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IRS Releases Notice 2020-39 Providing Opportunity Zone Investments

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On June 4, 2020, the IRS released Notice 2020-39 to provide a number of extensions related to Opportunity Zone investments. These supersede the extension granted in Notice 2020-23. Specifically, the following extensions were granted:

- If the 180th day after a gain is recognized falls between April 1, 2020 and December 31, 2020, the taxpayer will have until December 31, 2020 to make an investment in a qualified opportunity fund (“QOF”).
- For QOFs with testing dates for their 90-percent requirements between April 1, 2020 and December 31, 2020, the failure to meet the 90-percent requirement will be disregarded for purposes of determining whether the QOF satisfies the requirement and will not give rise to penalties (as having been deemed to be due to reasonable cause).
- For non-new tangible property acquired by a QOF or a qualified opportunity zone business (“QOZB”), the 30 months to substantially improve such property is tolled for 9 months (from April 1, 2020 to December 31, 2020).
- For QOZBs with a “working capital safe harbor” before December 31, 2020, the QOZB will have an additional 24 months (i.e., potentially up to 86 months) to expend the working capital.
- If a QOF had previously disposed of a qualifying investment and was seeking to reinvest in a new qualifying investment (which it is required to do within 12 months of the disposition to be treated as continuously invested in qualifying investments) and if the 12 month period includes January 20, 2020, the QOF will have an additional 12 months to make the reinvestment.

While these extensions are automatic, QOFs and QOZBs and investors investing in QOFs still must comply with the tax filing requirements applicable to them.

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