendar year, is

1 used as a stadium or arena for professional
2 sports exhibitions, games, or training.

3 “(vi) DISQUALIFIED RESIDENTIAL
4 RENTAL PROPERTY.—The term ‘disquali-
5 fied residential rental property’ means any
6 residential rental property unless 50 per-
7 cent or more of the residential units of
8 such property are both rent-restricted
9 (within the meaning of section 42(g)(2))
10 and occupied by individuals whose income
11 is 50 percent or less of area median in-
12 come.”.

13 (2) EFFECTIVE DATE.—The amendments made
14 by this subsection shall take effect as if included in
15 section 13823 of Public Law 115–97.

16 (d) TREATMENT OF LEASED PROPERTY.—

17 (1) IN GENERAL.—Section 1400Z-
18 2(d)(2)(D)(i)(I) of the Internal Revenue Code of
19 1986 is amended by inserting “or under a lease
20 (other than a lease from a related person) entered
21 into after December 31, 2017,” after “December 31,
22 2017,”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by this subsection shall take effect as if included in
25 section 13823 of Public Law 115–97.

1 (e) CORRECTION RELATING TO ORIGINAL USE OF
2 QUALIFIED OPPORTUNITY ZONE BUSINESS PROPERTY.—

3 (1) IN GENERAL.— Section 1400Z-
4 2(d)(2)(D)(i)(II) of the Internal Revenue Code of
5 1986 is amended by striking “in the qualified oppor-
6 tunity zone”.

7 (2) EFFECTIVE DATE.—The amendment made
8 by this subsection shall take effect as if included in
9 section 13823 of Public Law 115–97.

10 (f) MODIFICATION OF DETERMINATION OF SUBSTAN-
11 TIAL IMPROVEMENT OF QUALIFIED OPPORTUNITY ZONE
12 BUSINESS PROPERTY.—

13 (1) IN GENERAL.—Section 1400Z-
14 2(d)(2)(D)(ii) of the Internal Revenue Code of 1986
15 is amended by inserting “(including land)” after
16 “adjusted basis of such property”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by this subsection shall take effect as if included in
19 section 13823 of Public Law 115–97.

20 SEC. 7. PUBLIC LIST OF QUALIFIED OPPORTUNITY FUNDS.

21 The Secretary of the Treasury (or the Secretary’s
22 delegate) shall maintain and make publicly available on
23 the Internet and at the offices of the Internal Revenue
24 Service—

1 (1) a list of investment vehicles that are cer-
2 tified as qualified opportunity funds (as defined in
3 section 1400Z-2(d)(1) of the Internal Revenue Code
4 of 1986) pursuant to the rules established under
5 section 1400Z-2(e)(4)(A) of such Code, and

6 (2) the name, address, and the uniform re-
7 source locator (URL) for the website for such fund.

8 **SEC. 8. GAO REPORT.**

9 (a) **IN GENERAL.**—Not later than each applicable
10 date, the Comptroller General of the United States shall
11 submit to Congress a report on the effectiveness of the
12 provisions of subchapter Z of chapter 1 of the Internal
13 Revenue Code of 1986 in achieving the policies of such
14 provisions.

15 (b) **MATTERS INCLUDED.**—The reports submitted
16 under subsection (a) shall include an analysis of—

17 (1) the distribution of investments of qualified
18 opportunity funds among qualified opportunity
19 zones,

20 (2) the distribution of such investments across
21 different industries or investment purposes,

22 (3) the impact of the designation of an area as
23 a qualified opportunity zone on—

23

1 (A) economic indicators, including employ-
2 ment, new business start-ups, and povertyre-
3 duction,

4 (B) housing costs, and

5 (C) income distribution among residents of
6 such zones,

7 (4) the economic benefits provided by such des-
8 ignations compared to economic costs, and

9 (5) to the extent practicable, the impact of the
10 provisions of such subchapter Z on low-income com-
11 munities that have not been designated as qualified
12 opportunity zones.

13 (c) DEFINITIONS.—

14 (1) APPLICABLE DATE.—The term “applicable
15 date” means—

16 (A) the date that is 5 years after the date
17 of the enactment of this Act, and

18 (B) the date that is 10 years after the date
19 of the enactment of this Act.

20 (2) OTHER TERMS.—Any term used in this sec-
21 tion which is also used in subchapter Z of chapter
22 1 of the Internal Revenue Code of 1986 shall have
23 the meaning given such term under such subchapter.