City of Tacoma

Community and Economic Development Department

Opportunity Zone Update, 7/1/19:

The US Department of the Treasury released the second installment of proposed regulations on Qualified Opportunity Funds (QOF) and Opportunity Zone (OZ) investing mid-April. According to Novogradac: “the biggest takeaway is that the guidance addresses gating issues that were limiting OZ-incented investment in operating businesses, and provides added tax clarity to the start-up, operation and wind-down of a qualified opportunity fund”.
QOFs, a critical link to the program’s tax advantages, are varied in size and focus. The 123 funds reported hold $27 billion in community development capacity – dollars which will be invested by asset class, geography or diversified among both. Real estate and operating businesses are targeted investments.

Requirements in the second installment include:

- QOF must invest at least 90 percent of its assets into Qualified Opportunity Zone properties. Tax advantages are sustained when property is sold, provided that proceeds are reinvested in another qualified property within 12 months. Funds will be audited semi-annually for compliance.

- Substantially All Test: 70 percent of the property’s use must be in a QOZ for 90 percent of the QOF’s holding period.

- Qualified properties must undergo substantial improvements which double the value of building within 30 months of acquisition, land value excluded. This requirement does not apply to buildings which have been vacant for at least five years.

- Half of gross income from qualified businesses must be generated within the QOZ under at least one of the following requisites:
    - At least 50 percent of employee or independent contractor service hours are performed in QOZ; or
    - At least 50 percent of compensated services are by employees or independent contractors in QOZ; or
    - Property management and operations required to produce 50 percent of gross income are located in QOZ.

- Leased property:
    - OZ businesses leasing at market rate will qualify under the 90 percent asset test and 70 percent “substantially all” test

- Ownership and operation, including leasing, of real property used in QOZ business is treated as active conduct of trade or business
- The QOF must be directly involved with property improvements/maintenance
- Leases must be entered into after 12/31/17 and be market rate
- Leased property does not have to be substantially improved by the owner
- Property may be leased by a related party

The Internal Revenue Service and US Department of the Treasury accepted written comments on these guidelines until 7/1/19.

The third and final tranche of requirements will be released in Q3/Q4 of 2019. The focus of this tranche will be on anti-abuse policies and reporting requirements on economic impacts of investments in OZ areas. Points of interest in the RFI include job creation which matches local labor force skills, poverty reduction, businesses opened, and the role of Federal, Tribal, State and Municipal governance in improving the effectiveness of OZ incentives.