DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–116506–25]

RIN 1545–BR82

Information Reporting Regarding Qualified Opportunity Zones and Updated Qualified Opportunity Fund Certification and Decertification Procedures

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that would implement new statutory requirements for qualified opportunity funds to file information returns with the IRS and furnish statements to investors who dispose of investments in those entities and for qualified opportunity zone businesses to furnish statements to qualified opportunity funds that hold interests in them. These proposed regulations would also clarify the applicability of penalties for the failure to file or furnish these information returns and statements. Finally, these proposed regulations would clarify the qualified opportunity fund self-certification rules and provide procedures for qualified opportunity funds to revoke inadvertent certifications or voluntarily decertify.

DATES: Written or electronic comments must be received by October 16, 2026. A telephonic public hearing on this proposed regulation has been scheduled for November 5, 2026, at 10:00 a.m. ET. Requests to speak and outlines of topics to be discussed at the public hearing must be received by October 13, 2026. If no outlines are received by October 13, 2026, the public hearing will be cancelled. Requests to attend the public hearing must be received by 5 p.m. ET on November 3, 2026.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at *https://www.regulations.gov* (indicate IRS and REG–116506–25) by following the online instructions for submitting comments. The public hearing will be conducted by telephone only. Requests to participate in the public hearing must be submitted as prescribed in the ''Comments and Public Hearing'' section of this preamble. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish any comments submitted electronically or on paper to the public docket. *Send paper submissions to:* CC:PA:01:PR (REG–116506–25), Room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations under section 1400Z–2, Dominic DiMattia of the Office of the Associate Chief Counsel (Income Tax and Accounting) at (202) 317–7009 (not a toll-free number); concerning the remainder of the proposed regulations under sections 6011, 6037, 6039K, 6039L, 6045, 6722, 6724, and 6726, Roseann Cutrone of the Office of the Associate Chief Counsel (Procedure and Administration) at (202) 317–6844 (not a toll-free number); and concerning submissions of comments or the public hearing, the Publications and Regulations Section at (202) 317–6901 (not a toll-free number) or by sending an email to *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This notice of proposed rulemaking contains proposed amendments to the Income Tax Regulations (26 CFR part 1) that would revise existing regulations under sections 1400Z–2 and 6045 of the Internal Revenue Code (Code) and add new regulations under sections 6039K and 6039L of the Code, as enacted by section 70421(d)(1) of Public Law 119–21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act, (OBBBA). This notice of proposed rulemaking also contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) that would revise existing regulations under sections 6011, 6037, 6722, and 6724 of the Code and add new regulations under section 6726 of the Code as enacted by section 70421(d)(2) of the OBBBA.

Section 1400Z–2(e)(4) expressly delegates authority to the Secretary of the Treasury or the Secretary's delegate (Secretary) to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 1400Z–2, including rules for the certification of qualified opportunity funds (QOFs) and rules to prevent abuse.

Section 6039K(a), which requires every QOF to file an annual return, expressly delegates authority to the Secretary to prescribe the time and manner for the filing of the annual return and, as provided in section 6039K(b)(9), to require the inclusion in such annual return of ''such other information as the Secretary may require.'' Section 6039K(c), which requires every QOF to furnish statements (investor statements) to every person holding a qualifying or non-qualifying investment in the QOF (investor) who disposed of some or all of that investment in the QOF during the year, expressly delegates authority to the Secretary to prescribe the time and manner for the furnishing of such investor statements.

Section 6039L(a), which requires every applicable qualified opportunity zone business (QOZB) to furnish statements (QOZB statements) to certain QOFs, expressly delegates authority to the Secretary to prescribe not only the time and manner for the furnishing of such QOZB statements, but the information such QOZB statements must set forth as the Secretary prescribes by regulations for purposes of enabling QOFs to meet the information reporting requirements of section 6039K(b)(5).

Section 6045(a) expressly delegates authority to the Secretary to require every person doing business as a broker to file an information return in accordance with such regulations as the Secretary may prescribe. Section 6045(a) further provides that such information return must show the name and address of each customer, and details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

Lastly, these proposed regulations are also issued under the express delegation of authority under section 7805 of the Code, which directs the Secretary to prescribe all needful rules and regulations for the enforcement of the Code, including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue. Accordingly, given the changes in law made by the OBBBA, the proposed regulations are also issued pursuant to the authority under section 7805 in conjunction with sections 1400Z–2, 6011, 6039K, 6039L, 6724 and 6726.

Background

I. Sections 1400Z–1 and 1400Z–2

Section 13823 of Public Law 115–97, 131 Stat. 2054 (December 22, 2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA), added sections 1400Z–1 and 1400Z–2 as part of a new subchapter Z of chapter 1 of the Code (subchapter Z).

A. Qualified Opportunity Zones

Section 1400Z–1(a) defines the term ''qualified opportunity zone'' (QOZ) for purposes of subchapter Z, and section 1400Z–1(b) and (d) address the process by which certain population census tracts located in the 50 states, U.S. territories, and the District of Columbia may be nominated, certified, and designated as QOZs. The list of population census tracts designated as QOZs pursuant to section 1400Z–1(b) prior to amendment by the OBBBA are set forth in Notice 2018–48, 2018–28 I.R.B. 9, as amplified by Notice 2019–42, 2019–29 I.R.B. 352. Section 70421 of the OBBBA amended section 1400Z–1 to provide for recurring nomination, certification, and designation cycles for QOZs every 10 years beginning July 1, 2026. *See* Rev. Proc. 2026–14, 2026–02 I.R.B. 910 for more information.

B. Section 1400Z–2 and Regulations Under the TCJA

1. Overview

Section 1400Z–2 provides rules regarding the two main Federal income tax benefits to eligible taxpayers who make certain investments in QOFs, rules authorizing the certification of eligible entities as QOFs, and the requirements such entities must satisfy to be certified as QOFs.

As enacted under the TCJA, the first specified opportunity zone tax benefit provided by section 1400Z–2(a) and (b) was the deferral of certain gains from gross income until as late as December 31, 2026, if a taxpayer invests a corresponding amount of such gain in a qualifying investment in a QOF within 180 days of the date of the sale or exchange giving rise to the gain. Additionally, section 1400Z–2(b) provided an upward basis adjustment of 10 percent of the amount of deferred gain if the taxpayer held the qualifying investment in the QOF for at least 5 years and an upward basis adjustment of an additional 5 percent of the amount of deferred gain if the taxpayer held the qualifying investment for at least 7 years.

The second specified opportunity zone tax benefit was provided by section 1400Z–2(c), under which an eligible taxpayer, upon the making of a second valid election, may also exclude any appreciation on the qualifying investment if the eligible taxpayer held the qualifying investment for at least 10 years.

On October 29, 2018, the Treasury Department and the IRS published in the **Federal Register** (83 FR 54279) a notice of proposed rulemaking (REG–115420–18) providing guidance under section 1400Z–2 for investing in QOFs (October 2018 proposed regulations). A second notice of proposed rulemaking (REG–120186–18) was published in the **Federal Register** (84 FR 18652) on May 1, 2019, containing additional proposed regulations under section 1400Z–2 (May 2019 proposed regulations). The May 2019 proposed regulations also updated portions of the October 2018 proposed regulations.

On January 13, 2020, final regulations (TD 9889) under section 1400Z–2 were published in the **Federal Register** (85 FR 1866, as corrected on April 6, 2020, at 85 FR 19082), effective for taxable years beginning after March 13, 2020 (section 1400Z–2 regulations). Under § 1.1400Z2(a)–1(c)(5), a taxpayer's gain qualifies for deferral under section 1400Z–2(a) to the extent the taxpayer makes or acquires a qualifying investment in a QOF. Section 1.1400Z2(a)–1(b)(34) defines a ''qualifying investment'' as an eligible interest, or portion thereof, in a QOF to the extent that a deferral election is made and applies with respect to such eligible interest and that the IRS has been timely notified of the deferral election. Section 1.1400Z2(a)–1(b)(12) defines an ''eligible interest'' in a QOF as an equity interest issued by a QOF, which includes stock or a partnership interest but excludes any debt instrument. Pursuant to § 1.1400Z2(a)–1(b)(34), an eligible interest ceases to be a qualifying interest upon, and to the extent of, the occurrence of an inclusion event regarding that eligible interest, or portion thereof. Under § 1.1400Z2(b)–1(c)(15), the decertification of a QOF is an inclusion event.

2. Qualified Opportunity Funds

a. In General

Section 1400Z–2(d)(1) provides that a QOF is a partnership or corporation that (i) is organized for the purpose of investing in qualified opportunity zone property (QOZ property) (other than another QOF), and (ii) must hold at least 90 percent of its assets in QOZ property, determined by the average of the percentage of QOZ property held by the entity as measured on two semiannual testing dates (90-percent investment standard).

Section 1.1400Z2(d)–1(a)(1)(i) and (ii) require that a QOF be an entity that is classified as a corporation or partnership for Federal income tax purposes and be formed under the laws of the United States, one of the 50 states, the District of Columbia, a Federally recognized Tribal government, or a U.S. territory.

Section 1400Z–2(d)(1)(A) and (B) provide that the 90-percent investment standard is measured by determining the average of the percentage of QOZ property held on the last day of the 6-month mark of the QOF's taxable year and on the last day of the QOF's taxable year. Section 1.1400Z2(d)–1(b)(1) requires the QOF to include all assets owned or leased by the QOF in determining the 90-percent investment standard. Section 1.1400Z2(d)–1(b)(2) requires that the QOF value its assets using an applicable financial statement valuation method or an alternative valuation method promulgated under the regulations.

b. Certification and Decertification of QOFs

The section 1400Z–2 regulations provide the requirements for an eligible entity to self-certify as a QOF. To be eligible to be a QOF, § 1.1400Z2(d)–1(a)(1) provides that an entity must be classified as either a corporation or partnership for Federal income tax purposes. Under § 1.1400Z2(d)–1(a) through (c), the eligible entity must self-certify that it satisfies the 90-percent investment standard. The self-certification must be made in the form and manner as prescribed by the Commissioner of Internal Revenue (Commissioner) in the forms and instructions, or in publications or guidance published in the Internal Revenue Bulletin (IRB) and must identify the taxable year for which the self-certification takes effect. *See* § 1.1400Z2(d)–1(a)(2).

Section 1.1400Z2(d)–1(a)(3) provides that a QOF may voluntarily decertify in the form and manner as may be prescribed in forms and instructions, or in publications or guidance published in the IRB. In August 2021, § 1.1400Z2(d)–1(a)(3) and the preamble to TD 9889 were corrected (86 FR 42716) to remove a reference to a timing requirement for voluntary decertification.

3. QOZ Property

Both Section 1400Z–2(d)(2)(A) and § 1.1400Z2(d)–1(c)(1) define QOZ property as: (i) QOZ stock, (ii) QOZ partnership interest, or (iii) QOZ business property. Section 1.1400Z2(d)–1(c)(1) provides further guidance on whether these assets will qualify for inclusion in the determination of the 90-percent investment standard (or the 70-percent tangible property standard in the case of QOZBs and QOZ business property).

a. QOZ Stock

Pursuant to § 1.1400Z2(d)–1(c)(2)(i), QOZ stock is stock in an eligible corporation where: (i) the stock was acquired by a QOF at its original issue from the corporation solely in exchange for cash after December 31, 2017; (ii) the corporation was a QOZB (or newly organized for such purpose) at the time the stock was issued; and (iii) for 90 percent of the QOF's holding period of such stock, the corporation qualified as a QOZB.

b. QOZ Partnership Interest

Under § 1.1400Z2(d)–1(c)(3)(i), qualified opportunity zone partnership interest is any capital or profits interest in an eligible partnership where: (i) the capital or profits interest was acquired by a QOF from the partnership solely in exchange for cash after December 31, 2017; (ii) the partnership was a QOZB (or newly formed for such purpose) at the time the capital or profits interest was issued; and (iii) for 90 percent of the QOF's holding period of such interest, the partnership qualified as a QOZB.

c. QOZ Business Property

Section 1400Z–2(d)(2)(D) defines ''QOZ business property'' as property: (i) acquired by purchase after December 31, 2017; (ii) the original use of which commences in the QOZ with the QOF or the QOZB (or that the QOF or QOZB substantially improves the property); and (iii) substantially all of the use was in a QOZ during substantially all of the QOF's or QOZB's holding period of such property. *See also* § 1.1400Z2(d)-2(a)(2). Section 1.1400Z2(d)-2(c) permits a QOF or QOZB to treat leased property as QOZ business property subject to certain requirements. Section 1400Z–2(d)(2)(D)(ii) also provides that a QOF or QOZB must substantially improve the property within a 30-month period if the property will not meet the original use requirement. Section 1.1400Z2(d)-2(b)(4) clarifies these rules by providing additional guidance on the 30-month substantial improvement period.

4. QOZBs

Section 1400Z–2(d)(3)(A) defines a QOZB as a trade or business (other than one specified in the statutory list of businesses in section 144(c)(6)(B)) that meets each of the following two requirements. First, substantially all of the tangible property owned or leased in connection with the trade or business must be QOZ business property. *See* section 1400Z–2(d)(3)(A)(i). Second, the trade or business must satisfy the following requirements provided in section 1397C(b)(2), (4), and (8): (i) at least 50 percent of the gross income of such business is derived from an active trade or business in the QOZ; (ii) a substantial portion of the intangible property of such entity is used in the active conduct of a trade or business in the QOZ; and (iii) less than five percent of the average of the aggregate adjusted bases of the entity's property must be attributable to nonqualified financial property. *See* section 1400Z–2(d)(3)(A)(ii); § 1.1400Z2(d)–1(d)(3).

Under § 1.1400Z2(d)–1(d)(1)(i), which clarifies the ''substantially all'' requirement provided in section 1400Z–2(d)(3)(A)(i), an entity must satisfy the 70-percent tangible property standard with respect to its tangible property, meaning that at least 70-percent of the tangible property owned or leased by the entity is QOZ business property. To determine satisfaction of the 70-percent tangible property standard, under § 1.1400Z2(d)–1(d)(2)(ii)(A), the entity uses a fraction, the numerator of which is the total value of all QOZ business property owned or leased by the entity and the denominator of which is the total value of all tangible property owned or leased by the entity, whether located inside or outside a QOZ. Pursuant to § 1.1400Z2(d)–1(d)(2)(ii)(B), an entity must value its assets using either the applicable financial statement valuation method (if it has an applicable financial statement) or the alternative valuation method.

The section 1400Z–2 regulations provide further guidance on the other statutory requirements of section 1400Z–2(d)(3). To meet the gross income requirement of section 1400Z–2(d)(3)(A)(ii), § 1.1400Z2(d)–1(d)(3)(i) provides three separate safe harbors that a business can rely upon and, if none of those apply, a general facts and circumstances test. These safe harbors look to where the tangible property, business activities or the business's employees are located. To meet the intangible property requirement of section 1400Z–2(d)(3), § 1.1400Z2(d)–1(d)(3)(ii) provides that at least 40 percent of the business's intangible property must be used in the active conduct of a trade or business in a QOZ. Finally, § 1.1400Z2(d)–1(d)(3)(v) provides a safe harbor for QOZBs to treat the amount of working capital assets held by the business as reasonable if certain requirements are met. Under § 1.1400Z2(d)–1(d)(3)(vi), the use of the working capital safe harbor permits the QOZB to utilize other safe harbors to meet the requirements of section 1397C(b).

Notably, for purposes of these proposed regulations, the statutory and regulatory requirements to treat a business as a QOZB are met on two different testing dates. To satisfy the 70-percent tangible property standard, a QOZB must measure compliance between two semiannual testing dates. To satisfy the other section 1397C(b) requirements, the QOZB measures compliance on the last day of its taxable year.

As previously noted, a QOF must test compliance with the 90-percent investment standard on its two testing dates (the last day of the first 6-month period of its taxable year and the last day of its taxable year, respectively). The section 1400Z–2 regulations recognize that a QOF's taxable year and testing dates may not match up with a QOZB's taxable year and testing dates, making it difficult to determine whether the entity qualifies as a QOZB of the QOF on a semiannual basis based on the QOF's taxable year. Accordingly, § 1.1400Z2(d)–1(b)(2)(i)(C) provides a safe harbor for determining on the two semiannual testing dates of a QOF whether an entity is a QOZB and whether the QOF may treat the equity in that entity as QOZ property. Under the safe harbor, the QOF may limit the period tested to the period that starts with the beginning of the QOF's status as a QOF and lasts until the last day of the entity's latest taxable year that ends on or before the relevant testing date. If an entity satisfies all of the requirements of a QOZB determined as of the end of the entity's taxable year, the entity qualifies as a QOZB for the entire taxable year of the entity.

Section 1.1400Z2(d)–1(b)(2)(i)(C)(*2*) also provides that if an entity would not be treated as a QOZB as of the last day of its taxable year ending on or before a semiannual testing date of the QOF it may be treated as a QOZB with respect to that QOF for that taxable year of the entity if a cure is achieved for the entity under § 1.1400Z2(d)–1(d)(6) and the QOF timely files its Federal tax return [1] for the taxable year of the QOF containing the testing date on a date that is timely and that is not earlier than when that cure is achieved. Pursuant to § 1.1400Z2(d)–1(d)(6)(iii), each QOF is permitted only one correction for a trade or business.

[1] References in this preamble and these proposed regulations to a Federal tax return are to the individual income tax return (Form 1040) for a person that is an individual, to the applicable Federal income tax return (Form 1120 series) for a person that is a corporation, to the Federal return of partnership income (Form 1065) for a person that is a partnership, and to the income tax return for estates and trusts (Form 1041) for a person that is an estate or trust.

C. Section 1400Z–2 as Amended by the OBBBA

The OBBBA amended subchapter Z, in part, to make section 1400Z–2 permanent with the modifications described in this part I.C.

1. QOZ Property

Section 70421(c)(4) of the OBBBA modifies the statutory definitions of QOZ business property, QOZ stock, and QOZ partnership interests applicable to property acquired after December 31, 2026, to conform to the recurring decennial designation of QOZs introduced by the OBBBA. Section 70421(c)(4)(A) of the OBBBA modifies the acquisition date for QOZ business property in section 1400Z–2(d)(2)(D)(i)(I) from ''after December 31, 2017'' to ''after the applicable start date (as defined in section 1400Z–1(e)(2)) with respect to the [QOZ] described in [section 1400Z–2(d)(2)(D)(i)(III)].'' Section 70421(c)(4)(B) of the OBBBA modifies section 1400Z–2(d)(2)(B)(i)(I) and (d)(2)(C)(i) by replacing ''December 31, 2017,'' with ''the applicable date'', which section 1400Z–2(d)(2)(E) defines, with respect to any corporation or partnership that is a QOZB, as the earliest date described in section 1400Z–2(d)(2)(D)(i)(I) with respect to the QOZ business property held by such QOZB.

2. Specified Opportunity Zone Tax Benefits

Section 70421(c)(2) of the OBBBA replaced the fixed deferred gain recognition date of the earlier of either the date of sale or exchange of the qualifying investment or December 31, 2026, with a rolling deferred gain recognition date occurring on the earlier of either the date of sale or exchange of the qualifying investment or five years from the date the taxpayer makes the qualifying investment.

The OBBBA also modified the specified opportunity zone tax benefits available to an eligible taxpayer. Although section 70421(c)(2) of the OBBBA retained the basis adjustments of 10 percent of the amount of deferred gain with respect to qualifying investments held for at least 5 years, the additional basis adjustment of 5 percent for qualifying investments held for at least 7 years was not retained. In addition, section 70421(c)(3) of the OBBBA modified the basis adjustments for investments held for at least 10 years by capping the fair market value basis adjustment to the fair market value on the date that is 30 years after the date of investment.

3. Enhanced Incentives for Investing in Rural Areas

The OBBBA created enhanced incentives for investment in rural areas, including incentives for certain types of QOFs that invest in QOZs comprised entirely of a rural area. Generally, pursuant to section 70421(c)(2) of the OBBBA, a qualified rural opportunity fund is a QOF for which substantially all the use of its QOZ business property during substantially all of the holding period of such property was in a QOZ comprised entirely of a rural area (rural QOZ).

The OBBBA codified a definition of ''rural area'' applicable to amounts invested in QOFs after December 31, 2026. Under such definition, a rural area is defined as any area other than a city or town that has a population of greater than 50,000 inhabitants, and any urbanized area contiguous and adjacent to a city or town that has a population of greater than 50,000 inhabitants. Section 70421(c)(4)(C) of the OBBBA also amended the general substantial improvement threshold for improvements to property located in a rural QOZ and reduced the substantial improvement threshold for required additions to the basis for such property from 100 percent to 50 percent. Pursuant to section 70421(c)(5)(C) of the OBBBA, the amendment to the substantial improvement threshold took effect on July 4, 2025.

On September 30, 2025, the Treasury Department and the IRS issued Notice 2025–50, 2025–43 I.R.B. 542, which provides guidance with respect to the definition of a ''rural area'' for purposes of applying the substantial improvement provision under section 1400Z–2(d)(2)(D)(ii) and provides a list of census tracts designated prior to the enactments of the OBBBA as QOZs that will be considered rural QOZs.

II. Information Reporting Rules

The OBBBA enacted information reporting requirements under new sections 6039K and 6039L for QOFs and QOZBs, as well as a new penalty provision under section 6726.

A. Information Reporting Requirements Before the OBBBA

Prior to the enactment of the OBBBA, the Code did not mandate information reporting from QOFs or QOZBs. Section 1400Z–2(e)(4), however, authorized the Secretary to prescribe such regulations as necessary to carry out the purposes of section 1400Z–2, including (i) rules for the certification of QOFs; (ii) rules to ensure a QOF has a reasonable period of time to reinvest the return of capital from investments in QOZ stock and QOZ partnership interests, and to reinvest proceeds received from the sale or disposition of QOZ property; and (iii) rules to prevent abuse.

Pursuant to this authority, § 1.1400Z2(d)–1(a)(2) requires entities to self-certify as QOFs pursuant to forms and instructions, or in publications or guidance published in the IRB. An entity self-certifying as a QOF does so through the filing of Form 8996, *Qualified Opportunity Fund,*[2] on which the entity attests that it is organized to invest in QOZ property. Form 8996 also requires the QOF to report that it meets the required investment standards of section 1400Z–2(d), or if it does not, to calculate and report the penalty imposed by section 1400Z–2(f). In addition, Form 8996 requires a QOF to report certain information about the QOF's investments and operations as well as the investments and operations of any QOZBs in which the QOF has an interest. Finally, for any investor in the QOF that disposed of the investor's equity interest in the QOF, Form 8996 requires the QOF to attach a statement with each investor's name, date of disposition, and the interest disposed of during the QOFs taxable year. Form 8996 is required to be attached to the QOF's annual tax return by the due date (including extensions) for the QOF's annual tax return.

A penalty applies to QOFs that do not meet certain investments standards, but under the section 1400Z–2 regulations, no information reporting penalty applies to QOFs that do not file Form 8996.

In order for a QOF to report the information required by Form 8996 regarding the QOZ businesses property and operations of any QOZBs in which the QOF has an interest, the QOF must obtain information from every QOZB in which it holds a stock or partnership interest. The section 1400Z–2 regulations, however, do not include a penalty for QOZBs that fail to provide this necessary information to their QOF investors.

In addition to the reporting of dispositions by QOF investors on Form 8996, the IRS also requires each QOF to file Form 1099–B, *Proceeds From Broker and Barter Exchange Transactions,* (or Form 1099–DA, *Digital Asset Proceeds From Broker Transactions,* if the QOF interest is a dual classification asset under § 1.6045–1(c)(8)) on dispositions made by each QOF investor in the QOF during the calendar year. Each QOF is

[2] References to Form 8996 in these proposed regulations are to the current iteration of the form, which was last revised in December 2021.

also required to furnish statements to each of these investors, including the information required to be reported to the IRS on Form 1099–B (or Form 1099–DA). No information reporting or information furnishing penalty applies, however, to a QOF that does not file these Forms 1099–B (or Forms 1099–DA) with the IRS or furnish these associated statements to disposing investors.

B. Information Reporting Requirements Under the OBBBA

Section 70421(d)(1) of the OBBBA added section 6039K to the Code to require every QOF to file an annual return (at such time and in such manner as the Secretary may prescribe) containing certain information described in section 6039K(b)(1) through (8). The information described in section 6039K(b)(1) through (8) generally includes most of the information that is currently required to be reported on Form 8996 as well as certain new items of information.[3] In addition, section 6039K(b)(9) provides authority for the Secretary to require reporting of additional information not listed in section 6039K(b)(1) through (8). Section 6039K(c) also requires QOFs to furnish investor statements to investors who dispose of their interests in the QOF. The investor statement must generally include the investor's name, address, and taxpayer identification number (TIN), the date or dates on which the disposed of investment was acquired, the date or dates on which any such investment was disposed of, and the amount of the investment.

Section 70421(d)(1) of the OBBBA also added new section 6039L to the Code. Under section 6039L, every applicable QOZB must furnish a written statement to each QOF that holds an interest in the applicable QOZB at such time, in such manner, and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such QOFs to meet the reporting requirements of section 6039K. Section 6039L(b) defines ''applicable QOZB'' for this purpose as any QOZB: (1) which is a trade or business of a QOF, (2) in which a QOF holds QOZ stock, or (3) in which a QOF holds a QOZ partnership interest.

Section 70421(d)(2)(A) of the OBBBA added a new information reporting penalty under section 6726 of the Code applicable to QOFs that fail to meet their information reporting requirements under section 6039K. Section 6726(a) provides that if any QOF required to file an information return under section 6039K fails to file a complete and correct return under such section in the time and in the manner prescribed therefor, then the QOF must pay a penalty of $500 for each day during which such failure continues. Under section 6726(b), this penalty is generally subject to an annual cap of $10,000 per return, but for large QOFs with gross assets exceeding $10 million at the close of the QOF's taxable year, the cap for the failure rises from $10,000 to $50,000. Additionally, under section 6726(c), in the case of a failure that is due to intentional disregard, the daily penalty is increased from $500 to $2,500 and the annual cap is increased to $50,000, or $250,000 for a large QOF, per return. Finally, under section 6726(d), the penalty amounts are all subject to a cost-of-living inflation adjustment.

Prior to the enactment of the OBBBA, section 6724, which provides that ''[n]o penalty shall be imposed under this part [II] with respect to any failure if it is shown that such failure is due to reasonable cause and not to willful neglect,'' applied to penalties under section 6721 (failure to file correct information returns), section 6722 (failure to furnish correct payee statements), and section 6723 (failure to comply with other information reporting requirements). All of these penalties are contained in part II (Failure to Comply with Certain Information Reporting Requirements) of subchapter B (Assessable Penalties) of chapter 68 of the Code. Because the OBBBA added the information reporting penalty under section 6726 to part II of subchapter B of chapter 68 of the Code, the reasonable cause waiver provisions under section 6724 also apply to penalties imposed under section 6726.

The OBBBA also provides for the imposition of penalties for QOFs that fail to furnish the investor statements required by section 6039K(c) and for QOZBs that fail to provide QOFs the QOZB statement required by section 6039L. Section 70421(d)(2)(B)(iii) of the OBBBA added investor statements and QOZB statements to the definition of ''payee statements'' under section 6724(d)(2), which are subject to the failure to furnish penalty under section 6722. Section 6722 generally provides that for each failure to furnish a complete and correct payee statement on or before the date prescribed, the person required to furnish the statement must pay a penalty equal to $250 (adjusted for inflation) for each statement with respect to which the failure occurs. The penalty is limited by an annual cap that is generally equal to $3 million (adjusted for inflation). Reduced penalties apply in certain circumstances if the statement is furnished late (section 6722(b)) and for filers with gross receipts below a specified threshold (section 6722(d)). However, the penalty does not apply to de minimis failures (section 6722(c)) and for any failure that is an intentional disregard of the furnishing requirement, the per-return penalty is increased to $500 (adjusted for inflation) and the $3 million annual cap is removed (section 6722(e)). Finally, the reasonable cause waiver under section 6724 applies to penalties otherwise applicable under section 6722.

C. Public Reporting Requirements

Section 70421(e)(1) of the OBBBA appropriates funds through September 30, 2028, for necessary expenses of the IRS to make annual reports to the public with information on QOFs. Section 70421(e)(2) of the OBBBA directs the Secretary to make the report publicly available as soon as practical after the date of enactment of the OBBBA, and then annually thereafter. Under section 70421(e)(3) of the OBBBA, the report must include, to the extent available, the following information: (i) the total amount of money invested in opportunity zones and QOFs; (ii) the percentage of eligible census tracts receiving opportunity zone investment (and how much has been invested in each one); (iii) the approximate number of employees in opportunity zone-financed businesses for each census tract; (iv) the number of residential units resulting from QOF projects; (v) information on investment sectors using North American Industry Classification System (NAICS) codes; and (vi) breakdowns of real estate versus business equity investments.

Section 70421(e)(4)(A) of the OBBBA also requires the Secretary to include in the annual reports beginning in 2031 (the sixth year following enactment of the OBBBA) information on the impacts and outcomes resulting from designating a census tract as an opportunity zone, as measured by economic indicators, such as job creation, poverty reduction, new business starts, and other metrics. Additionally, section 70421(e)(4)(B) of the OBBBA requires the Secretary to include in the annual reports provided in 2031 and 2036 certain comparative data for QOZs. Section 70421(e)(4)(B)(i)(I) of the OBBBA requires these reports provided in 2031 and 2036 to include longitudinal comparisons (based on aggregate

[3] The Treasury Department and the IRS anticipate updating Form 8996 to reflect the necessary changes to such reporting under section 6039K and these regulations once published as final regulations in the **Federal Register**.

information) of specific factors for population census tracts designated as a QOZ during the 5-year period ending on the date of the enactment of the OBBBA and the most recent 5-year period for which data is available. These specific factors in section 70421(e)(4)(B)(iii) of the OBBBA include: (i) the unemployment rate; (ii) the number of persons working in the population census tract, including the percentage of such persons who were not residents in the population census tract in the preceding year; (iii) individual, family, and household poverty rates; (iv) median family income of residents of the population census tract; (v) demographic information on residents of the population census tract, including age, income, education, race, and employment; (vi) the average percentage of income of residents of the population census tract spent on rent annually; (vii) the number of residences in the population census tract; (viii) the rate of home ownership in the population census tract; (ix) the average value of residential property in the population census tract; (x) the number of affordable housing units in the population census tract; (xi) the number of new business starts in the population census tract; and (xii) the distribution of employees in the population census tract by NAICS code. In addition, section 70421(e)(4)(B)(i)(II) of the OBBBA requires the 2031 and 2036 reports to provide, for the most recent 5-year period for which data is available, a cross-sectional comparison of these specific factors, comparing population census tracts designated as a QOZ with similar population census tracts that were not designated as a QOZ. For purposes of making these comparisons, section 70421(e)(4)(B)(ii) of the OBBBA permits the Secretary to combine population census tracts into such groups as the Secretary determines appropriate.

To ensure that taxpayer return information is protected in making any of the reports required by section 70421(e) of the OBBBA, section 70421(e)(5) of the OBBBA requires the Secretary to establish appropriate procedures to ensure that any amounts reported do not disclose taxpayer return information that can be associated with any particular taxpayer or competitive or proprietary information. Section 70421(e)(5) also permits the Secretary to combine information required with respect to individual population census tracts into larger geographic areas if necessary to protect taxpayer return information. Finally, section 70421(e)(7) of the OBBBA requires the Secretary to prepare similar reports with respect to rural QOZs.

Explanation of Provisions

I. Proposed § 1.1400Z2(d)–1

A. QOF Self-Certification and Annual Reporting Procedures

1. Overview

Section 1.1400Z2(d)–1(a)(2)(i) provides that an entity's self-certification as a QOF must be timely filed and effected annually in such form and manner as may be prescribed in forms and instructions, or in publications or guidance published in the IRB. Form 8996 provides instructions for entities to self-certify as a QOF.

The Treasury Department and the IRS have received several questions regarding the meaning and scope of § 1.1400Z2(d)–1(a)(2)(i), as well as Form 8996 and its instructions. For example, stakeholders have questioned whether an entity's self-certification as a QOF must be renewed annually through the filing of Form 8996, which would then create an annual option for voluntary decertification. Others have questioned whether failure to file Form 8996 would give rise to penalties. Lastly, stakeholders have questioned whether a failure to file Form 8996 could, or should, result in the decertification of a QOF.

In response, the Treasury Department and the IRS have proposed revisions to the QOF self-certification and annual reporting procedures (including as imposed by section 6039K) that are intended to clarify these procedures and facilitate taxpayer compliance with the QOF self-certification and annual reporting procedures. Furthermore, the proposed regulations would further enhance the ability of the IRS to administer and enforce the specified opportunity zone tax benefits provided by section 1400Z–2. The QOF self-certification and annual reporting procedures serve as the foundation for the voluntary decertification procedures proposed by these proposed regulations, which underscores the importance for clarity and certainty.

The Treasury Department and the IRS encourage comments on these proposed rules, with particular emphasis on recommendations to further achieve those intended objectives.

2. Provisions Clarifying Beginning Date of Certification

The QOF self-certification and annual reporting requirements require clear rules on when self-certification becomes effective and when an entity self-certifying as a QOF must provide required information to the IRS. Accordingly, the proposed regulations would revise § 1.1400Z2(d)–1(a)(2)(i) to clarify the beginning of an entity's self-certification as a QOF. Proposed § 1.1400Z2(d)–1(a)(2)(i) would clarify that an entity that satisfies the initial requirements to self-certify as a QOF would be treated as a QOF from the date the self-certification is effective (self-certification date).

3. Clarification of First Taxable Year Requirements and Subsequent Annual Requirements

a. First Taxable Year Requirements

Proposed § 1.1400Z2(d)–1(a)(2)(ii)(A) would provide that self-certification of an eligible entity as a QOF would not be valid unless that self-certification is timely filed and effected in the entity's first taxable year by filing with the IRS a Form 8996 (or any successor form) by the due date for the eligible entity's original Federal tax return (including extensions) and in accordance with instructions to that form. In the view of the Treasury Department and the IRS, Form 8996 (or any successor form) would provide the most responsive and efficient form of guidance to address specific self-certification procedures. Comments are requested on the procedures set forth herein.

The proposed regulations would retain the existing rules in the section 1400Z–2 regulations for determining the first taxable year and month of the certification (*see* proposed § 1.1400Z2(d)–1(a)(2)(ii)(B)) and for applying the section 1400Z–2(f) penalty for that first taxable year of certification (*see* proposed § 1.1400Z2(d)–1(a)(2)(ii)(C)).

Additionally, proposed § 1.1400Z2(d)–1(a)(2)(ii)(D) would provide that the self-certification must include an affirmative statement that the entity is organized for the purpose of investing in QOZ property as required by section 1400Z–2(d)(1).

b. Annual Requirements

With regard to an entity that has validly self-certified as a QOF, the proposed regulations would set forth annual reporting requirements that the entity would be required to satisfy for the second and each subsequent taxable year of the QOF. Proposed § 1.1400Z2(d)–1(a)(2)(iii) would require an entity certified as a QOF, for the second and each subsequent taxable year of the QOF to file an annual information return on Form 8996 (or any successor form) consistent with the instructions provided for that IRS form and consistent with the annual reporting requirements under section 6039K. These annual information returns for taxable years after the initial self-certification taxable year would not require the QOF to provide an annual self-certification.

B. Revocation of an Election To Self-Certify

The Treasury Department and the IRS have received requests from stakeholders for a revocation process for inadvertent elections to self-certify as a QOF. These comments have stated that certain entities, such as a QOZB, may have unintentionally self-certified as QOFs by mistakenly filing Form 8996 with the IRS. These comments also have indicated that owners of entities inadvertently self-certifying as QOFs have not held a qualifying investment in the entity. Therefore, according to the comments, no owner of such entity would have derived any specified opportunity zone tax benefit at any time since the entity's inadvertent self-certification as a QOF.

Based on these comments from stakeholders, the Treasury Department and the IRS have proposed a revocation process for inadvertent QOF elections. In addition to the concern expressed by stakeholders, permitting the revocation of an unintentional QOF self-certification for entities that have no qualifying investments would help facilitate effective tax administration and enforcement of the opportunity zone tax incentives. Permitting these entities to revoke their self-certifications would remove them from audit consideration due to their noncompliance with the statutory and regulatory requirements under section 1400Z–2(d)(2), while permitting the IRS to consider whether the entities met the other requirements of section 1400Z–2(d)(3), if applicable. In addition, a revocation process for these inadvertent QOF elections would eliminate unnecessary compliance obligations for investors in these entities who never had any intention to achieve a specified opportunity zone tax benefit. However, to assist in enforcement and compliance, as well as to provide certainty for investors who make a qualifying investment in QOFs, the proposed regulations would provide that the election to self-certify as a QOF is not revocable in any situation other than the specific situation outlined in proposed § 1.1400Z2(d)–1(a)(2)(iv). For entities that do not qualify for a revocation of their initial self-certification, the proposed voluntary decertification procedures described in part I.C. of this Explanation of Provisions would provide a procedure to terminate QOF certification.

Consistent with the foregoing, the proposed regulations would provide that an entity inadvertently self-certified as a QOF may revoke that election only if the entity satisfies the eligibility requirement set forth in proposed § 1.1400Z2(d)–1(a)(2)(iv)(B) and files the revocation in accordance with the procedures set forth in proposed § 1.1400Z2(d)–1(a)(2)(iv)(C). Proposed § 1.1400Z2(d)–1(a)(2)(iv)(B) would permit an entity that had inadvertently self-certified as a QOF to revoke its election to self-certify as a QOF only if no qualifying investment in the QOF was made. In other words, an entity is only eligible to revoke its election to self-certify if no qualifying investment by an investor was made between the self-certification date throughout the entire period in which the entity was certified. Proposed § 1.1400Z2(d)–1(a)(2)(iv)(C) would provide that an inadvertent election to self-certify as a QOF may be revoked only with the consent of the Commissioner in accordance with forms and instructions, or in publications or guidance published in the IRB. Finally, proposed § 1.1400Z2(d)–1(a)(2)(iv)(D) would provide that an entity that has revoked its inadvertent election to self-certify may not again self-certify as a QOF at any future date, and the TIN assigned to that entity may not be used by another entity to self-certify as a QOF in the future. The Treasury Department and the IRS regard these proposed rules as necessary for the administration of section 1400Z–2 and to prevent abuse of section 1400Z–2.

C. Voluntary Decertification

1. Overview

Proposed § 1.1400Z2(d)–1(a)(3) would provide the exclusive procedures by which an entity that self-certified as a QOF may voluntarily decertify as a QOF. In addition, the proposed regulations would set forth the Federal income tax consequences resulting from voluntary decertification with regard to each person that held a qualifying investment in the QOF as of the last day the entity was certified as a QOF (voluntary decertification date). To facilitate reinvestment in other QOFs by persons who held investments in the QOF on the QOF's voluntary decertification date, the proposed regulations also would require the entity to notify all investors who hold an investment in the QOF of its decertification as a QOF no later than 15 days after the QOF's voluntary decertification date (15-day notification). This proposed notification is separate from the notification required under section 6039K(c) discussed in part II.C. of this Explanation of Provisions, that is required to be provided on or before March 1 of the calendar year following the calendar year of the voluntary decertification date. Lastly, the proposed regulations would provide rules to clarify the effective date of the voluntary decertification of the entity (that is, the voluntary decertification date).

2. Contemporaneous Written Documentation

Proposed § 1.1400Z2(d)–1(a)(3)(i) would require that an entity certified as a QOF that wants to voluntarily decertify as a QOF may do so only if the certified entity maintains contemporaneous written documentation of the intent to decertify in accordance with proposed § 1.1400Z2(d)–1(a)(3)(iii). Such contemporaneous written documentation must memorialize the entity's intent to terminate its certification and identify the last month for which the entity is certified as a QOF. Proposed § 1.1400Z2(d)–1(a)(3)(iii) would clarify the contemporaneous written documentation requirement in proposed § 1.1400Z2(d)–1(a)(3)(i) and would provide an example of contemporaneous written documentation that would satisfy this requirement. Proposed § 1.1400Z2(d)–1(a)(3)(iii)(A) would define ''contemporaneous written documentation'' to mean written documentation that is created at the same time the QOF makes the determination that it wishes to voluntarily decertify as a QOF. Proposed § 1.1400Z2(d)–1(a)(3)(iii)(B) would provide that such documentation would include, but is not limited to, contemporaneous meeting minutes demonstrating the wish to decertify. The Treasury Department and the IRS view the requirement to maintain contemporaneous written documentation as necessary because it demonstrates the entity's intent to self-decertify as of a certain date and that the entity is not acting with inappropriate hindsight.

Under proposed § 1.1400Z2(d)–1(a)(3)(v)(A), a failure to fulfill this contemporaneous written documentation requirement would invalidate the entity's voluntary decertification and would result in the continued certification of the entity as a QOF for the period beginning on the date the entity self-certified as a QOF until the occurrence of an event that results in the revocation or decertification of the entity as a QOF. Proposed § 1.1400Z2(d)–1(a)(3)(v)(B) would also clarify that such entity would continue to be subject to the requirements of section 1400Z–2 and the section 1400Z–2 regulations (including the statutory penalty under section 1400Z–2(f) for failure to maintain the 90-percent investment standard) until the entity decertifies or revokes its election.

To provide flexibility and facilitate compliance with the proposed voluntary decertification procedures, proposed § 1.1400Z2(d)–1(a)(3)(vi)(A) would provide that the voluntary decertification is effective on the last day of the month that the entity identifies in its contemporaneous written documentation as the last month for which the entity is certified as a QOF. For example, an entity that indicates in its contemporaneous written documentation that it voluntarily decertifies in July would have its last day of QOF certification as July 31st under this proposed rule and would not be certified as a QOF starting on August 1st.

3. Required Form and Manner

Under the proposed regulations, a QOF that voluntarily decertifies would be required to report to the IRS in the form and manner set forth in proposed § 1.1400Z2(d)–1(a)(3)(ii). Those proposed rules would provide that an entity certified as a QOF that voluntarily decertifies must file a Form 8996 (or any successor form) (final information return) in the manner set forth in the instructions to Form 8996 by the due date for the entity's original Federal tax return (including extensions) for the taxable year including the last month in which the entity seeks to be certified as a QOF, referred to as the entity's ''voluntary decertification year.'' Under proposed § 1.1400Z2(d)–1(a)(3)(ii), the entity's final information return would be required to indicate that it is voluntarily decertifying and the last month for which the entity is intended to be certified as a QOF. *See also* proposed § 1.6039K–1(c). *See* parts III.B.3. and B.4. of this Explanation of Provisions for an explanation of the investor information that would be required to be reported to the IRS if a QOF voluntarily decertifies and the requirement that the information return containing this information must be attached to the QOF's annual tax return.

4. Requirement of Entity To Notify Investors Within 15 Days of Decertification

Proposed § 1.1400Z2(d)–1(a)(3)(iv) would require that the QOF provide the 15-day notification of the voluntary decertification to its investors with both qualifying and non-qualifying investments. This 15-day notification would be separate from the later notification proposed in the proposed regulations under section 6039K that would require the entity to provide a timely notification of the voluntary decertification by the entity (formerly certified as a QOF) to its investors on or before March 1 of the calendar year following the calendar year during which the voluntary decertification occurred. The Treasury Department and the IRS view these two timely notifications as necessary to facilitate the ability of those investors with investments resulting in eligible gain to reinvest their gains under section 1400Z–2(a), if applicable, and to properly and timely report any Federal income tax consequences arising as a result of the decertification. *See* part II.C. of this Explanation of Provisions for an explanation of the notification that would be required under section 6039K(c).

Proposed § 1.1400Z2(d)–1(a)(3)(iv)(B) would require the entity formerly certified as a QOF to provide the 15-day notification of the voluntary decertification to each investor that holds a qualifying or non-qualifying investment in the QOF by the earlier of 15 days after the QOF's voluntary decertification date or by the date contracted upon by the parties for the receipt of such written notification by the investors. Proposed § 1.1400Z2(d)–1(a)(3)(iv)(C) would require the notification to be made in writing and furnished to the investors using any reasonable manner. The Treasury Department and the IRS anticipate that it may be difficult for entities to know which, if any, of their investors has an investment that is a qualifying investment in the entity, and so the proposed regulations' requirement that the entity send a voluntary decertification notice to each of its investors is intended to facilitate compliance and tax administration. Additionally, because the modifications by the OBBBA to section 1400Z–2 provide that the last day of deferral is dependent upon the date the investor invests in the QOF, rather than December 31, 2026, as the TCJA required, the Treasury Department and the IRS view it as necessary that this notice be sent to all investors because an investor may be able to reinvest the gain in another QOF to receive the benefits of section 1400Z–2. This requirement would accord with the reporting requirements in section 6039K(b)(8) and proposed § 1.6039K–1(f) with respect to each reportable investor on the final Form 8996 in the event of a voluntary decertification.

The proposed regulations set forth two items that would be required to be contained in the 15-day notification. First, pursuant to proposed § 1.1400Z2(d)–1(a)(3)(iv)(A)(*1*), the notification would be required to contain a statement that informs each investor that they may no longer make an election under section 1400Z–2(c) with regard to the investor's qualifying investment in the QOF because the certification of the entity as a QOF has terminated. Second, pursuant to proposed § 1.1400Z2(d)–1(a)(3)(iv)(A)(*2*), the notification would be required to contain information sufficient for the investors to report an inclusion event on the QOF's voluntary decertification date, if the effective date of voluntary decertification occurs prior to the date specified in section 1400Z–2(b)(1)(B). Section 1.1400Z2(b)–1(c)(15) provides (and proposed § 1.1400Z2(b)–1(c)(15) would provide) that the decertification of a QOF is an inclusion event. The Treasury Department and the IRS view the 15-day notification that informs the investors that the ability to make an election under section 1400Z–2(c) is no longer available and that the investors may have an inclusion event as critical for tax compliance purposes and to ensure that investors are fully aware of the decertification, which may carry Federal income tax consequences. In addition, notification by the entity to its investors of the voluntary decertification within 15 days of the QOF's effective date of voluntary decertification would more readily permit these investors to reinvest in another QOF before the expiration of the 180-day period, as provided in section 1400Z–2(a)(1).

5. Federal Income Tax Consequences to Qualifying Investors

A QOF's decertification is binding on the investors in the QOF. The decertification may have Federal income tax consequences to investors in that QOF, especially for an investor that is a QOF owner. Under § 1.1400Z2(a)–1(b)(23), a ''QOF owner'' means a QOF shareholder or a QOF partner. Sections 1.1400Z2(a)–1(b)(24) and (27) provide that a QOF partner or QOF shareholder are persons that directly or indirectly own a qualifying investment in a QOF that is organized as a corporation or as a partnership, respectively.

Proposed § 1.1400Z2(d)–1(a)(3)(vi) would outline the consequences of decertification for the investors in the entity that was formerly certified as a QOF. First, proposed § 1.1400Z2(d)–1(a)(3)(vi)(B)(*1*) would provide that voluntary decertification is an inclusion event with respect to the entire qualifying investment of a QOF owner. This result is already provided in § 1.1400Z2(b)–1(c)(15), but proposed § 1.1400Z2(b)–1(c)(15) would include updated language to mirror the language of § 1.1400Z2(d)–1(a)(3), which uses the phrase ''voluntary decertification'' instead of ''self-decertification.'' The date of the inclusion event would be the QOF's voluntary decertification date, as provided in proposed § 1.1400Z2(d)–1(a)(3)(vi)(A). Additionally, proposed § 1.1400Z2(d)–1(a)(3)(vi)(B)(*2*) would provide that gain that is otherwise required to be included in gross income by a final investor that is a QOF owner is eligible for continued deferral if the gain is reinvested in a QOF with a TIN that is different from the decertified QOF and all requirements to elect to defer eligible gain under section 1400Z–2(a)(1)(A) are satisfied.

Second, proposed § 1.1400Z2(d)–1(a)(3)(vi)(C) would provide that each QOF owner of a QOF that voluntarily decertifies is not eligible to make an election under section 1400Z–2(c) with regard to the sale or exchange of that investment on any date on or after the QOF's voluntary decertification date. Such disallowance would also apply to QOFs that voluntarily decertify after the inclusion date provided in section 1400Z–2(b)(1)(B) but before the QOF owner makes an election under section 1400Z–2(c).

II. Proposed § 1.6039K–1

A. Overview

As discussed in part II.B. of the Background, section 6039K(a) requires every QOF to file an annual return (at such time and in such manner as the Secretary may prescribe) containing certain information. These regulations propose the time and manner by which QOFs would have to file these annual information returns, as well as the information that would be required to be reported on these returns.

For consistency with the regulations in § 1.1400Z2(d)–1(a), including proposed § 1.1400Z2(d)–1(a)(2)(i), which treats as a QOF any entity that makes an election to self-certify as a QOF, proposed § 1.6039K–1(a)(5) would define a ''QOF'' for this purpose with respect to an entity's taxable year or portion thereof as any entity that files a self-certification under § 1.1400Z2(d)–1(a)(2)(i) for that taxable year or a portion thereof. To ensure that this definition will treat an entity as a QOF for its first taxable year (or the portion of that taxable year that begins on the effective date for the election identified in the entity's self-certification), the definition also provides that an entity that files a self-certification under § 1.1400Z2(d)–1(a)(2) for its taxable year will be treated as certified as a QOF for the portion of the taxable year beginning on the effective date identified in that self-certification. Proposed § 1.6039K–1(b) would set forth the requirement that every QOF must file an annual return of information on Form 8996 (or any successor form) to report the information set forth in proposed § 1.6039K–1(c) through (f). *See* parts III.B.1. through 3. of this Explanation of Provisions for an explanation of the information that would be required to be reported on this annual information return. Proposed § 1.6039K–1(e), however, is reserved for future use for when the specific information reporting rules for qualified rural opportunity funds and rural QOZBs are promulgated. Proposed § 1.6039K–1(g) would set forth the due date for the annual information return and the manner by which a QOF must file it. *See* part II.B.4. of this Explanation of Provisions for an explanation of these proposed rules. Finally, proposed § 1.6039K–1(j)(1) would cross reference to the penalty for QOFs that fail to comply with these information reporting requirements as well as to the penalty waiver rules for failures due to reasonable cause and not due to willful neglect.

As discussed in part II.B. of the Background, section 6039K(c) requires every QOF to furnish an investor statement to each person who disposed of an investment in the QOF (reportable investor) during the year (at such time and in such manner as the Secretary may prescribe). These proposed regulations also propose the time and manner that QOFs must furnish these investor statements as well as the information required to be reported on these statements. Proposed § 1.6039K–1(h) would set forth the requirement that every QOF must furnish to each reportable investor an investor statement for each calendar year containing the information set forth in proposed § 1.6039K–1(h)(1)(i) though (iv). *See* part II.C.1 of this Explanation of Provisions for an explanation of the information that would be required to be reported on the investor statements, as well as the rationale for requiring the information to be furnished on a calendar year basis. Proposed § 1.6039K–1(h)(2) would set forth the due date for the investor statements. In addition, proposed § 1.6039K–1(h)(3) would set forth the manner by which these statements must be furnished. *See* part II.C.2 of this Explanation of Provisions. Proposed § 1.6039K–1(j)(2) would cross reference to the penalty for failure to furnish timely a correct payee statement as well as to the penalty waiver rules for failures due to reasonable cause and not due to willful neglect.

Finally, proposed § 1.6039K–1(k) would apply the proposed rules under § 1.6039K–1 regarding information returns and investor statements to information returns and investor statements originally due (without extensions) on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

B. Information Returns Required To Be Filed Under Section 6039K(a)

As discussed in part II.A. of this Explanation of Provisions, proposed § 1.6039K–1(b) would set forth the requirement that every QOF file an annual return of information on Form 8996 (or any successor form) to report the information set forth in proposed § 1.6039K–1(c) through (f). Proposed § 1.6039K–1(c) would set forth the information to be included on this return with respect to the QOF itself, proposed § 1.6039K–1(d) would set forth the information to be included on this return with respect to each applicable QOZB in which the QOF owns an interest, and proposed § 1.6039K–1(f) would set forth the information to be included on this return with respect to each reportable investor that disposed of an investment in the QOF during the calendar year. *See* parts III.B.2. and III.B.3.a. in this Explanation of Provisions for explanations of the terms applicable QOZB and reportable investor, respectively, as used for these purposes.

1. Proposed § 1.6039K–1(c): Information About the QOF

Proposed § 1.6039K–1(c) lists the information that QOFs would be required to report with respect to the QOF itself. This information generally falls within three categories.

a. Information Currently Required

First, much of the information that would be required by proposed § 1.6039K–1(c) is information that QOFs are currently required to report on Parts

I through V of the December 2021 revision of Form 8996 (current Form 8996). For example, as currently required to be reported on Part I of the current Form 8996, proposed § 1.6039K–1(c)(2) and (3) would require the QOF to indicate whether it is organized as a corporation or a partnership and whether it is organized for the purpose of investing in QOZ business property (other than another QOF). In addition, as currently required to be reported on Parts II through IV of the current Form 8996, proposed § 1.6039K–1(c)(4) and (5) would require the QOF to calculate the 90-percent investment standard and, if applicable, the penalty under section 1400Z–2(f)(1) if the QOF fails to meet that investment standard. Proposed § 1.6039K–1(a)(1) would define the term ''90-percent investment standard'' as having the same meaning as in section 1400Z–2(d)(1) and § 1.1400Z2(a)–1(b)(4). Finally, as currently required to be reported on Part V of the current Form 8996, proposed § 1.6039K–1(c)(7) would require the QOF to report each population census tract number in which QOZ business property is directly owned or leased by the QOF, and, for each of these tracts, proposed § 1.6039K–1(c)(7)(iii) would require the QOF to report the total value of QOZ business property directly owned by the QOF and the total value of QOZ business property directly leased by the QOF for the QOF testing dates. The information that would be required to be reported by the QOFs in this section would ensure compliance with section 1400Z–2(d), and in particular, with the 90-percent investment standard.

b. Information for Public Reporting

Second, some of the information that would be required by proposed § 1.6039K–1(c) is information that would enable the Secretary to comply with the public reporting requirements under section 70421(e)(3) of the OBBBA. For example, under proposed § 1.6039K–1(c)(6) and (c)(7)(vi), QOFs would be required to report the approximate average monthly number of total full-time equivalent employees of the QOF working in all locations as well as the approximate average monthly number of full-time equivalent employees of the QOF that work within the population census tract for the calendar year ending with or within the QOF's taxable year. Section 6039K requires this information be reported ''within numerical ranges identified by the Secretary.'' The Treasury Department and the IRS anticipate that updated instructions to Form 8996 will provide these numerical ranges.

The proposed regulations would base the definition of full-time equivalent employees on the definition of that term section 6039K. Section 6039K(d)(2) defines full-time equivalent employees with respect to any month as the sum of: (A) the number full-time employees as defined in section 4980H(c)(4) for the month; plus (B) the number of other employees determined (under rules similar to the rules of section 4980H(c)(2)(E)) by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120. A full-time employee is defined in section 4980H(c)(4)(A), with respect to any month, as an employee who is employed on average at least 30 hours of service per week. Section 4980H(c)(4)(B) authorizes the Secretary, in consultation with the Secretary of Labor, to prescribe regulations addressing how to calculate an employee's hours of service for this purpose, including for employees who are not compensated on an hourly basis.

Consistent with the rules and definitions set forth in section 4980H(c), as required by section 6039K(d)(2), proposed § 1.6039K–1(a)(4)(i) would define ''full-time equivalent employees'' of the QOF with respect to a calendar month as the sum of the number of employees who are employed on average at least 30 hours per week (full-time employees) plus the number of other employees who are not full-time employees. The number of employees who are not full-time employees would be determined for this purpose by dividing the aggregated number of hours of service of all employees who are not classified as full-time by 120.

The regulations defining full-time employees under section 4980H(c)(4) provide a rule for converting an employee's monthly service hours into weekly service hours for purposes of determining if the employee is a full-time employee. Specifically, under § 54.4980H–1(a)(21)(ii) of the Pension Excise Tax Regulations (26 CFR part 54), 130 hours of service in a calendar month is treated as the monthly equivalent of at least 30 hours of service per week. Section 54.4980H–1(a)(21)(iii) also provides an optional rule that allows employers to treat as a full-time employee any employee who performs 120 service hours during months with four weekly periods and any employee who performs 150 service hours during months with five weekly periods.

For these proposed rules on section 6039K reporting requirements, the Treasury Department and the IRS considered whether and how the rules from the section 4980H regulations should apply to the calculation of full-time employees. In determining the number of full-time employees under section 6039K(d)(2)(A), the Treasury Department and the IRS considered whether the QOFs should use the monthly equivalent rule that treats 130 hours of service as the monthly equivalent of at least 30 hours of service per week consistent with § 54.4980H–1(a)(21)(ii) or whether the QOFs should use a monthly equivalent rule that is consistent with the 120-hour divisor used to calculate the number of other employees under section 6039K(d)(2)(B). Because using the more restrictive (130 hours of service) monthly equivalent rule merely converts employees that would be full-time employees under section 6039K(d)(2)(A) into other employees under section 6039K(d)(2)(B), proposed § 1.6039K–1(a)(4)(ii)(A) would use a monthly equivalent rule that is consistent with the 120-hour divisor used to calculate the number of other employees under section 6039K(d)(2)(B). Using this less restrictive (120 hours of service) monthly equivalent rule should also be easier for QOFs to apply because they are already required to use the 120 hours as a divisor in calculating other employees under section 6039K(d)(2)(B).

The Treasury Department and the IRS also considered whether the QOFs should be permitted to use the optional monthly equivalent rule under § 54.4980H–1(a)(21)(iii) that allows employers to treat as a full-time employee any employee who performs 120 service hours during months with four weekly periods and any employee who performs 150 service hours during months with five weekly periods. For the same reasons that the Treasury Department and the IRS chose to propose requiring QOFs to use a monthly equivalent rule that is consistent with the 120-hour divisor used to calculate the number of other employees under section 6039K(d)(2)(B), the proposed regulations do not adopt this optional weekly period rule. Accordingly, proposed § 1.6039K–1(a)(4)(ii)(A) would provide that a QOF may treat an employee who performs at least 120 total hours of service in a calendar month as the equivalent of an employee who performs an average of at least 30 hours of service per week (that is, as a full-time employee) for that month. This alternative definition would reflect the application of a 30-hour work week to the shortest month possible and therefore would promote consistency by ensuring the same employee would not be categorized differently in months of different lengths. No inference is intended with respect to the definition of these terms for purposes of section 4980H. Comments are specifically requested regarding this more simplified definition of full-time employee for purposes of this reporting requirement.

Finally, the regulations defining full-time equivalent employees under section 4980H(c)(2)(E) permit employers to round to the nearest one hundredth when the calculation under that section results in a fraction. To simplify the reporting under section 6039K in the event that the calculation in proposed § 1.6039K–1(a)(4)(i) results in a fraction, proposed § 1.6039K–1(a)(4)(ii)(B) would require QOFs to round the total calculated number to the nearest whole employee. This rule is also proposed because whole numbers are more easily understood for purposes of public reporting and will be sufficient to track the employment impact resulting from QOFs and QOZBs as long as this rounding is applied consistently. Comments are requested addressing whether these changes would help make reporting full-time equivalent employees less burdensome. Comments are also requested addressing whether any other changes to the definition would make reporting less burdensome without losing data on the employment impact of the QOZ regime.

Proposed § 1.6039K–1(c)(7)(ii), (iv), and (v) would also require reporting of information that would enable the Secretary to comply with the public reporting requirements under the OBBBA. Proposed § 1.6039K–1(c)(7)(ii) would require the QOF to report the NAICS code that applies to the QOF's business activity within each census tract. In addition, proposed § 1.6039K–1(c)(7)(iv) and (v) would require the QOF to report, for each census tract, the total value of QOZ business property directly owned or leased by the QOF that is real property and the total number of residential units for the calendar year ending with or within the QOF's taxable year.

Proposed § 1.6039K–1(a)(11) would define ''real property'' for this purpose as land and any improvements thereto, such as buildings or other inherently permanent structures (including items that are structural components of the buildings or structures) that are not tangible personal property as defined in § 1.48–1(c). *See* proposed § 1.6039K–1(a)(14). In addition, proposed § 1.6039K–1(a)(13) would define ''residential units'' for this purpose as any building or structure for use as a dwelling unit or as a residence (including a house, apartment, condominium, mobile home or similar property) and for which a certificate of occupancy, or similar document indicating that the unit is available for use, has been received. A dwelling unit has basic living accommodations, such as a sleeping space, a toilet, and cooking facilities. A residential unit does not include property used as a hotel, motel, inn, or similar establishment if it is regularly available for occupancy by paying customers on a transient basis. Although the standards applicable to certificates of occupancy may vary by jurisdiction, these certificates likely provide the best measure of the impact that the opportunity zone rules have on the housing market.

Proposed § 1.6039K–1(c)(7)(iv) and (v) would require certain information collected for the public report to be reported as of December 31 of the calendar year ending with or within the QOF's taxable year for several reasons. First, reporting the information as of December 31 would facilitate consistent reporting from the greatest number of QOFs because the overwhelming majority of all QOFs file their Federal tax returns using a calendar year (calendar year QOFs). Additionally, from a standpoint of data analysis and investment review, calendar year reporting is beneficial to stakeholders and Congress as it better reflects investment cycles and development plans. Finally, requiring applicable QOZBs to furnish this information to QOFs as of the end of a QOF's taxable year could impose unnecessary burdens on applicable QOZBs with multiple QOF investors to keep track of their QOF investors' taxable years and to collect this information as of multiple dates. Comments are requested regarding whether reporting this information on a calendar year basis would create any undue burdens for QOFs.

c. Information Regarding Compliance

Third, the remainder of the information that would be required by proposed § 1.6039K–1(c) is information regarding the QOFs compliance with the section 1400Z–2 statutory and regulatory requirements and with the information furnishing requirements under section 6039K(c). To enable the IRS to enforce the section 1400Z–2 requirements, proposed § 1.6039K–1(c)(7)(i) would require the QOF to report a physical address for the QOF's business activity within each census tract in which the business operates. To enable the IRS to know which decennial designation period is applicable to the QOF, proposed § 1.6039K–1(c)(7)(vii) would require the QOF to report the first date that any such QOZ business property was acquired by purchase or leased by the QOF. Proposed § 1.6039K–1(c)(7)(viii) would require the QOF to report whether there is any QOZ business property that the QOF is substantially improving and the date on which that improvement began. This information would help the IRS to determine which QOFs are substantially improving QOZ business property and whether the improvements are completed within the time required by section 1400Z–2(d)(2)(D)(ii).

Proposed § 1.6039K–1(c)(8) would require the QOF to report whether it was using the applicable financial statement valuation method or the alternative valuation method, as defined in § 1.1400Z2(d)–1(b)(3) and (4), respectively, in providing the information that would be required under proposed § 1.6039K–1(c)(1) through (10). This information is already requested on Parts VI and VII of the current Form 8996 with respect to the QOZBs and would provide information to the IRS that is important for tax administration purposes. Additionally, for a QOF that is voluntarily decertifying in the taxable year to which the return relates, as would be permitted by proposed § 1.1400Z2(d)–1(a)(3), proposed § 1.6039K–1(c)(9) would require the QOF to report that it is voluntarily decertifying and would require the QOF to provide the last month for which it was certified as a QOF. Finally, proposed § 1.6039K–1(c)(10) would require the QOF to report such other information as required by the form or instructions.

2. Proposed § 1.6039K–1(d): Information About Applicable QOZBs

In addition to information about the QOF itself, proposed § 1.6039K–1(d) would require the QOF to report certain information with respect to each applicable QOZB in which the QOF has an ownership interest. Proposed § 1.6039K–1(a)(2) would define ''applicable QOZB'' for this purpose as any entity that meets, intends to meet, or was organized for the purposes of meeting, the requirements to be a QOZB, as defined in section 1400Z–2(d)(3)(A) and § 1.1400Z2(d)–1(d)(1), which is either a corporation in which a QOF holds QOZ stock or a partnership in which a QOF holds a QOZ partnership interest. *See* part IV.A. of this Explanation of Provisions for an explanation of the rationale for using a narrower definition of the applicable QOZB than the statutory definition of applicable QOZB under section 6039L(b).

Akin to the reporting under proposed § 1.6039K–1(c), the information that would be reported with respect to each applicable QOZB also generally falls within three categories.

a. Information Currently Required

First, some of the information that would be required by proposed § 1.6039K–1(d) is information that QOFs are currently required to be reported on Parts VI and VII of the current Form 8996. For example, proposed § 1.6039K–1(d)(1) would require the QOF to report the TIN of each applicable QOZB. Additionally, proposed § 1.6039K–1(d)(6) would require the QOF to report the population census tract number(s) in which the QOZ business property directly owned or leased by the applicable QOZB is used. In addition, proposed § 1.6039K–1(d)(3) would require the QOF to report, as of the QOF testing dates, the value of the QOF's investment in the QOZ stock or QOZ partnership interest of the applicable QOZB. Further, proposed § 1.6039K–1(d)(6)(iii)(A) and (B) would require the QOF to report, as of the QOF testing dates, the value of the QOZ business property directly owned by the applicable QOZB and the value of the QOZ business property directly leased by the applicable QOZB. Finally, proposed § 1.6039K–1(d)(7) would require the QOF to report whether the QOZB used the applicable financial statement valuation method or the alternative valuation method, as defined in § 1.1400Z2(d)–1(b)(3) and (4), respectively, in providing any valuation information that would be required under proposed § 1.6039K–1(d)(1) through (8).

Proposed § 1.6039K–1(a)(6) would define the ''QOF testing dates'' as the QOF's 6-month testing date and year-end testing date used for determining if the 90-percent investment standard has been met. Proposed § 1.6039K–1(a)(9) would define a ''QOZ partnership interest'' as having the same meaning as in section 1400Z–2(d)(2)(C) and § 1.1400Z2(d)–1(c)(3), and proposed § 1.6039K–1(a)(10) would define ''QOZ stock'' as having the same meaning as in section 1400Z–2(d)(2)(B) and § 1.1400Z2(d)–1(c)(2). *See* part IV.B.1 of this Explanation of Provisions for an explanation of the testing dates that these proposed regulations would require applicable QOZBs to use for purposes of reporting this information to QOFs and the safe harbor rules that detail how a QOF can use information provided by an applicable QOZB with a different taxable year than the QOF in calculating the 90-percent investment standard.

b. Information for Public Reporting

Second, some of the information that would be required under proposed § 1.6039K–1(d) is information that would enable the Secretary to comply with the public reporting requirements under sections 70421(c)(2) and (3) of the OBBBA. For example, proposed § 1.6039K–1(d)(6)(ii) would require the QOF to report the NAICS code that applies to each applicable QOZB's business activity within each census tract. Proposed § 1.6039K–1(d)(6)(iv) and (v) would require the QOF to report for each census tract as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year, the total value of QOZ business property directly owned or leased by the applicable QOZB that is real property and the total number of residential units. *See* part II.B.1. of this Explanation of Provisions for the rationale behind requesting this information as of December 31 of the year for which the return is required. Comments are requested regarding whether this uniform December 31 valuation date creates any undue burdens for applicable QOZBs.

In addition, proposed § 1.6039K–1(d)(6)(vi) would require the QOF to report the approximate average monthly number of full-time equivalent employees of the QOZB who work within the population census tract during the calendar year. Finally, although not included in the specific information required under section 6039K(b)(5) with respect to the QOF's investments in QOZ stock or QOZ partnership interests, proposed § 1.6039K–1(d)(2) would have the QOF report the percent of equity ownership by the QOF in the applicable QOZB (or in the case of an applicable QOZB that is a partnership, the capital or profits interest in the applicable QOZB owned by the QOF) as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year dates. This information is requested pursuant to the Secretary's authority to request additional information under section 6039K(b)(9) to ensure that the information reported with respect to applicable QOZBs with multiple investors is not double-counted in the public report.

c. Information Regarding Compliance

Third, the remainder of the information that would be required under proposed § 1.6039K–1(d) relates to overall compliance with section 1400Z–2(d). As such, this information would provide certainty to the QOF that it may treat its stock or partnership interest in the QOZB as QOZ property.

Proposed § 1.6039K–1(d)(1) would have the QOF report the name and address of each applicable QOZB in which the QOF owns an interest. Proposed § 1.6039K–1(d)(6)(i) would require the QOF to report a physical address for a QOZB's business activity within each census tract in which the business operates to ensure compliance with the requirements of section 1400Z–2(d)(3).

To inform the IRS of which decennial designation period applies to the applicable QOZB, proposed § 1.6039K–1(d)(6)(vii) would require the QOF to report the first date that any such QOZ business property was acquired by purchase or leased by the applicable QOZB. Proposed § 1.6039K–1(d)(6)(viii) would require the QOF to report whether there is any QOZ business property within each census tract that the applicable QOZB is substantially improving and (if applicable) the date on which that improvement began. This information would help the QOF and the IRS to determine which applicable QOZBs are substantially improving QOZ business property and whether these improvements are completed within the time required by section 1400Z–2(d)(2)(D)(ii) as well as which applicable QOZBs have property that satisfies the original use requirement of section 1400Z–2(d)(2)(D)(i)(II).

Proposed § 1.6039K–1(d)(6)(ix) would require the QOF to report for each census tract whether the applicable QOZB is utilizing a working capital safe harbor, as provided in § 1.1400Z2(d)–1(d)(3)(v), and (if so) the date that the working capital safe harbor is expected to end. This information would assist the QOF in determining whether the QOZB's tangible property, required to be reported under section 6039K(b)(5)(E) and (F), is QOZ business property during the safe harbor period. Such information would also assist the IRS in enforcing the requirements of section 1400Z–2(d)(3) by ensuring that the property being substantially improved under a working capital safe harbor eventually becomes QOZ business property used in the QOZB's trade or business.

In addition, proposed § 1.6039K–1(d)(5) would require the QOF to report the total value of tangible property of the applicable QOZB (including tangible property that is both QOZ business property and not QOZ business property) held by the applicable QOZB as of the 6-month and year-end testing dates. This information would assist the QOF in determining whether 70 percent of the underlying value of the tangible property owned or leased by the QOZB is QOZ business property under § 1.1400Z2(a)–1(b)(2).

Proposed § 1.6039K–1(d)(4) would require the QOF to indicate whether it received an attestation from the applicable QOZB that the applicable QOZB meets all the requirements of § 1.1400Z2(d)–1(d)(1)(i) through (iii) or (if applicable) is utilizing the cure period, as defined in § 1.1400Z2(d)–1(d)(6). Under § 1.1400Z2(d)–1(d)(6)(iii), a QOZB is only permitted to avail itself of the cure period once and may require the QOF to request an extension of time to file a Federal tax return. A QOF may need to calculate a penalty under section 1400Z–2(f) if the QOZB fails to correct the error in the required time under § 1.1400Z2(d)–1(d)(6). By requesting this information from the applicable QOZB, the QOF would gain a better understanding of its Federal income tax obligations, such as whether it must request an extension of time to file a Federal tax return and whether it may need to calculate a penalty under section 1400Z–2(f). This information would also help the IRS ensure that QOFs and QOZBs are complying with the requirements under section 1400Z–2(d) and ensure that each QOZB is only receiving one cure period. Finally, proposed § 1.6039K–1(d)(8) would also require the QOF to report such other information as required by the form or instructions.

3. Information About Reportable Investors Disposing of QOF Investments

a. Disposition Events and Reportable Investors

In addition to information about the QOF and the applicable QOZBs, proposed § 1.6039K–1(f) would require the QOF to report certain information about each reportable investor that has a disposition event during the calendar year in which the QOF's taxable year began. Proposed § 1.6039K–1(a)(3) would define a ''disposition event'' for this purpose as any inclusion event under § 1.1400Z2(b)–1(c). Under § 1.1400Z2(b)–1(c), an event generally is an inclusion event if and to the extent that: (i) the event reduces an eligible taxpayer's direct equity interest for Federal income tax purposes in the qualifying investment; (ii) an eligible taxpayer receives property in the event with respect to its qualifying investment and the event is treated as a distribution for Federal income tax purposes, whether or not the receipt reduces the eligible taxpayer's ownership of the QOF; (iii) an eligible taxpayer claims a loss for worthless stock under section 165(g) of the Code, or otherwise claims a worthlessness deduction, with respect to its qualifying investment; or (iv) a QOF in which an eligible taxpayer holds a qualifying investment loses its status as a QOF.

Thus, for example, a disposition event for purposes of proposed § 1.6039K–1(a)(3) would include: (i) taxable sales or exchanges of QOF interests; (ii) the termination or liquidation of a QOF for Federal income tax purposes (for example, the conversion of a QOF C corporation to an entity disregarded from its owner for Federal income tax purposes), the voluntary decertification of a QOF, or the QOF's failure to qualify as a QOF for any other reason; (iii) certain distributions of property by a QOF partnership, a partnership that directly or indirectly owns a QOF, a QOF S corporation, or a QOF C corporation with respect to a qualifying investment; (iv) stock redemptions by QOF C corporations or QOF S corporations; (v) the receipt of boot by QOF shareholders in certain corporate transactions involving QOF corporations; and (vi) certain distributions of stock or securities of a controlled corporation by a QOF corporation to a QOF shareholder with respect to a qualifying investment in a transaction to which section 355 of the Code applies. *See* § 1.1400Z2(b)–1(c) for a more detailed list of inclusion events and exceptions.

Treating investors that have had an inclusion event as ''person[s] who disposed of an investment'' in the QOF under section 6039K(b)(8) is appropriate for several reasons. First, either the QOF no longer qualifies as such or these investors have reduced or eliminated their qualifying investment in the QOF (for example, through a sale or transfer of QOF interests or the receipt of certain distributions). Second, providing the IRS with the names and TINs of these investors and informing these investors that they may have Federal income tax consequences with respect to their qualifying investment in the QOF, is important to ensure taxpayer awareness of, and compliance with, their obligations under section 1400Z–2. The Treasury Department and the IRS anticipate that reporting on these disposition events would improve taxpayer compliance because QOFs would provide the information necessary for investors to accurately prepare their Federal tax returns and reduce the number of errors or intentional omissions or misstatements shown on those returns.

Proposed § 1.6039K–1(a)(12)(i) would define a ''reportable investor'' as any person that held a stock or partnership interest in the QOF for which a disposition event with respect to such stock or partnership interest occurred during the QOF's taxable year. To ensure that investors in publicly traded QOFs also receive this information about disposition events, proposed § 1.6039K–1(a)(12)(ii) would include in the definition of reportable investor any broker, as defined in § 1.6045–1(a)(1), that holds a QOF interest on behalf of a customer, as defined in § 1.6045–1(a)(2), for which a disposition event occurred. Brokers would be included in the definition of reportable investor, however, only to the extent the QOF does not otherwise know the identity of the person for whom the broker holds the QOF stock or partnership interest. In cases where the QOF knows the identity of the underlying owner of the QOF stock or partnership interest, such as where the owner holds a significant portion of the QOF stock or partnership interests, that underlying owner would be the reportable investor. In contrast, in cases where the QOF does not know the identity of the underlying owner of the QOF stock or partnership interest, the QOF would be required to inform brokers that are the registered holders of the QOF investment of a voluntary decertification. To ensure that brokers holding QOF interests on behalf of customers for which a disposition event occurred report on such events under the section 6045 broker reporting rules, proposed § 1.6045–1(d)(2)(i)(A) would expand the information that a broker would be required to report to the IRS with respect to a sale of a QOF investment to include whether the sale constitutes a disposition of an ownership interest in a QOF or an inclusion event associated with a voluntary decertification of a QOF. Finally, proposed § 1.6045–1(a)(9)(i) would expand the definition of a ''sale'' that a broker is required to report to the IRS to include an ''inclusion event'' as defined in § 1.1400Z2(b)–1(c)(1)(iv) caused by the voluntary decertification of a QOF as defined in § 1.1400Z2(d)–1(a)(3). These proposed changes are intended to ensure that both the IRS and investors in publicly traded QOFs are made aware of these taxable transactions.

b. Reporting Period

As discussed in part II.B. of the Background, before the OBBBA was enacted, Form 8996 required QOFs to report on each investor that disposed their QOF investment during the QOF's taxable year. In addition, each QOF was also required to file Form 1099–B (or Form 1099–DA, if the QOF interest is a dual classification asset under § 1.6045–

1(c)(8)) with the IRS (and furnish a written statement to the investor) to report on each investor that disposed of their QOF investment during the calendar year.

Section 6039K(b)(8) does not address whether the dispositions to be reported by QOFs ''during the year'' should be based on investor dispositions during the QOF's taxable year or should be based on investor dispositions during the calendar year. These proposed regulations would require QOFs to report and furnish information on disposition events occurring during each calendar year for several reasons. First, IRS information reporting generally is required on a calendar year basis. *See, for example,* §§ 1.6041–1(a)(1); 1.6042–2(a)(1)(i); 1.6045–1(c)(6); 1.6050P–1(a)(1); and 1.6050W–1(a)(1). Second, the calendar year is the standard accounting period for most individual taxpayers and the default accounting period for corporations and partnerships that do not keep formal books and records or otherwise do not qualify for a fiscal taxable year. Requiring QOFs to report and furnish this information on a calendar year basis is therefore consistent with the needs of the majority of taxpayers, who would use this information to prepare their Federal tax returns on a calendar year basis. Although fiscal year investors with taxable years that coincide with that of a fiscal year QOF might find the furnished information to be more useful if it were instead based on the QOF's fiscal year, these fiscal year investors are also more likely to have the capability and sophistication to keep track of furnished information that does not coincide with their taxable years. Finally, as discussed in part II.C.2. of this Explanation of Provisions, requiring QOFs to report this information on a calendar year basis would also facilitate a single due date for investor statements that is conducive to the tax reporting needs of the reportable investors. Accordingly, for all of these reasons, proposed § 1.6039K–1(f) would require QOFs to report on reportable investors that have a disposition event during the calendar year in which the QOF's taxable year began. Comments are requested regarding whether this reporting creates any undue burdens for fiscal year QOFs.

c. Specific Information Required

Proposed § 1.6039K–1(f)(1) would require the QOF to report the name, address, and TIN of each reportable investor in the QOF that has a disposition event with respect to their investment in the QOF. Proposed § 1.6039K–1(f)(2) would require QOFs to report the date of the disposition event for each share of stock or partnership interest in the QOF to which the disposition event applies. This information is consistent with the information required under section 6039K(b)(8)(C) and the information required to be reported on the current Form 8996. In addition, for each share of stock or partnership interest in the QOF to which the disposition event applies, proposed § 1.6039K–1(f)(3) would require QOFs to report the date that the reportable investor's share or interest in the QOF was acquired by the reportable investor. This information is consistent with the information required under section 6039K(b)(8)(B). Comments are requested with respect to whether non-publicly traded QOFs would generally know the dates that a reportable investor acquired and disposed of their ownership interest in the QOF. Proposed § 1.6039K–1(f)(4) is discussed later in this part II.B.3.c.

For a disposition event with respect to a disposition of the reportable investor's ownership interest in the QOF, proposed § 1.6039K–1(f)(5) would also require QOFs to report the total number of shares of stock or partnership interests in the QOF held immediately before the disposition event and the total number of shares of stock or partnership interests that were disposed. This information is consistent with information required under section 6039K(b)(8)(C), which asks for the ''amount of the investment disposed.''

Additionally, pursuant to section 6039K(b)(9), which authorizes the Secretary to require additional information to be reported, the proposed regulations would require the QOF to report several other pieces of information.

First, proposed § 1.6039K–1(f)(6) would require QOFs to indicate whether the disposition is with respect to an inclusion event caused by the QOF's decertification. Pursuant to proposed § 1.1400Z2(d)–1(a)(3)(iv), a QOF would be required to provide notification to every investor in a QOF that the QOF voluntarily decertified and the date of the decertification. As explained in part I.C.4 of this Explanation of Provisions, an investor in a QOF may have Federal income tax consequences when a QOF decertifies. Absent a QOF's notification to its investors of the voluntary decertification, investors may not be aware of the decertification.

Second, to help reportable investors determine their basis in their disposed QOF interest, proposed § 1.6039K–1(f)(4) would require QOFs to report the amount of cash plus the fair market value of property received by the QOF in exchange for the reportable investor's shares or partnership interest in the QOF when first acquired by the reportable investor. Comments are requested with respect to whether non-publicly traded QOFs would generally know this basis information. Finally, proposed § 1.6039K–1(f)(7) would require QOFs to report such other information as the forms or instructions may require.

4. Time and Manner for Filing the QOF Information Return

As discussed in part II.A. of the Background, before the OBBBA was enacted Form 8996 was required to be attached to the QOF's annual tax return by the due date (including extensions) for the QOF's annual tax return. As previously described, the Treasury Department and the IRS intend to update Form 8996 to include the information required by section 6039K(b) and final regulations under § 1.6039K–1. Pursuant to sections 6039K(a) and 6726(a), this updated Form 8996 will be considered a ''return'' of information that is separate from the QOF's Federal tax return. Additionally, proposed § 1.6039K–1(g)(1) would require that Form 8996 be filed with the IRS in the manner set forth in the instructions to the form. For QOFs that fail to file Form 8996 in the manner so provided by the due date for the QOF's original Federal tax return (or fail to include all the correct information required to be shown on the Form 8996), proposed § 1.6039K–1(g)(2) would direct the QOF to file the original Form 8996 (or a corrected Form 8996) in the manner set forth in the instructions to Form 8996 for a late or corrected filing. Filing the late original Form 8996 (or corrected Form 8996) would be important to terminating the per-day penalty under section 6726 applicable to QOFs that fail to comply with the information reporting requirements under section 6039K. *See* part VIII of this Explanation of Provisions for an explanation of the penalties that apply to the failure to timely file a correct information return under section 6039K.

C. Investor Statements Required To Be Furnished Under Section 6039K(c)

1. Information To Be Included on the Investor Statements

Pursuant to section 6039K(c)(2), proposed § 1.6039K–1(h)(1)(i) would require every QOF that is required to file an information return under section 6039K that includes (or is required to include) a reportable investor's name, address, and TIN to furnish to that reportable investor an investor statement showing the information required by proposed § 1.6039K–1(f)(1) through (7) with respect to the reportable investor. *See also* part II.B.3.c. of this Explanation of Provisions for an explanation of the information that QOFs would be required to report to the IRS with respect to these reportable investors. Under this proposed rule, the information required to be provided to each reportable investor would be only the information reported to the IRS that is with respect to that particular reportable investor and not information reported with respect to other reportable investors with disposition events during the same calendar year. This proposed rule would thus preserve the privacy of individual investors' personally identifiable information.

In addition to the information that each QOF would be required to report under proposed § 1.6039K–1(f)(1) through (7), proposed § 1.6039K–1(h)(1)(ii) and (iii) would require the QOF to include on the investor statement the name, address, and phone number of a contact at the QOF regarding the furnished statement, as well as a legend stating that the information included on the statement is being reported to the IRS. These requirements are consistent with general information furnishing requirements. Additionally, proposed § 1.6039K–1(h)(1)(iv) would require the QOF to include on this investor statement, if applicable, a statement that the entity has voluntarily decertified as a QOF under § 1.1400Z2(d)–1(a)(3). Finally, if the QOF has voluntarily decertified as a QOF, proposed § 1.6039K–1(h)(1)(iv) would require the QOF to include on the investor statement a statement that the reportable investor's election under section 1400Z–2(c) is no longer available because the certification of the entity as a QOF has terminated. Under section 1400Z–2(c) and § 1.1400Z2(c)–1(b)(1)(i), a taxpayer who makes a deferral election with respect to a qualifying investment in a QOF, recognizes the deferred gain by the date provided in section 1400Z–2(b)(1)(B), and whose holding period of such qualifying investment is at least 10 years, may make an additional election under section 1400Z–2(c) upon the sale or exchange of that investment. However, under § 1.1400Z2(c)–1(b)(1)(i), to the extent that an eligible taxpayer has an inclusion event with respect to any portion of that qualifying investment, that portion is no longer a qualifying investment and the eligible taxpayer may not make the section 1400Z–2(c) election for that portion. Section 1.1400Z2(b)–1(c)(15) provides that the decertification of a QOF is an inclusion event. The Treasury Department and the IRS view the statement notifying the investors that the section 1400Z–2(c) election is no longer available critical for tax compliance purposes and to ensure that investors are fully aware of the decertification, which may carry attendant Federal income tax consequences.

2. Time and Manner for Furnishing the Investor Statements

a. Due Date for Furnishing the Investor Statements

As discussed in part II.B.3.b. of this Explanation of Provisions, proposed § 1.6039K–1(f) would require QOFs to report on each reportable investor that has a disposition event during the calendar year in which the QOF's taxable year began. This reporting is required for disposition events occurring in the calendar year in which the QOF's taxable year began because the calendar year is the standard accounting period for most individual taxpayers and the default accounting period for corporations and partnerships that do not qualify for a fiscal taxable year. It is anticipated that these reportable investors would use this information on their furnished investor statements to prepare their Federal tax returns, which, for individuals are due on April 15 of the year following the calendar year for which the return is required (excluding extensions).

In proposing the date by which these investor statements should be furnished, the Treasury Department and the IRS considered the due dates for other payee statements with respect to taxpayer investments. For example, under section 6042(c), payee statements reflecting payments of dividends are required to be furnished to the dividend recipient on or before January 31 of the year following the calendar year for which Form 1099–DIV, *Dividends and Distributions,* is required. Under section 6045(b), payee statements reflecting sale transactions effected by brokers on behalf of their customers are required to be furnished to the customer on or before February 15 of the year following the calendar year in which the transaction occurred.

Except in the case of investor statements required to be furnished to reportable investors that are brokers, proposed § 1.6039K–1(h)(2)(i) would require QOFs to furnish investor statements to reportable investors on or before March 1 of the calendar year following the calendar year during which the reported disposition occurred because disposition events are more analogous to sale transactions than payments of dividends and because QOFs may need more time after the end of the calendar year to obtain the information necessary to determine which investors had disposition events. The Treasury Department and the IRS propose this March 1 due date to account for the possibility that QOFs may not have sufficient information necessary to inform investors of the required reporting under section 6039K. This due date is anticipated to provide individual investors with the information they need with sufficient time to prepare their individual tax returns, many of which the Treasury Department and the IRS anticipate will be filed on extension. Nevertheless, comments are requested regarding whether this due date would give reportable investors sufficient time for use in preparing their tax returns. Comments are also requested regarding whether this due date would create any undue burdens for QOFs, including for fiscal year QOFs.

It is the understanding of the Treasury Department and the IRS that, in the case of publicly traded QOFs, brokers would typically be the record holders of the QOF stock or partnership interests. As a result, publicly traded QOFs might not know the identities of all of the customers for whom brokers hold these interests. As discussed in part II.B.3.a. of this Explanation of Provisions, to ensure the IRS receives information returns with respect to disposition events of the brokers' customers and to ensure that these customers receive statements indicating that a disposition event has occurred in order to prepare their tax returns, proposed in § 1.6039K–1(a)(12)(ii) would include in the definition of ''reportable investor'' any broker that holds a QOF interest on behalf of a customer for which a disposition event occurred but only where the QOF does not know the identity of the actual owners of these QOF interests. In addition, under proposed § 1.6045–1(a)(9)(i) and (d)(2)(i)(A), brokers would be required to report to the IRS dispositions of ownership interests in a QOF as well as inclusion events caused by a voluntary decertification of a QOF. Thus, under these proposed rules, a publicly traded QOF would be required to furnish an investor statement to a reportable investor that is a broker, and that broker would be required to file an information return (Form 1099–B) with respect to the customer and furnish a statement to the customer. As a result, publicly traded QOFs that do not know the identity of the actual owners of QOF interests would be required to inform brokers that are registered holders of these QOF interests of a voluntary decertification, and these brokers would be required to report that information to the IRS and furnish it to their customers. It is anticipated that the Form 1099–B would be revised to facilitate this reporting by brokers.

To provide brokers with sufficient time to comply with these filing and furnishing requirements, the proposed regulations would provide for an earlier due date for investment statements required to be furnished to brokers. Proposed § 1.6039K–1(h)(2)(ii) would require QOFs to furnish investor statements to brokers that are record holders of interests in the QOF on or before January 15 of the calendar year following the calendar year of the disposition event. Comments are requested regarding whether this due date would give brokers sufficient time to report on these disposition events under section 6045. Comments are also requested regarding whether the proposed March 1 due date for furnishing the investor statements to reportable investors other than brokers should be conformed to this January 15 due date for furnishing the investor statements to brokers to simplify the furnishing requirements for publicly traded QOFs.

b. Manner of Furnishing the Investor Statements

Proposed § 1.6039K–1(h)(3)(i) would generally provide that an investor statement is considered to be furnished to a reportable investor if it is mailed to the last address of the reportable investor known to the QOF and is considered to be furnished on the date that it is so mailed. Proposed § 1.6039K–1(h)(3)(ii)(A) would permit QOFs to furnish these investor statements in an electronic format in lieu of a paper format by following the procedures for payee statements generally as set forth in the applicable revenue procedures relating to electronic delivery of payee statements. *See,* for example, section 4.6 of Rev. Proc. 2024–29, 2024–30 I.R.B. 121 (July 22, 2024), which is published as IRS Publication 1179, *General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, and Certain Other Information Returns* (Publication 1179). In the event that the QOF chooses to electronically furnish an investor statement to a reportable investor pursuant to these procedures, proposed § 1.6039K–1(h)(3)(ii)(A) would provide that such investor statement would be treated as furnished on: (i) the date that the QOF electronically transmits the investor statement to that reportable investor, for QOFs that electronically transmit the investor statement; or (ii) the date that the QOF sends a notice to the reportable investor that the investor statement has been posted to an electronically accessible online platform, for QOFs that so post the investor statement.

For an investor statement that is required to be furnished to a broker, proposed § 1.6039K–1(h)(3)(ii)(B) would permit the QOF to furnish the investor statement in an electronic format in lieu of a paper format if the broker agrees to such manner of furnishing. Like the general rule for an investor statement furnished electronically, proposed § 1.6039K–1(h)(3)(ii)(B) would treat an investor statement that is electronically furnished to a broker pursuant to such written agreement as furnished on: (i) the date that the QOF electronically transmits the investor statement to the broker, for QOFs that electronically transmit the investor statement; or (ii) the date that the QOF sends notice to the broker that the investor statement has been posted to an electronically accessible online platform, for QOFs that so post the investor statement.

III. Proposed § 1.6039L–1

A. Overview

As discussed in part II.B. of the Background, section 6039L(a) generally requires every applicable QOZB to furnish a QOZB statement to each QOF that holds an interest in that applicable QOZB at such time, in such manner, and setting forth such information as the Secretary may by regulations prescribe for purposes of enabling such QOFs to meet their reporting obligations under section 6039K(b)(5). These proposed regulations propose rules for the time and manner that applicable QOZBs would have to furnish these QOZB statements as well as the information that would be required to be reported on these statements.

As a starting point for the section 6039L furnishing requirement, section 6039L(b) defines the term ''applicable QOZB'' to mean any QOZB which is a trade or business of a QOF, in which a QOF holds QOZ stock, or in which a QOF holds a QOZ partnership interest. Proposed § 1.6039L–1(a)(3) would generally follow this definition of an ''applicable QOZB'' except it would not include a trade or business of a QOF in the definition because these trades or businesses are conducted by the QOF itself. Therefore, QOFs should generally have the ability to obtain the information they need from such trades or businesses without being subject to the furnishing requirements of section 6039L and the penalties under section 6722 that would apply if these trades or businesses of the QOF failed to comply with these furnishing requirements. Accordingly, under proposed § 1.6039L–1(a)(3), an ''applicable QOZB'' is defined to mean any entity that meets, intends to meet, or was organized for the purposes of meeting, the requirements to be a QOZB, as defined in section 1400Z–2(d)(3)(A) and § 1.1400Z2(d)–1(d), which is a corporation in which a QOF holds QOZ stock, or a partnership in which a QOF holds a QOZ partnership interest. Comments are requested regarding whether there are any circumstances under which QOFs need section 6039L to obtain the information required to be furnished under section 6039L from their trades or businesses.

Section 6039L(a) cross references to section 6039L(b) for a description of the QOF to whom every applicable QOZBs must furnish the QOZB statement. However, section 6039L(b) does not describe any QOF but instead provides a definition for applicable QOZBs required to furnish these statements. To account for this drafting anomaly and to clarify the QOFs to whom the QOZB statements should be furnished, the proposed regulations would create the term ''relevant QOF.'' Proposed § 1.6039L–1(a)(12) would define ''relevant QOF'' to mean, with respect to an applicable QOZB that is a corporation, any QOF that holds QOZ stock in that corporation, and with respect to an applicable QOZB that is a partnership, any QOF that holds QOZ partnership interest(s) in that partnership.

Proposed § 1.6039L–1(b) would set forth the requirement that every applicable QOZB must furnish to each relevant QOF a QOZB statement, signed under penalties of perjury, for each taxable year of the applicable QOZB containing the information set forth in proposed § 1.6039L–1(b)(1) though (7). *See* parts IV.B.1. through 3. of this Explanation of Provisions for an explanation of the information that would be required to be reported on the QOZB statement. Proposed § 1.6039L–1(c) is reserved for future use for when the information reporting and furnishing rules for qualified rural opportunity funds and qualified rural opportunity zone businesses are promulgated. Proposed § 1.6039L–1(d) would set forth the due date for the QOZB statements and the manner by which the QOZB statements must be furnished. *See* part IV.C. of this

Explanation of Provisions. Finally, proposed § 1.6039L–1(d) would cross reference to §§ 301.6722–1 (failure to furnish timely a correct payee statement) and 301.6724–1 (penalty waiver for failures due to reasonable cause and not due to willful neglect), and proposed § 1.6039L–1(d) proposes to apply § 1.6039L–1 to QOZB statements required to be furnished on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

B. Information To Be Included on the QOZB Statements

As discussed in part IV.A. of this Explanation of Provisions, proposed § 1.6039L–1(b) would set forth the requirement that every applicable QOZB must furnish to each relevant QOF a QOZB statement for each calendar year containing the information set forth in proposed § 1.6039L–1(b)(1) though (7). This information generally falls within three categories. First, some of the information that would be required by proposed § 1.6039L–1(b) is information that QOFs are generally required to report on Parts VI and VII of the current Form 8996. Second, some of the information that would be required by proposed § 1.6039L–1(b) is information that would enable the Secretary to comply with the public reporting requirements under section 70421(e)(3) of the OBBBA. Third, some of the information that would be required by proposed § 1.6039L–1(b) is information regarding the QOZB's compliance with additional requirements under section 1400Z–2(d)(3). This information would provide certainty to the QOF that it may treat its ownership interest in the applicable QOZB as QOZ stock or as a QOZ partnership interest for which the QOF must provide information under section 6039K(b)(5).

1. Information Generally Required on Current Form 8996

As discussed in part II.B.2. of this Explanation of Provisions, some of the information required under section 6039L is information required to be reported on Parts VI and VII of the current Form 8996. For example, proposed § 1.6039L–1(b)(1) and (4) would require the applicable QOZB to furnish its TIN and all the population census tract number(s) in which the QOZ business property directly owned or leased by the applicable QOZB is used. In addition, some of this information is needed by the relevant QOF to determine if it meets the 90-percent investment standard. Each QOF must calculate if it meets the 90-percent investment standard based on the value of the QOF's investment in the QOZ stock or QOZ partnership interest of the applicable QOZB, the value of the QOZ business property directly owned by the applicable QOZB, and the value of the QOZ business property directly leased by the applicable QOZB as of the QOF's 6-month testing date and the QOF's year-end testing date as provided in section 1400Z–2(d)(1).

Although requiring applicable QOZBs to furnish this information based on a QOF's 6-month and year-end testing dates would coincide with the needs of the relevant QOFs, the Treasury Department and the IRS are concerned that requiring applicable QOZBs to report this valuation information as of the QOFs' testing dates could be unadministrable for some applicable QOZBs. For example, some applicable QOZBs have multiple QOF investors with different taxable years. Requiring applicable QOZBs to report this valuation information based on the testing dates of each relevant QOF would force these applicable QOZBs to keep track of the taxable years of each of their relevant QOFs and to collect this valuation information as of the testing dates of each of these relevant QOFs. In addition, this requirement would also necessitate multiple due dates for each QOZB statement based on the due dates of the returns required under section 6039K.

To address these administrability concerns for applicable QOZBs and QOFs, the Treasury Department and the IRS considered whether applicable QOZBs should instead be required to furnish this information to QOFs based on calendar year testing dates (that is, June 30 and December 31 of the year for which the QOZB statement is required) because calendar year testing dates are generally the default accounting period for QOFs. Using calendar year testing dates for this purpose would also eliminate the need for applicable QOZBs with multiple relevant QOF investors to keep track of the taxable years of these relevant QOFs and to furnish valuation information as of multiple testing dates. This approach was not adopted in these proposed regulations, however, because it would be inconsistent with the premise that QOZBs must meet the section 1400Z–2(d)(3) requirements in its taxable year, determined using the 70-percent use test and the section 1397C(b) tests. Indeed, the Treasury Department and the IRS provide a safe harbor under § 1.1400Z2(d)–1(b)(2)(i)(C) to permit a QOF to determine whether equity in an entity with a taxable year that is different from its own is QOZ property for purposes of the 90-percent investment standard. Generally, under this safe harbor, the QOF may limit the period tested for purposes of the 90-percent investment standard to the period that starts with the beginning of the QOF's status as a QOF and lasts until the last day of the entity's taxable year ending on or before the relevant testing date. Under this safe harbor, the QOF may treat the entity as satisfying the requirements of section 1400Z–2(d)(3) for the entity's entire taxable year if the entity satisfies the requirements on the last day of its taxable year.

Finally, the Treasury Department and the IRS considered whether the information provided by an applicable QOZB should be based on the last day of the first 6-month period of the applicable QOZB's taxable year and the last day of the applicable QOZB's taxable year (applicable QOZB's testing dates). This approach would also alleviate the administrability concerns of applicable QOZBs that have multiple relevant QOFs. In addition, this approach would be consistent with the safe harbor rule under § 1.1400Z2(d)–1(b)(2)(i)(C), which would permit QOFs with taxable years that are different from an applicable QOZB to apply the 90-percent investment standard using information provided by the applicable QOZB based on the testing dates that coincide with the applicable QOZB's taxable year. Section 1.1400Z2(d)–2(d)(3) would be clarified by proposed § 1.1400Z2(d)–2(d)(3) to state explicitly that QOZBs use the semiannual testing dates corresponding to their taxable year to clarify that the applicable semiannual testing dates an applicable QOZB uses are the semiannual dates corresponding to its own taxable year and not the taxable year of the QOF. In addition, proposed § 1.1400Z2(d)–2(d)(3)(iii) would be added to clarify that for purposes of determining whether a QOZB satisfies the 90-percent QOZ business property holding period test, the QOZB determines whether it has met the 70-percent use test on its semiannual testing dates, not the QOF's semiannual testing dates. Comments are requested regarding whether the use of the applicable QOZB's testing dates for this valuation information creates any undue burdens for applicable QOZBs or for fiscal year QOFs. Lastly, proposed § 1.1400Z2(d)–2(d)(1), (d)(3)(i) and (ii), and (d)(4)(i) would replace references to ''eligible entity'' in the corresponding provisions of § 1.1400Z2(d)–2 with separate references to QOFs and QOZBs to emphasize the differences between QOF and QOZB holding period testing.

2. Information for the Public Report

In addition to information that QOFs have been required to report on the current Form 8996, proposed § 1.6039L–1(b)(4)(ii), and (iv) through (vi) would require the applicable QOZB to furnish information that would enable the Secretary to comply with the public reporting requirements under section 70421(e)(3) of the OBBBA. For example, proposed § 1.6039L–1(b)(4)(i) and (ii) would require the applicable QOZB to provide the NAICS code that applies to each applicable QOZB's business activity within each census tract and to provide a physical address of the QOZB's business activity within each census tract in which the business operates. In addition, proposed § 1.6039L–1(b)(4)(iv) and (v) would require the applicable QOZB to provide, for each census tract as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year, the total value of QOZ business property directly owned or leased by the applicable QOZB that is real property and the total number of residential units. Proposed § 1.6039L–1(b)(4)(vi) would require the applicable QOZB to provide the approximate average monthly number of full-time equivalent employees of the QOZB that work within the population census tract for the calendar year ending with or within the applicable QOZB's taxable year. *See* part II.B.2. of this Explanation of Provisions for the rationale behind requesting this information as of December 31 of the year ending with or within the applicable QOZB's taxable year. Comments are requested regarding whether the use of December 31 for this information creates any undue burdens for applicable QOZBs. Finally, to avoid double counting of information provided for the public reporting requirement if multiple QOFs have investments in the same applicable QOZBs, proposed § 1.6039L–1(b)(2) would require the applicable QOZB to report the percent of equity ownership or (if applicable) capital or profits interest in the applicable QOZB by the relevant QOF as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year.

Proposed § 1.6039L–1(b)(3) would require the applicable QOZB to provide the value of all of its tangible property (including tangible property that is QOZ business property and tangible property that is not QOZ business property) held as of the applicable QOZB's testing dates. This information is required to be reported by the QOF to the IRS under sections 6039K(b)(5)(E) and (b)(5)(F). Without this information, the QOF would not likely be able to make a complete and accurate report to the IRS, which would impair the ability of the Secretary to make a complete and accurate public report, as required under section 70421(e) of the OBBBA. Additionally, in order to be characterized as a QOZB, an entity must meet the 70-percent tangible property standard, which requires that at least 70 percent of the tangible property owned or leased must be QOZ business property. The value of the owned and leased property is used in calculating this 70-percent tangible property standard. If an entity does not satisfy this standard, the equity in that entity might not be treated as QOZ property by the QOF.

3. Other Information Regarding Compliance With QOZB Requirements

These proposed regulations would require certain additional information to be furnished to the relevant QOFs that is not specifically enumerated in section 6039K(b)(5) but is nonetheless required in order for the relevant QOFs to provide accurate information in response to the specifically enumerated information requested by that section.

Section 6039L(a) provides that the Secretary may by regulations require the applicable QOZB to furnish such information to assist the QOF in meeting the requirements of section 6039K(b)(5). Section 6039K(b)(5) provides that the QOF must report such information for investments that are treated by the QOF as QOZ stock or QOZ partnership interests. However, in order for the relevant QOF to know whether it can treat its investments as QOZ stock or QOZ partnership interests (and whether it must provide the information required under section 6039K(b)(5) with respect to such investments), the entity in which the QOF invests must be a QOZB for substantially all of the QOF's holding period of such investment. Under section 1400Z–2(d)(3) and § 1.1400Z2(d)–2(d)(1), to be treated as a QOZB for substantially all of the QOF's holding period of such investment, the entity in which the QOF invests must satisfy the 70-percent tangible property standard with respect to its tangible property; must be engaged in a trade or business that satisfies the requirements of sections 1397C(b)(2), (4) and (8); and must not be a trade or business listed in section 144(c)(6)(B).

Under section 1400Z–2(d)(2)(D)(i), tangible property must meet three requirements in order to be treated as QOZ business property. First, the property must be acquired after December 31, 2017, which is modified by section 70421(c)(4)(A) of the OBBBA to require that the property be acquired after the applicable start date (as defined in section 1400Z–1(e)(2)). Second, the original use of the property must commence with the QOF or QOZB in the QOZ or the QOF or QOZB must substantially improve the property, as provided in section 1400Z–2(d)(2)(D)(ii). And third, during substantially all of the QOF or QOZB's holding period for such property, substantially all of the use of the property was in a QOZ. If such property meets all of these requirements, it is characterized as QOZ business property and may be used by the QOZB in determining its 70-percent tangible property standard and compliance with the other statutory and regulatory requirements of section 1400Z–2(d)(3). This determination would then assist the QOF in reporting the investment on its Federal tax return.

Thus, these proposed regulations would require applicable QOZBs to furnish additional information to the relevant QOFs to provide information sufficient for the relevant QOF to determine if the equity investments it holds in another entity may be characterized as QOZ stock or QOZ partnership interests about which it is required to provide the information specifically enumerated in section 6039K(b)(5). This information would provide an additional compliance benefit since it would also enable the relevant QOF to determine if the equity investments can be included in the numerator of the QOF's calculation of the 90-percent investment standard. As a corollary, these proposed regulations would also enable the relevant QOFs to provide information to the IRS to help in determining whether these equity investments compliant with section 1400Z–2(d)(3) and the regulations thereunder.

Examples of information that would be requested for these purposes include proposed § 1.6039L–1(b)(3), which would require the applicable QOZB to provide the value of all of its tangible property (including tangible property that is QOZ business property and tangible property that is not QOZ business property) held as of the applicable QOZB's testing dates. Additionally, proposed § 1.6039L–1(b)(4)(vii) would require the applicable QOZB to provide the first date that any QOZ business property directly owned or leased by the applicable QOZB was leased or purchased by the applicable QOZB. For similar reasons, proposed § 1.6039L–1(b)(4)(viii) would require the applicable QOZB to inform the relevant QOF whether there is any QOZ business property within each census tract that the applicable QOZB is substantially improving and (if applicable) the date on which that improvement began. In addition, proposed § 1.6039L–1(b)(4)(ix) would require the applicable QOZB to inform the relevant QOF, with respect to each census tract in which QOZ business property is directly owned or leased by the applicable QOZB, whether the applicable QOZB is utilizing a working capital safe harbor to acquire, construct, or substantially improve tangible property in a QOZ, as provided in § 1.1400Z2(d)–1(d)(3). The applicable QOZB would also be required to provide, if applicable, the date that the working capital safe harbor is expected to end.

In addition, for the same reasons, proposed § 1.6039L–1(b)(5) would require the applicable QOZB to provide an attestation that the applicable QOZB meets all the requirements of section 1400Z–2(d)(3) and § 1.1400Z2(d)–1(d) including that—

- The applicable QOZB meets the 70-percent tangible property standard;
- The applicable QOZB meets the gross income requirement under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3);
- The applicable QOZB meets the use of intangible property requirement under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3);
- The applicable QOZB satisfies the non-qualified financial property limitation under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3); and
- The trade or business of the applicable QOZB is not described in section 144(c)(6)(B).

If the applicable QOZB cannot provide this attestation because the applicable QOZB does not meet all the requirements of section 1400Z2–2(d)(3) and § 1.1400Z2(d)–1(d), proposed § 1.6039L–1(b)(6) would require the applicable QOZB to provide an attestation that the applicable QOZB is utilizing the cure period, as defined in § 1.1400Z2(d)–1(d)(6), to correct its failure to meet the requirements of section 1400Z–2(d)(3) and § 1.1400Z2(d)–1(d). This statement would also be required to include the month in which the stock or partnership interest of the applicable QOZB lost its qualification as qualified opportunity zone stock or a qualified opportunity zone partnership interest. A QOF receiving this information would be better able to determine whether its investments in the entity may be treated as QOZ stock or QOZ partnership interests before, during, and after the cure period. This information would also help ensure compliance with the statutory requirements of section 1400Z–2(d), as each QOF is only entitled to one cure period per QOZB, as provided in § 1.1400Z2(d)–1(d)(6)(iii).

Finally, proposed § 1.6039L–1(b)(7) would also require the applicable QOZB to report whether it used the applicable financial statement valuation method or the alternative valuation method, as defined used in § 1.1400Z2(d)–1(b)(3) and (4), respectively, in providing any valuation information that would be required under proposed § 1.6039L–1(b)(1) through (8). Proposed § 1.6039L–1(b)(8) would require the applicable QOZB to provide to the relevant QOF such other information as the relevant QOF is required to report with respect to the applicable QOZB as set forth in Form 8996 or instructions. It is anticipated that the IRS will issue a publication or other announcement to inform applicable QOZBs of any new information that should be included on the QOZB statements in order for the relevant QOFs to meet their reporting obligations under section 6039K.

C. Time and Manner for Furnishing the QOZB Statements

Section 6039L(a) authorizes the Secretary to determine the due date for furnishing the QOZB statements. As discussed in part IV.B.1. of this Explanation of Provisions, these proposed regulations would generally require applicable QOZBs to furnish information needed by the QOFs to compute their 90-percent investment standard as of testing dates that are based on the QOZB's taxable year. The Treasury Department and the IRS are of the view that, for the overwhelming majority of QOFs and QOZBs operating on a calendar year basis (or on the same fiscal year basis), the due date for furnishing the QOZB statements should be a reasonable time after the end of the QOZB's taxable year but in advance of the due date of the relevant QOF's Federal tax return because relevant QOFs need the information on the furnished QOZB statements to meet their filing obligations under section 6039K.

Because it would be administratively burdensome to require applicable QOZBs to determine whether the relevant QOFs to which the applicable QOZBs must furnish a QOZB statement will obtain an extension to file their Federal tax returns, these proposed regulations would require a due date for the furnished statements in advance of the due date of the relevant QOFs Federal tax return without extensions. Under section 6072(b), returns of calendar year QOFs that are partnerships are required to be filed on or before March 15 following the close of the calendar year to which the return applies, and returns made on the basis of a fiscal year are required to be filed on or before the 15th day of the third month following the close of the fiscal year. Under section 6072(a), returns of calendar year QOFs that are corporations are required to be filed on or before April 15 following the close of the calendar year to which the return applies, and returns made on the basis of a fiscal year are required to be filed on or before the 15th day of the fourth month following the close of the fiscal year. Given these unextended due dates, proposed § 1.6039L–1(d)(1) would require every applicable QOZB required to furnish a QOZB statement to one or more relevant QOFs to furnish those statements on or before the 1st day of the second month following the close of the applicable QOZB's taxable year. For calendar year QOZBs, this rule would result in QOZB statements being due on February 1, which is one and a half months before the date that a relevant QOF's partnership return would be due and two and a half months before the date that a relevant QOF's corporate return would be due. Comments are requested regarding whether this due date would provide applicable QOZBs with sufficient time to complete the QOZB statements. Comments are also requested regarding whether this due date would provide relevant QOFs with sufficient time to comply with their reporting obligations under section 6039K.

Proposed § 1.6039L–1(d)(2) would permit an applicable QOZB to furnish the QOZB statement using any form that includes all the information set forth in proposed § 1.6039L–1(b). If the IRS prescribes a form for this QOZB statement, however, proposed § 1.6039L–1(d)(2) would require that the applicable QOZB use that prescribed form or a form that contains provisions that are substantially similar to those in the prescribed form. Additionally, proposed § 1.6039L–1(d)(2) would provide that a QOZB statement is considered furnished to a relevant QOF if it is mailed to the last known address of the relevant QOF and is considered furnished on the date that it is so mailed. Proposed § 1.6039L–1(d)(2) would also permit an applicable QOZB to furnish the QOZB statement in an electronic format in lieu of a paper format if the relevant QOF consents in writing (including electronically) to the electronic furnishing of the QOZB statement. Proposed § 1.6039L–1(d)(2) would also provide that QOZB statements electronically furnished pursuant to the consent of the relevant QOF will be treated as furnished on the date that the statement is electronically transmitted to the relevant QOF.

IV. Proposed §§ 1.6011–2(b)(1), 1.6011–3(d)(4), 1.6011–5(d)(4), and 1.6037–2(d)(3)

Generally, under sections 6011(e)(1), (2) and (5), the Secretary may not require a person to file a return electronically unless that person is required to file at least 10 returns during that calendar year. Section 70421(d)(3) of the OBBBA added section 6011(e)(8) to the Code, which generally provides that any return filed by a QOF or qualified rural opportunity fund under section 6039K must be electronically filed. To ensure that Form 8996 is counted as a return in determining if the filer has filed 10 returns for purposes of the QOF's other return filing obligations, proposed § 301.6011–2 would be amended to include Form 8996 as a form used for the purpose of making an information return. In addition, proposed § 301.6011–3(d)(4), proposed § 301.6011–5(d)(4), and proposed § 301.6037–2(d)(3) would be amended to clarify that a Form 8996 is a separate return from the partnership return, corporate income tax return, or electing small business corporation return, respectively, to which the Form 8996 is attached for purposes of determining if the QOF is required to file at least 10 returns for the year.

V. Proposed § 1.6045–1

As discussed in parts III.B.3.a. and C.2. of this Explanation of Provisions, to ensure that the IRS receives information returns with respect to disposition events of customers for whom brokers hold QOF investments and to ensure that these brokers' customers receive investor statements that they need to prepare their Federal tax returns with respect to these transactions, the proposed rules under § 1.6039K–1 would require QOFs to inform any broker that holds a QOF interest on behalf of a customer that a disposition event occurred. This is particularly important because, although it is likely that the broker would know which customer disposed of the ownership interest in the QOF (and it is unlikely that the QOF would know the name of such customer), it is unlikely that the broker would know that the QOF voluntarily decertified. To ensure that the IRS and customers receive information about these disposition events as related to specific customers of the broker, these proposed regulations would modify § 1.6045–1 to require brokers to report this information to the IRS and furnish statements with this information to the impacted customer. Accordingly, proposed § 1.6045–1(a)(9)(i) would expand the definition of a sale that a broker is required to report to the broker's customers to include an inclusion event as defined in § 1.1400Z2(b)–1(c)(1)(iv) caused by the voluntary decertification of a QOF as defined in § 1.1400Z2(d)–1(a)(3). In addition, proposed § 1.6045–1(d)(2)(i)(A) would expand the information that a broker would be required to report to the IRS with respect to a sale of a QOF investment to include whether the sale constitutes the disposition of an ownership interest in a QOF or constitutes an inclusion event as defined in § 1.1400Z2(b)–1(c). These changes would ensure that both the IRS and investors in publicly traded QOFs (customers of the broker) are made aware of these taxable transactions.

Comments are requested regarding whether these additional reporting requirements create any undue burdens for brokers.

VI. Proposed §§ 301.6722–1 and 301.6724–1

To conform with the OBBBA's addition of investor statements and QOZB statements to the definition of ''payee statements'' that are subject to the $250 penalty (inflation adjusted) for each failure to furnish a payee statement (or failure to furnish a correct information statement) under section 6722(a), proposed § 301.6722–1(e)(2)(xxxix) and (xl) would modify the definition of ''payee statements'' subject to these penalties to include investor statements required by section 6039K(c) and QOZB statements required by section 6039L.

As discussed in part II.B. of the Background, because the OBBBA added section 6726 as an additional information reporting penalty to part II of subchapter B of chapter 68 of the Code, the reasonable cause waiver under section 6724 applies to penalties under section 6726. Accordingly, the proposed regulations would modify the references to the penalties to which the reasonable cause (and not willful neglect) rules apply to include the penalty under section 6726.

VII. Proposed § 301.6726–1

The proposed regulations under section 6726 applicable to QOFs that fail to meet their information reporting requirements under section 6039K generally follow the statutory amendments made by the OBBBA. Proposed § 301.6726–1(a)(1) would impose a penalty of $500 for each day that a QOF, required to file an information return by section 6039K (that is, Form 8996 (or any successor form) referred to in proposed § 301.6726–1 and this Part VII as section 6039K return), fails to file such return. Proposed § 301.6726–1(a)(1) would also provide that no more than one penalty would be imposed under section 6726 with respect to a single section 6039K return, even though there may be more than one failure with respect to such return. Proposed § 301.6726–1(a)(1) would also add a cross reference to the penalty waiver rules under section 6724 applicable to a failure that is due to reasonable cause. *See* part VI. of this Explanation of Provisions for an explanation of proposed § 301.6724–1.

Proposed § 301.6726–1(a)(2)(i) would limit the scope of ''failures'' subject to this penalty as a failure to file the section 6039K return on or before the required filing date (failure to file timely) and any failure to include all the information required to be shown on the section 6039K return or including incorrect information (failure to include correct information).

A failure to file timely, under proposed § 301.6726–1(a)(2)(ii) would include a failure to file in the required manner, for example, electronically or in other machine-readable form as provided under section 6011(e). Thus, to the extent the instructions to Form 8996 require that the section 6039K return be filed electronically, a penalty for the failure to file timely would apply to a QOF that mails a paper section 6039K return to the IRS. In addition, under proposed § 301.6726–1(a)(2)(ii), a failure to include correct information would include a failure to include all information required by § 1.6039K–1(b), Form 8996 (or any successor form) and the applicable form instructions. Finally, under proposed § 301.6726–1(a)(2)(ii), a failure to include information in the correct format could be either a failure to file timely an information return, or a failure to include correct information on the information return. For example, an error on an electronic submission to the IRS that prevents processing by the IRS may constitute a failure to file timely under this proposed rule. However, if information is set forth on the wrong field of the electronic submission, that error may constitute a failure to file timely or a failure to include correct information under this proposed rule, depending upon the extent of the failure.

Proposed § 301.6726–1(a)(3) would make it clear that the per-day penalty imposed under § 301.6726–1(a) terminates on the day that the QOF files the section 6039K return (showing all the correct information required to be shown on that return) as provided in § 1.6039K–1(g)(2).

Proposed § 301.6726–1(b) provides limitations on the penalty that may be imposed under section 6726 with respect to any one section 6039K return. Proposed § 301.6726–1(b)(1) would generally limit the total penalty amount that may be imposed on any person under section 6726 with respect to a single section 6039K return to $10,000. Proposed § 301.6726–1(b)(2) would raise that maximum $10,000 penalty to $50,000; however, in the case of any single section 6039K return failure if that return is required to be filed by a large QOF. For this purpose, a large QOF would mean a QOF with gross assets (determined on the last day of the QOF's taxable year) that exceed $10,000,000. Proposed § 301.6726–1(d) would provide that each of these dollar amounts would be adjusted for inflation pursuant to section 6726(d). Like the cost-of-living inflation adjustment applicable to the information reporting penalty under section 6721, these inflation adjustments are made annually pursuant to revenue procedures published in the IRB.

Proposed § 301.6726–1(c) imposes higher penalties if a failure is due to intentional disregard of the requirement to file timely correct information returns. If a failure to file timely or to include correct information is due to intentional disregard of the requirement to file timely or to include correct information on a return, the per-day penalty would be increased from $500 to $2,500 and the annual cap would be increased to $50,000 (or $250,000 for a large QOF), per return. To define ''intentional disregard'' for this purpose, similar to the rules in § 301.6721–1(g)(2), proposed § 301.6726–1(c)(2) would provide that a failure to file timely or to include correct information is due to intentional disregard if it is a knowing or willful failure. Whether a person knowingly or willfully fails to file timely or fails to include correct information would be determined on the basis of all the facts and circumstances in the particular case. Like the information reporting penalty regulations under § 301.6721–1(g)(3), proposed § 301.6726–1(c)(3) would set forth facts and circumstances that are considered in determining whether a failure is due to intentional disregard. These facts include, but are not limited to: (i) whether the failure to file timely or the failure to include correct information is part of a pattern of conduct by the person who filed the return of repeatedly failing to file timely or repeatedly failing to include correct information; (ii) whether correction was promptly made upon discovery of the failure; (iii) whether the filer corrects a failure to file or a failure to include correct information within 30 days after the date of any written request from the IRS to file or to correct; and (iv) whether the amount of the information reporting penalties is less than the cost of complying with the requirement to file timely or to include correct information on an information return. Comments are requested regarding whether this definition and the associated facts and circumstances create any undue burdens for QOFs.

Proposed Applicability Dates

The proposed regulations under section 1400Z–2 regarding the QOF certification and decertification requirements and QOZ business property are proposed to be applicable to taxable years ending on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. The proposed regulations regarding information returns under sections 6039K(a) and 6045(a) and information reporting penalties under section 6726 are proposed to apply to information returns and investor statements required to be filed or furnished (without regard to extensions of the filer's annual return) on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. The proposed regulations regarding statements required to be furnished under sections 6039K(c), 6045(b), and 6039L(a) and information furnishing penalties under section 6722 are proposed to apply to investor statements, QOZB statements, and payee statements required to be furnished on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**. Finally, the proposed regulations under sections 6011 and 6037 that would require Form 8996 to be counted as a return in determining if the QOF has filed 10 returns for purposes of the QOF's electronic return filing obligations are proposed to apply to returns required to be filed on or after the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

Special Analyses

I. Regulatory Planning and Review

These proposed regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) (PRA) generally requires that a Federal agency obtain the approval of the Office of Management and Budget (OMB) before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

The collections of information in these proposed regulations are required under sections 6039K and 6039L of the Code. Proposed § 1.6039K–1(b) would generally require QOFs to report to the IRS certain information set forth in proposed § 1.6039K–1(c) and (d) with respect to the QOFs' operations and investments. Proposed § 1.6039K–1(b) would also require QOFs to report to the IRS certain information set forth in proposed § 1.6039K–1(f) with respect to investors whose QOF investments were subject to a disposition event during each calendar year. Responses to this collection of information are mandatory. This collection of information would be satisfied by filing an updated Form 8996, annually in the manner set forth in the instructions to Form 8996. The form would be revised to include the additional items listed in proposed § 1.6039K–1(c), (d), and (f) that are not already included on the pre-existing Form 8996. This information is necessary to allow the IRS to verify whether the entities qualify for QOF status and whether investors in these entities qualify for related income tax benefits under sections 1400Z–1 and 1400Z–2.

Proposed § 1.6039K–1(h) would also require QOFs to furnish investor statements to every investor who had a disposition event during the calendar year. Publicly traded QOFs would be required to furnish these investor statements to every broker acting as an intermediary for an investor that had a disposition event during the year to the extent the QOF does not otherwise know the identity of the investor for whom the broker acts. The investor statement furnished to the broker would contain the same information pertaining to the investor reported to the IRS under proposed § 1.6039K–1(f). There is no prescribed form for this furnishing requirement. This information is necessary to provide notice of disposition events to investors, and to allow them to determine the tax consequences of these events under section 1400Z–2.

Brokers that receive the investor statements described in the previous paragraph would thereafter be required, pursuant to proposed § 1.6045–1(a)(9)(i) and (d)(2)(i)(A), to report to the IRS the information received with respect to each investor that had a disposition event during the year. This collection of information would be satisfied by filing an updated Form 1099–B, annually. This information is necessary to provide notice of disposition events to investors, and to allow them to determine the tax consequences of these events, including under section 1400Z–2, as well as to allow the IRS to verify whether QOF investors qualify for related income tax benefits under section 1400Z–2.

Proposed § 1.6039L–1(b) would generally require applicable QOZBs to furnish annual QOZB statements to QOFs who hold qualified opportunity zone stock or a qualified opportunity zone partnership interest in the applicable QOZBs. These QOZB statements would contain information regarding the applicable QOZBs' operations. Responses to this collection of information are mandatory. This information is necessary to allow the QOFs receiving these statements to comply with their reporting obligations under proposed § 1.6039K–1(b).

The burdens associated with the collections of information in these proposed regulations will be included in Form 8996 and its instructions and approved under OMB control number 1545–0123, and in Form 1099–B and its instructions and approved under OMB control number 1545–0715, in accordance with PRA procedures under 5 CFR 1320.10.

III. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. chapter 6) requires agencies to ''prepare and make available for public comment an initial regulatory flexibility analysis,'' which will ''describe the impact of the rule on small entities.'' *See* 5 U.S.C. 603(a). Unless an agency determines that a proposal will not have a significant economic impact on a substantial number of small entities, section 603 of the RFA requires the agency to present an initial regulatory flexibility analysis (IRFA) of the proposed regulations. The Treasury Department and the IRS have not determined whether these proposed regulations, when finalized, will have a significant economic impact on a substantial number of small entities. This determination requires further study. However, because there is a possibility of a significant economic impact on a substantial number of small entities, these proposed regulations include an IRFA. The Treasury Department and the IRS invite comments on both the number of entities affected by these proposed regulations and the economic impact of these proposed regulations on small entities.

A. Need for and Objectives of the Rule

These proposed regulations are needed to clarify the rules governing the time and form of information reporting under sections 6039K and 6039L, to define key terms relating to the information reporting required, and to establish supplementary information requirements pursuant to section 6039K(b)(9). In addition, the proposed regulations would provide the rules necessary to administer information reporting penalties under sections 6722 and 6726 and to clarify that the reasonable cause rules under section 6724 apply to the newly enacted penalty under section 6726.

The proposed regulations are intended to facilitate information sharing between applicable QOZBs and QOFs, to enable QOFs to meet their statutory information reporting obligations to the IRS whether 90 percent of the QOF's assets are invested in QOZ property as required under section 1400Z–2. Additionally, the proposed regulations are intended to permit QOF investors to have a clear understanding of, and for the IRS to have clear visibility into, the investor's eligibility for specified QOZ tax benefits. Finally, the proposed regulations would enable the Secretary to publish annual reports that would enable policy makers to evaluate the impact of sections 1400Z–1 and 1400Z–2 on investment in QOZs.

B. Affected Small Entities

Small Business Administration (SBA) regulations provide small business size standards by NAICS Industry. *See* 13 CFR 121.201; 15 U.S.C. 632(a)(2)(A). The entities impacted by these proposed regulations would be QOFs, which invest in QOZ property, and QOZBs, which are entities engaged in trades or businesses within QOZs. Because qualification as either entity type is dependent on the relationship to one or more QOZ rather than participation in any particular industry, there could be a large number of NAICS codes representing QOZ entity investments or business operations. Thus, while it is difficult to characterize impacted entities as falling under any one specific NAICS industry or code, it is expected that QOFs and QOZBs will undertake significant economic activity, such as construction, as part of the development of the trades or businesses they will operate in the designated opportunity zones.

The NAICS classification system includes construction as sector 23, with three construction industry subsector tables. According to SBA regulations, the lowest maximum annual receipts for a concern and its affiliates within the construction sector to be considered small is $19 million. *See* 13 CFR 121.201. Based on tax return data for tax year 2023, approximately 11,280 of the estimated 11,300 QOFs (approximately 99.8%) had total positive income less than the $19 million (small QOFs). The 2023 tax return data for QOZBs is less complete due to the inability to identify all tax returns filed by these entities. Nonetheless, of the 7,900 tax returns for 2023 that are identifiable as returns for QOZBs, approximately 7,800, or 98.7 percent, had total positive income less than the $19 million (small QOZBs).

a. Impact of the Rules

The proposed regulations would require every QOF to prepare and file Form 8996 each year. The average time to complete Form 8996 per QOF is estimated to be 1.25 hours per form, with a monetized hourly burden of $62.83. Accordingly, the total combined annual burden for all of the estimated 11,280 small QOFs to complete and file the updated Form 8996 is estimated to be 14,100 hours of time burden (11,280 × 1.25) and $885,903 of monetized burden (11,280 × 1.25 × $62.83). These estimates are based on survey data collected from filers of the current Form 8996. No material increase is expected in the start-up costs to complete the updated form. There is no available data to predict the increase in the number of QOFs that will file Forms 8996. In addition, the requirement that QOFs furnish investor statements pursuant to section 6039K(c) in lieu of comparable Form 1099–B statements is not expected to result in a material increase in burden for these small QOFs.

The proposed regulations would require applicable QOZBs to prepare and furnish a QOZB statement to each relevant QOF. The average time to complete a QOZB statement per QOZB is estimated to be 1.25 hours per form, with a monetized hourly burden of $62.83. Accordingly, the total combined annual burden for all of the estimated 7,800 small QOZBs to complete and furnish the QOZB statement is estimated to be 9,750 hours of time burden (7,800 × 1.25) and $612,593 of monetized burden (7,800 × 1.25 × $62.83). These estimates are based on the fact that the QOZB will have to provide all of the information in certain parts of Form 8996. No material increase in start-up costs to collect and report the additional information on the QOZB statement is expected. There is no available data to predict the increase in the number of QOZBs that will furnish the QOZB statements.

These estimates could potentially increase once the proposed regulations are finalized and applicable. However, data that would allow for an accurate estimate of any increases is not currently available.

b. Alternatives Considered

The Treasury Department and the IRS considered alternatives to these proposed regulations but have been unable to identify any that would also allow QOFs and QOZBs to satisfy the obligations of sections 6039K and 6039L. The information reports set forth in these proposed regulations are required by statute, and exemptions for impacted entities based on size or other criteria are not permissible. Exemptions for certain small business QOZBs from the requirement to furnish a QOZB statement to their QOF investors would negatively impact the ability of those QOFs to meet their statutory obligation to file their Forms 8996. Exemptions for certain small business QOFs from the requirement to file Forms 8996 with the IRS would also render the proposed regulations unenforceable and could lead to inaccurate or incomplete information on the annual reports required to be issued by the Secretary. Additionally, exemptions for certain small business QOFs from the requirement to furnish statements to investors disposing of a QOF interest would pose tax administration difficulties for the IRS and could lead to inaccurate information reflected on the investor's annual tax return. In short, because, as indicated in Part III.B. of this Special Analysis, more than 99 percent of QOFs and 98 percent of QOZBs would be treated as small businesses under relevant SBA regulations, any small business exemption from the regulatory requirements would effectively void the statutory requirements imposed by the OBBBA. Finally, given the statutory language of sections 6039K and 6039L, which generally gives the Secretary the authority to set the time and manner for the information reporting and to require the reporting of certain additional information, it is unlikely that the Secretary has the authority to exempt small businesses from these information reporting requirements.

c. Duplicative, Overlapping, or Conflicting Federal Rules

The proposed regulations would not duplicate, overlap, or conflict with any relevant Federal rules. The Treasury Department and the IRS invite input from interested members of the public about identifying and avoiding overlapping, duplicative, or conflicting requirements.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of $100 million in 1995 dollars, updated annually for inflation. This proposed regulation does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This proposed regulation does not have federalism implications, does not impose substantial direct compliance costs on State and local governments, and does not preempt State law within the meaning of the Executive order.

VI. Small Business Administration

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed amendments to the regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments that are submitted by the public will be made available at *https://www.regulations.gov.* Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A telephonic public hearing has been scheduled for November 5, 2026, beginning at 10 a.m. ET. The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the time to be devoted to each topic by October 13, 2026. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing. If no outline of the topics to be discussed at the hearing is received by October 13, 2026, the public hearing will be cancelled. If the public hearing is cancelled, a notice of cancellation of the public hearing will be published in the **Federal Register**.

Individuals who want to testify at the public hearing must send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–116506–25 and the language TESTIFY Telephonically. For example, the subject line may say: Request to TESTIFY Telephonically at Hearing for REG–116506–25.

Individuals who want to attend the public hearing by telephone without testifying must also send an email to *publichearings@irs.gov* to receive the telephone number and access code for the hearing. The subject line of the email must contain the regulation number REG–116506–25 and the language ATTEND Hearing Telephonically. For example, the subject line may say: Request to ATTEND Hearing Telephonically for REG–116506–25. Requests to attend the public hearing telephonically must be received by 5:00 p.m. ET on November 3, 2026.

Hearings will be made accessible to people with disabilities. To request special assistance during a hearing, please contact the Publications and Regulations Section of the Office of Associate Chief Counsel (Procedure and Administration) by sending an email to *publichearings@irs.gov* (preferred) or by telephone at (202) 317–6901 (not a toll-free number) by November 2, 2026.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices and other guidance cited in this document are published in the IRB and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *https://www.irs.gov.*

Drafting Information

The principal authors of these regulations are Roseann Cutrone, Office of the Associate Chief Counsel (Procedure and Administration) and Dominic DiMattia, Office of the Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the Treasury Department and the IRS, including Jane Murphy, Office of the Associate Chief Counsel (Procedure and Administration), and Rishi Jain, Office of the Associate Chief Counsel (Income Tax and Accounting), participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and the IRS propose to amend 26 CFR parts 1 and 301 as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding entries in numerical order for §§ 1.6039K–1 and 1.6039L–1 to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Section 1.1400Z2(a)–1 also issued under 26 U.S.C. 1400Z–2(e)(4).

Section 1.1400Z2(b)–1 also issued under 26 U.S.C. 1400Z–2(e)(4).

* * * * *

Section 1.1400Z2(d)–1 also issued under 26 U.S.C. 1400Z–2(e)(4).

Section 1.1400Z2(d)–2 also issued under 26 U.S.C. 1400Z–2(e)(4).

* * * * *

Section 1.6039K–1 also issued under 26 U.S.C. 6039K.

Section 1.6039K–1 also issued under 26 U.S.C. 6039K(a) through (d).

Section 1.6039L–1 also issued under 26 U.S.C. 6039L.

Section 1.6039L–1 also issued under 26 U.S.C. 6039L(a).

* * * * *

■ **Par. 2.** Section 1.1400Z2–0 is amended by:

■ 1. Revising the entries for § 1.1400Z2(d)–1(a)(2) and (3);

■ 2. Adding an entry for § 1.1400Z2(d)–1(e)(3); and

■ 3. Revising the entry for § 1.1400Z2(d)–2(d)(3).

The additions and revisions read as follows:

§ 1.1400Z2–0 Table of Contents.

* * * * *

§ 1.1400Z2(d)–1 Qualified opportunity funds and qualified opportunity zone businesses.

(a) * * *

(2) Required self-certification of an eligible entity as a QOF.

(3) Voluntary decertification of a QOF.

* * * * *

(e) * * *

(3) Applicability date.

§ 1.1400Z2(d)–2 Qualified opportunity zone business property.

* * * * *

(d) * * *

(3) Substantially all of a QOF's or qualified opportunity zone business's holding period for owned or leased tangible property.

* * * * *

■ **Par. 3.** Section 1.1400Z2(b)–1 is amended by revising paragraph (c)(15) and adding paragraph (j)(3) to read as follows:

§ 1.1400Z2(b)–1 Inclusion of gains that have been deferred under section 1400Z–2(a).

* * * * *

(c) * * *

(15) *Decertification of a QOF.* The decertification of a QOF, whether a voluntary decertification pursuant to § 1.1400Z2(d)-1(a)(3) or an involuntary decertification, is an inclusion event.

* * * * *

(j) * * *

(3) *Paragraph (c)(15) of this section.* The rules of paragraph (c)(15) of this section apply to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 4.** Section 1.1400Z2(d)–1 is amended by:

■ 1. In paragraph (a), revising the second sentence.

■ 2. Revising paragraphs (a)(2) and (3); and

■ 3. Adding paragraph (e)(3).

The additions and revisions read as follows:

§ 1.1400Z2(d)–1 Qualified opportunity funds and qualified opportunity zone businesses.

(a) * * * Paragraphs (a)(2) through (4) of this section provide rules that an eligible entity must follow to be certified as a QOF and to revoke an inadvertent self-certification of a QOF, as well as rules for the decertification of a QOF. * * *

* * * * *

(2) *Required self-certification of an eligible entity as a QOF*—(i) *In general.* An entity that satisfies the requirements of paragraphs (a)(2)(ii)(A) through (D) of this section to make an election to self-certify as a QOF will be treated as a QOF from the date the self-certification under this paragraph (a)(2) is effective.

(ii) *Time, form and manner*—(A) *Timely filing requirement.* The election for a self-certification as a QOF must be timely filed on Form 8996, *Qualified Opportunity Fund,* or any successor form, in the manner set forth in the instructions to that form by the due date for the eligible entity's original Federal tax return (including extensions) for the first taxable year identified under paragraph (a)(2)(ii)(B) of this section. *See* paragraph (a)(2)(iii) of this section for information required to be reported by QOFs annually.

(B) *First taxable year and month identified.* The self-certification of an eligible entity as a QOF must identify the first taxable year for which the self-certification takes effect and the first month (in that first taxable year) in which the self-certification takes effect.

(*1*) *Failure to specify first month.* If the eligible entity's self-certification as a QOF fails to specify the month in the initial taxable year that the self-certification takes effect, then the self-certification is treated as taking effect in the first month of the entity's taxable year.

(*2*) *Investments made before eligible entity's first month as QOF not eligible for deferral.* If an investment in eligible interests of an eligible entity occurs prior to the eligible entity's first month as a QOF, any election under section 1400Z–2(a)(1) made for that investment is invalid and the investment is a non-qualifying investment.

(C) *Becoming a QOF in a month that is not the first month of the taxable year.* This paragraph (a)(2)(ii)(C) applies to an eligible entity if its self-certification as a QOF is first effective for a month that is not the first month of that entity's taxable year.

(*1*) For purposes of applying section 1400Z–2(d)(1)(A) and (B) in the first year of the QOF's existence, the phrase *first six-month period of the taxable year of the fund* means the first six months each of which is in the taxable year of the QOF and in each of which the entity is a QOF. Thus, if an eligible entity becomes a QOF in the seventh or later month of a 12-month taxable year, the 90-percent investment standard in section 1400Z–2(d)(1) takes into account only the QOF's assets on the last day of the QOF's taxable year.

(*2*) The computation of any penalty under section 1400Z–2(f)(1) does not take into account any months before the first month in which an eligible entity is a QOF.

(D) *Organized for the purpose of investing in qualified opportunity zone property.* The self-certification must include an affirmative statement that the entity is organized for the purpose of investing in qualified opportunity zone property.

(iii) *Annual information requirements under section 6039K.* For all taxable years in which the entity is self-certified as a QOF, *see* § 1.6039K–1 for the information required to be reported annually.

(iv) *Revoking an inadvertent election to self-certify as a QOF*—(A) *In general.* Except as otherwise provided in this paragraph (a)(2)(iv), an election to self-certify as a QOF made under this paragraph (a)(2) is not revocable. Notwithstanding the previous sentence, an entity that previously made an inadvertent election to self-certify as a QOF may revoke that election if the entity satisfies the eligibility requirement in paragraph (a)(2)(iv)(B) of this section and the revocation is filed in accordance with the procedures set forth in paragraph (a)(2)(iv)(C) of this section.

(B) *Eligibility for revoking an inadvertent election.* An entity self-certified as a QOF may revoke its inadvertent election to self-certify as a QOF only if no qualifying investment in the QOF was made.

(C) *Procedure for revoking an inadvertent election.* An inadvertent election to self-certify as a QOF may be revoked only with the consent of the Commissioner in accordance with guidance published in the Internal Revenue Bulletin or in forms and instructions as to the required time, form, and manner for such consent.

(D) *No certification at a later date.* An entity that has revoked its inadvertent election to self-certify as a QOF under this paragraph (a)(2)(iv) may not self-certify as a QOF at any future date. The taxpayer identification number assigned to the entity that has revoked its inadvertent election to self-certify as a QOF may not be used by any other entity to self-certify as a QOF.

(3) *Voluntary decertification of a QOF*—(i) *In general.* A QOF may voluntarily terminate its certification as a QOF (voluntary decertification) only if the QOF maintains in its books and records contemporaneous written documentation, as defined in paragraph (a)(3)(iii) of this section, of the QOF's intent to terminate its certification as of the QOF's identified effective date of voluntary decertification.

(ii) *Final form.* The election to voluntarily decertify as a QOF during the QOF's taxable year must be timely filed on a Form 8996, or any successor form, (final information return) in the manner set forth in the instructions to that form by the due date for the eligible entity's original Federal tax return (including extensions) for the taxable year. In addition, the Form 8996 must include the last month that the QOF seeks to be certified as a QOF.

(iii) *Contemporaneous written documentation.* A QOF that chooses to voluntarily decertify as a QOF during its taxable year must maintain in its books and records contemporaneous written documentation, as defined in paragraph (a)(3)(iii)(A) of this section, that memorializes the entity's intent to terminate its certification as a QOF and identifies the last month for which the entity is certified as a QOF.

(A) *Definition.* For purposes of this paragraph (a)(3), the term *contemporaneous written documentation* means written documentation created at the same time a QOF makes the determination that it will terminate its certification as a QOF.

(B) *Example of contemporaneous written documentation.* An example of contemporaneous written documentation includes meeting minutes memorializing a QOF's intent to voluntarily decertify as of a specific date.

(iv) *Notification to final investors regarding voluntary decertification*—(A) *Notification requirement.* A QOF that chooses to voluntarily decertify as a QOF during its taxable year must provide a written statement of the voluntary decertification (15-day notification) to each investor that holds a qualifying or non-qualifying investment in the QOF on the QOF's effective date of voluntary decertification (final investor). This 15-day notification is separate from the requirement under section 6039K(c) and § 1.6039K–1(h) that the QOF must furnish investor statements to reportable investors. The 15-day notification must be furnished by the time and in the manner set forth in paragraphs (a)(3)(iv)(B) and (C) of this section. In addition, the 15-day notification must contain—

(*1*) A statement that informs each final investor referred to in this paragraph (a)(3)(iv)(A) that, if applicable, the election under section 1400Z–2(c) no longer is available for that final investor's qualifying investment because the certification of the entity as a QOF has terminated (*see* paragraph (a)(3)(vi)(C) of this section); and

(*2*) Any information necessary for each such final investor to report, if applicable, an inclusion event on the QOF's effective date of voluntary decertification if the voluntary decertification occurs before the inclusion date specified in section 1400Z–2(b)(1)(B).

(B) *Time for furnishing 15-day notification.* The 15-day notification described in paragraph (a)(3)(iv)(A) of this section must be furnished to each final investor by the earlier of—

(*1*) 15 days after the QOF's effective date of voluntary decertification, as determined under paragraph (a)(3)(vi)(A) of this section; or

(*2*) The date contracted upon by the parties for the receipt of such written notification by investors.

(C) *Manner for furnishing 15-day notification.* The 15-day notification required by paragraph (a)(3)(iv)(A) of this section must be made in writing and furnished to the investors using any reasonable manner.

(v) *Failure to satisfy the voluntary decertification requirements.* If a QOF fails to maintain contemporaneous written documentation of the QOF's intent to terminate its certification as required by paragraph (a)(3)(iii) of this section—

(A) The voluntary decertification of the QOF will not be valid; and

(B) The QOF will continue to be subject to the requirements of section 1400Z–2 and the section 1400Z–2 regulations, as defined in § 1.1400Z2(a)–1(b)(44).

(vi) *Consequences of a voluntary decertification*—(A) *Effective date of voluntary decertification.* A QOF's voluntary decertification is effective on the last day of the month that the QOF identifies in its contemporaneous written documentation as the last month for which the entity is certified as a QOF.

(B) *Voluntary decertification is an inclusion event*—(*1*) *In general.* A QOF's voluntary decertification is binding on the QOF's final investors. Each final investor that is a QOF owner, as defined in § 1.1400Z2(a–1(b)(23), will have an inclusion event, as defined in § 1.1400Z2(b–1(c), with respect to their qualifying investment in the QOF on the

QOF's effective date of voluntary decertification. *See* § 1.1400Z2(b–1(c)(15).

(*2*) *Eligibility for continued deferral of gain arising from an inclusion event due to voluntary decertification.* Gain that otherwise is required to be included in gross income by a final investor is eligible for continued deferral if the gain is reinvested in a QOF with a taxpayer identification number (TIN) that is different from the decertified QOF and all requirements to elect to defer eligible gain under section 1400Z–2(a)(1)(A) are satisfied. *See* § 1.1400Z2(a–1(b)(11)(iv).

(C) *No section 1400Z–2(c) election permitted.* Each final investor that is a QOF owner is not eligible to make an election under section 1400Z–2(c) with regard to the sale or exchange of that investment on any date on or after the QOF's effective date of voluntary decertification. *See* § 1.1400Z2(c–1(b)(1)(i).

(vii) *Examples.* The following examples illustrate the rules described in this paragraph (a)(3).

(A) *Example 1: Valid voluntary decertification*—(*1*) *Facts.* In 2027, individuals A and B formed partnership Q, which uses a calendar taxable year, for the purpose of investing in qualified opportunity zone property. The partnership agreement does not provide for a date by which partners must receive written notification of a voluntary decertification of the partnership's status as a QOF. Q properly self-certified as a QOF as of February 1, 2027, and has thereafter complied with section 1400Z–2 and the section 1400Z–2 regulations, as defined in § 1.1400Z2(a–1(b)(44). A acquired a qualifying investment in Q on February 28, 2027. B has a non-qualifying investment in Q. On June 30, 2030, A and B held a meeting in which A and B determined that Q would voluntarily decertify and that July of 2030 would be the last month that Q is certified as a QOF. Q memorialized the determination to voluntarily decertify and the last month of Q's certification in the meeting minutes for the meeting held on June 30, 2030, and thereafter maintained a copy of the meeting minutes in its records. On August 15, 2030, Q provided written notification to A and B of its voluntary decertification as of July 31, 2030. Q's notification informs A and B that Q is voluntarily decertifying as a QOF and that A and B may have an inclusion event on July 31, 2030, with respect to their investments in Q. Q's notification also informs A and B that they are, if applicable, no longer eligible to make an election under section 1400Z–2(c) on any date on or after July 31, 2030. Q reports its voluntary decertification on its final information return on Form 8996 with its timely filed original 2030 Form 1065, *U.S. Return of Partnership Income.* Q also reports on Form 8996 that its last month for which Q is certified as a QOF is July of 2030.

(*2*) *Analysis.* Q's voluntary decertification is valid because Q followed the procedures set forth in paragraph (a)(3)(i) of this section. Q satisfied the contemporaneous written documentation requirement under paragraph (a)(3)(iii) of this section by memorializing A and B's determination to terminate Q's certification as a QOF in July of 2030, in the meeting minutes for the June 30, 2030, meeting. Q also furnished the written notification of Q's voluntary decertification to its final investors, A and B, within the 15-day period required under paragraph (a)(3)(iv) of this section. Q reported its voluntary decertification on its final information return on Form 8996, which was timely filed on Q's Form 1065 for the taxable year ended December 31, 2030. The result of Q following the procedures set forth in paragraph (a)(3)(i) of this section is that Q's effective date of voluntary decertification date is July 31, 2030, the last day of the month identified in Q's contemporaneous written documentation. *See* paragraph (a)(3)(vi)(A) of this section. Additionally, on that effective date, A has an inclusion event with regard to A's qualifying investment in Q. *See* paragraph (a)(3)(vi)(B)(*1*) of this section. Finally, B does not have an inclusion event with respect to B's investment because B held a non-qualifying investment in Q on Q's effective date of voluntary decertification.

(B) *Example 2: Disallowance of the election under section 1400Z–2(c) due to a voluntary decertification*—(*1*) *Facts.* The facts are the same as in paragraph (a)(3)(vii)(A)(*1*) of this section (*Example 1*) except that A and B held a meeting on June 1, 2038, and decided to voluntarily decertify Q effective on June 30, 2038. Q memorialized the determination and the last month of Q's certification in the meeting minutes for A and B's meeting on June 1, 2038, and thereafter maintained a copy of the meeting minutes in its records. On July 15, 2038, Q provided a notification of its voluntary decertification to both A and B in accordance with paragraph (a)(3)(iv) of this section. On July 1, 2039, A sells A's investment in Q.

(*2*) *Analysis.* The analysis regarding whether Q followed the procedure for voluntary decertification set forth in paragraph (a)(3)(i) of this section is the same as in paragraph (a)(3)(vii)(A)(*1*) of this section except that Q's effective date of voluntary decertification is June 30, 2038. In addition, in determining the amount of gain recognized by A upon A's sale of its partnership interest in Q, A is not permitted to make an election under section 1400Z–2(c) with regard to A's sale. *See* paragraph (a)(3)(vi)(C) of this section. A did not hold a qualifying investment in Q at the time of A's sale because Q was not certified as a QOF on the date of the sale. *See* § 1.1400Z2(c)–1(b).

* * * * *

(e) * * *

(3) *Applicability date.* The rules of paragraphs (a)(2) and (3) of this section apply to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 5.** Section 1.1400Z2(d)–2 is amended by:

■ 1. Revising paragraph (d)(1), the heading of paragraph (d)(3), revising paragraph (d)(3)(i), and the heading of paragraph (d)(3)(ii);

■ 2. Adding paragraph (d)(3)(iii);

■ 3. Revising the first sentence of paragraph (d)(4)(i); and

■ 4. Adding paragraph (e)(3).

The additions and revisions read as follows:

§ 1.1400Z2(d)–2 Qualified opportunity zone business property.

* * * * *

(d) * * *

(1) *In general.* In the case of tangible property that is owned or leased by either a QOF or qualified opportunity zone business, during substantially all of the QOF's or qualified opportunity zone business's holding period for the tangible property, substantially all of the use of the tangible property must be in a qualified opportunity zone.

* * * * *

(3) *Substantially all of a QOF's or qualified opportunity zone business's holding period for owned or leased tangible property*—(i) *In general.* For purposes of determining whether the holding period requirement in paragraph (d)(1) of this section is satisfied, the term *substantially all* means at least 90 percent. The holding period is applied on a semiannual basis, based on the entire time the QOF or qualified opportunity zone business has owned or leased such property. Thus, on each semiannual testing date of the QOF or the qualified opportunity zone business, the tangible property satisfies the 90-percent qualified opportunity zone business property holding period requirement of section 1400Z–2(d)(2)(D)(i)(II) only if, during at least 90 percent of the period during which the QOF or qualified opportunity zone

business has owned or leased the property, the property has satisfied the 70-percent use test in paragraph (d)(4) of this section.

(ii) *Semiannual qualified opportunity zone business property test by a QOF.* * * *

(iii) *Semiannual qualified opportunity zone business property test by a qualified opportunity zone business.* For purposes of determining satisfaction of the 90-percent qualified opportunity zone business property holding period test described in paragraph (d)(3)(i) of this section in the case of a qualified opportunity zone business, the determination of whether property satisfies the 70-percent use test is made on a semiannual basis on the last day of the first 6-month period and the last day of the qualified opportunity zone business's taxable year and pursuant to paragraph (d)(4) of this section.

(4) * * *

(i) * * * Tangible property used in a trade or business of a QOF or qualified opportunity zone business satisfies the *substantially all* requirement of paragraph (d)(1) of this section if and only if the tangible property is qualified tangible property. * * *

* * * * *

(e) * * *

(3) *Applicability date.* The rules of paragraphs (d)(1), (d)(3)(i) through (iii), and (d)(4)(i) of this section apply to taxable years ending on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 6.** Sections 1.6039K–1 and 1.6039L–1 are added to read as follows:

Sec.

* * * * *

1.6039K–1 Returns of information with respect to qualified opportunity funds and qualified rural opportunity funds.

1.6039L–1 Statements of information required to be furnished by qualified opportunity zone businesses and qualified rural opportunity zone businesses.

* * * * *

§ 1.6039K–1 Returns of information with respect to qualified opportunity funds and qualified rural opportunity funds.

(a) *Definitions*—(1) *90-percent investment standard.* The term *90-percent investment standard* has the same meaning as in section 1400Z–2(d)(1) and § 1.1400Z2(a)–1(b)(4).

(2) *Applicable qualified opportunity zone business.* The term *applicable qualified opportunity zone business,* or *applicable QOZB,* means any entity that meets, intends to meet, or was organized for the purposes of meeting, the requirements to be a qualified opportunity zone business as defined in section 1400Z–2(d)(3)(A) and § 1.1400Z2(d)–1(d)(1) that is—

(i) A corporation in which a qualified opportunity fund holds qualified opportunity zone stock; or

(ii) A partnership in which a qualified opportunity fund holds a qualified opportunity zone partnership interest.

(3) *Disposition event.* The term *disposition event* means any inclusion event as defined in § 1.1400Z2(b)–1(c).

(4) *Full-time equivalent employees*—(i) *In general.* With respect to a calendar month, the number of full-time equivalent employees is the sum of—

(A) The number of employees who are employed on average at least 30 hours per week (full-time employees); plus

(B) The number of other employees, determined by dividing the aggregate number of hours of service of employees who are not full-time employees for the month by 120.

(ii) *Alternative calculation method for full-time employees.* In determining if an employee is a full-time employee described under paragraph (a)(4)(i)(A) of this section, the QOF may treat the performance of at least 120 total hours of service in a calendar month as the equivalent of an average of at least 30 hours of service per week for that month.

(iii) *Rounding convention for determining non-full-time employees.* In determining the number of non-full-time employees for each calendar month under paragraph (a)(4)(i)(B) of this section, an employer must round the number of non-full-time employees for each calendar month to the nearest whole number.

(5) *Qualified opportunity fund.* For purposes of this section, the term *qualified opportunity fund,* or *QOF,* means, with respect to an entity's taxable year or portion thereof, any entity that files a self-certification under § 1.1400Z2(d)–1(a)(2)(i) for such taxable year or a portion thereof. For purposes of this section, an entity that files a self-certification under § 1.1400Z2(d)–1(a)(2) for its taxable year is treated as certified as a QOF for the portion of the taxable year beginning on the effective date identified in that self-certification.

(6) *Qualified opportunity fund testing dates.* The term *qualified opportunity fund testing dates,* or *QOF testing dates,* means the QOF's 6-month testing date and year-end testing date used for determining if the 90-percent investment standard has been met.

(i) *Qualified opportunity fund 6-month testing date.* The term *qualified opportunity fund 6-month testing date* means the last day of the first 6-month period of the taxable year of the QOF.

(ii) *Qualified opportunity fund year-end testing date.* The term *qualified opportunity fund year-end testing date* means the last day of the taxable year of the QOF.

(7) *Qualified opportunity zone.* The term *qualified opportunity zone,* or *QOZ,* has the same meaning as in section 1400Z–1(a).

(8) *Qualified opportunity zone business property.* The term *qualified opportunity zone business property,* or *QOZ business property,* has the same meaning as in section 1400Z–2(d)(2)(D) and § 1.1400Z2(a)–1(b)(30). QOZ business property may be directly owned or leased by a QOF or may be owned or leased by a QOZB.

(9) *Qualified opportunity zone partnership interest.* The term *qualified opportunity zone partnership interest,* or *QOZ partnership interest,* has the same meaning as in section 1400Z–2(d)(2)(C) and § 1.1400Z2(d)–1(c)(3).

(10) *Qualified opportunity zone stock.* The term *qualified opportunity zone stock,* or *QOZ stock,* has the same meaning as in section 1400Z–2(d)(2)(B) and § 1.1400Z2(d)–1(c)(2).

(11) *Real property.* The term *real property* means land and improvements thereto, such as buildings or other inherently permanent structures (including items that are structural components of the buildings or structures) that are not tangible personal property.

(12) *Reportable investor*—(i) *In general.* The term *reportable investor* means any person that held stock or a partnership interest in the QOF for which a disposition event with respect to such stock or partnership interest occurred during the QOF's taxable year.

(ii) *Brokers that are registered/record owners of QOF stock or QOF partnership interests.* To the extent a QOF does not know the identity of the reportable investor, as defined in paragraph (a)(12)(i) of this section, due to the holding of the stock or partnership interest in the QOF for which a disposition event occurred by a broker, as defined in § 1.6045–1(a)(1), on behalf of a customer, as defined in § 1.6045–1(a)(2), during the QOF's taxable year, the term *reportable investor* includes such broker.

(13) *Residential unit.* The term *residential unit* means any building or structure for use as a dwelling unit for use as a residence (including a house, apartment, condominium, mobile home or similar property) and for which a certificate of occupancy, or similar document indicating that the unit is available for use, has been received. A dwelling unit has basic living accommodations, such as a sleeping

space, a toilet, and cooking facilities. A residential unit does not include property used as a hotel, motel, inn or similar establishment if it is regularly available for occupancy by paying customers on a transient basis.

(14) *Tangible personal property.* The term *tangible personal property* has the same meaning as in § 1.48–1(c).

(b) *Reporting requirement.* Every QOF must file an annual return of information on Form 8996, *Qualified Opportunity Fund* (or any successor form) to report the information set forth in paragraphs (c) through (f) of this section in the time and manner set forth in paragraph (g) of this section.

(c) *Information with respect to the QOF.* The return of information described in paragraph (b) of this section must include the information set forth in paragraphs (c)(1) through (10) of this section with respect to the QOF.

(1) The name, address and taxpayer identification number of the QOF;

(2) Whether the QOF is organized as a corporation or a partnership;

(3) Whether the QOF is organized for the purpose of investing in qualified opportunity zone property as defined in section 1400Z–2(d)(2)(A) and § 1.1400Z2(d)–1(c)(1) (other than another QOF);

(4) A calculation of the 90-percent investment standard consisting of the value, determined on the QOF testing dates, of—

(i) The qualified opportunity zone property as defined in section 1400Z–2(d)(2)(A) and § 1.1400Z2(d)–1(c)(1) held by the QOF; and

(ii) All assets held by the QOF;

(5) If applicable, a calculation of the penalty under section 1400Z–2(f)(1) for failure to meet 90-percent investment standard;

(6) The approximate average monthly number of total full-time equivalent employees of the QOF working in all locations for the calendar year in which the QOF's taxable year began;

(7) The population census tract number(s) in which QOZ business property is directly owned or leased by the QOF is used, and for each of these census tracts—

(i) The physical address of the QOF's business activity;

(ii) The North American Industry Classification System (NAICS) code that applies to the QOF's business activity;

(iii) For the QOF testing dates—

(A) The total value of QOZ business property directly owned by the QOF; and

(B) The total value of QOZ business property directly leased by the QOF;

(iv) The total value of QOZ business property directly owned or leased by the QOF that is real property as of December 31 of the calendar year ending with or within the QOF's taxable year;

(v) The total number of residential units (if any) as of December 31 of the calendar year ending with or within the QOF's taxable year;

(vi) The approximate average monthly number of full-time equivalent employees of the QOF whose primary work location is within the population census tract for the calendar year ending with or within the QOF's taxable year;

(vii) The first date that any QOZ business property was acquired by purchase or leased by the QOF; and

(viii) Whether there is any QOZ business property that the QOF is substantially improving, as provided in section 1400Z–2(d)(2)(D)(ii), and the date on which that improvement began;

(8) Whether the QOF used the applicable financial statement valuation method as defined in § 1.1400Z2(d)–1(b)(3) or the alternative valuation method as defined in § 1.1400Z2(d)–1(b)(4) to value the property necessary to provide the information set forth in paragraphs (c)(1) through (10) of this section;

(9) For a QOF that is voluntarily decertifying, as provided in § 1.1400Z2(d)–1(a)(3), for the taxable year for which the return is required—

(i) An indication that the entity is voluntarily decertifying; and

(ii) The last month for which the entity was certified as a QOF; and

(10) Such other information as required by the form or instructions.

(d) *Information with respect to each applicable QOZB.* To the extent applicable, the return of information described in paragraph (b) of this section must include the information set forth in paragraphs (d)(1) through (8) of this section with respect to each applicable QOZB in which the QOF owns an interest.

(1) The name, address, and taxpayer identification number of the applicable QOZB;

(2) The percentage of equity ownership or (if applicable) capital or profits interest in the applicable QOZB by the QOF as of QOF testing dates;

(3) The value, as defined in § 1.1400Z2(d)–1(b), of the QOF's investment in such QOZ stock or QOZ partnership interest as of the QOF testing dates;

(4) Whether the QOF received from the applicable QOZB an attestation that the applicable QOZB meets all the requirements of § 1.1400Z2(d)–1(d)(1) or (if applicable) is utilizing the cure period, as defined in § 1.1400Z2(d)–1(d)(6);

(5) The total value of tangible property of the applicable QOZB (including tangible property that is qualified opportunity zone business property and tangible property that is not qualified opportunity zone business property) held by the applicable QOZB as of the QOF's 6-month and year-end testing dates;

(6) The population census tract number(s) in which the QOZ business property directly owned or leased by the applicable QOZB is used, and for each of these census tracts—

(i) The physical address of the QOZB business activity;

(ii) The NAICS code that applies to the QOZB's business activity;

(iii) For the QOF testing dates—

(A) The total value of tangible QOZ business property directly owned by the applicable QOZB; and

(B) The total value of tangible QOZ business property directly leased by the applicable QOZB;

(iv) The total value of QOZ business property directly owned or leased by the applicable QOZB that is real property as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year;

(v) The number of residential units (if any) as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year;

(vi) The approximate average monthly number of full-time equivalent employees of the applicable QOZB whose primary work location is within the population census tract for the calendar year ending with or within the applicable QOZB's taxable year;

(vii) The first date that any QOZ business property was acquired by purchase or leased by the applicable QOZB;

(viii) Whether there is any QOZ business property that the applicable QOZB is substantially improving, as provided in section 1400Z–2(d)(2)(D)(ii), and (if applicable) the date on which that improvement began; and

(ix) Whether the applicable QOZB is utilizing a working capital safe harbor, as provided in § 1.1400Z2(d)–1(d)(3)(v), and (if applicable) the date that the working capital safe harbor is expected to end;

(7) Whether the applicable QOZB used the applicable financial statement valuation method as defined in § 1.1400Z2(d)–1(b)(3) or the alternative valuation method as defined in § 1.1400Z2(d)–1(b)(4) to value the property necessary to provide the information set forth in paragraphs (d)(1) through (8) of this section; and

(8) Such other information as required by the form or instructions.

(e) [Reserved]

(f) *Information with respect to each reportable investor.* To the extent applicable, the return of information described in paragraph (b) of this section must also include the information set forth in paragraphs (f)(1) through (7) of this section with respect to each reportable investor that has a disposition event during the calendar year in which the QOF's taxable year began.

(1) The name, address, and taxpayer identification number of the reportable investor;

(2) For each share of stock or partnership interest in the QOF to which the disposition event applies, the date of the disposition event;

(3) For each share of stock or partnership interest in the QOF to which the disposition event applies, the date that such share or interest was acquired by the reportable investor;

(4) The amount of cash plus the fair market value of property received by the QOF in exchange for the shares or partnership interest in the QOF when first acquired by the reportable investor;

(5) The total number of shares of stock or partnership interests in the QOF held immediately before the disposition event and the total number of shares or partnership interests that were disposed;

(6) Whether the disposition event is the result of a voluntary decertification, as defined in § 1.1400Z2(d)–1(a)(3); and

(7) Such other information as required by the forms or instructions.

(g) *Time and manner for filing*—(1) *In general.* A QOF required by paragraph (b) of this section to file Form 8996, *Qualified Opportunity Fund* (or any successor form) must file such form with the IRS in the manner set forth in the instructions to that form by the due date (including extensions) of the QOF's Federal tax return.

(2) *Late or corrected Forms 8996.* A QOF that has not filed Form 8996 in the manner set forth in paragraph (g)(1) of this section, or that has filed that Form but without including all the correct information required to be shown on that Form, may file the original Form 8996 (or a corrected Form 8996) in the manner set forth in the instructions to Form 8996 for a late or corrected filing. *See* § 301.6726–1 of this chapter for penalties that apply to the failure to file timely a correct information return under this section.

(h) *Furnishing requirement for investor statement*—(1) *General requirement and content of the investor statement.* Every QOF required to make a return of information under this section that includes information set forth in paragraph (f) of this section must furnish to the reportable investor whose identifying number is (or is required to be) shown on the return a written statement (investor statement) for each calendar year showing—

(i) The information required by paragraphs (f)(1) through (7) of this section with respect to the reportable investor;

(ii) The name, address, and phone number of a point of contact at the QOF in a position to address questions by the reportable investor regarding the furnished statement;

(iii) A legend stating that the information included on the statement is being reported to the Internal Revenue Service; and

(iv) If applicable, a statement that the reportable investor's election under section 1400Z–2(c) is no longer available because the certification of the entity as a QOF has terminated.

(2) *Time for furnishing investor statements*—(i) *In general.* A QOF must furnish the investor statement required under paragraph (h)(1) of this section on or before March 1 of the calendar year following the calendar year during which the disposition event occurred.

(ii) *Special rule for reportable investors that are brokers.* A QOF that does not know the identity of the reportable investor described in paragraph (a)(14)(i) of this section due to the holding of the stock or partnership interest in the QOF for which a disposition event occurred by a broker, as defined in § 1.6045–1(a)(1), on behalf of a customer, as defined in § 1.6045–1(a)(2), must furnish the investor statement required under paragraph (h)(1) of this section to any broker that is the registered/record owner of the stock or partnership interest in the QOF for which a disposition event occurred and that holds such stock or partnership interest on behalf of a customer on or before January 15 of the calendar year following the calendar year of the disposition event.

(3) *Manner of furnishing investment statements to reportable investors*—(i) *In general.* An investor statement is considered to be furnished to a reportable investor if it is mailed to the last known address of the reportable investor known to the QOF and is considered to be furnished on the date that it is so mailed.

(ii) *Electronic furnishing of investor statements*—(A) *In general.* A QOF may furnish the investor statement required by paragraph (h)(1) of this section in an electronic format in lieu of a paper format by following the procedures set forth in the applicable revenue procedures relating to electronic delivery of payee statements. A QOF that electronically furnishes an investor statement by transmitting it directly to a reportable investor is treated as furnishing the investor statement on the date that the QOF electronically transmits the investor statement. A QOF that electronically furnishes an investor statement to a reportable investor by posting it to an electronically accessible online platform and thereafter sends notice to the reportable investor that the investor statement has been so posted, is treated as furnishing the investor statement on the date that the QOF sends this notice to the reportable investor.

(B) *Special rule for reportable investors that are brokers.* A QOF may furnish the investor statement required by paragraph (h)(1) of this section to a broker described in paragraph (h)(2)(ii) of this section in an electronic format in lieu of a paper format if the broker agrees to such manner of furnishing. A QOF that electronically furnishes an investor statement by transmitting it directly to a broker pursuant to such written agreement is treated as furnishing the investor statement on the date that the QOF electronically transmits the investor statement. A QOF that electronically furnishes an investor statement to a broker pursuant to such written agreement by positing it to an electronically accessible online platform and thereafter sends notice to the broker that the investor statement has been so posted, is treated as furnishing the investor statement on the date that the QOF sends this notice to the broker.

(i) *Cross reference to penalties*—(1) *Information return.* For provisions for failure to file timely a correct information return under this section, *see* § 301.6726–1 of this chapter. *See* § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(2) *Investor statements.* For provisions for failure to furnish timely a correct payee statement, *see* § 301.6722 of this chapter. *See* § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(j) *Applicability date.* This section applies to information returns and investor statements originally due (without extensions) on or after [date of publication of final regulations in the **Federal Register**].

§ 1.6039L–1 Statements of information required to be furnished by qualified opportunity zone businesses and qualified rural opportunity zone businesses.

(a) *Definitions*—(1) *70-percent tangible property standard.* The term *70-percent tangible property standard* has the same meaning as in § 1.1400Z2(a)–1(b)(2).

(2) *70-percent use test.* The term *70-percent use test* has the same meaning as in § 1.1400Z2(a)–1(b)(3).

(3) *Applicable qualified opportunity zone business.* The term *applicable qualified opportunity zone business,* or *applicable QOZB,* means any entity that meets, intends to meet, or was organized for the purposes of meeting, the requirements to be a qualified opportunity zone business as defined in section 1400Z–2(d)(3)(A) and § 1.1400Z2(d)–1(d) that is—

(i) A corporation in which a qualified opportunity fund holds qualified opportunity zone stock; or

(ii) A partnership in which a qualified opportunity fund holds a qualified opportunity zone partnership interest.

(4) *Applicable QOZB testing dates.* The term *applicable QOZB testing dates* means the applicable QOZB's 6-month testing date and year-end testing date used for determining if the 70-percent tangible property standard and the 70-percent use test have been met.

(i) *Applicable QOZB 6-month testing date.* The term *applicable QOZB 6-month testing date* means the last day of the first 6-month period of the taxable year of the applicable QOZB.

(ii) *Applicable QOZB year-end testing date.* The term *applicable QOZB year-end testing date* means the last day of the taxable year of the applicable QOZB.

(5) *Full-time equivalent employee.* The term *full-time equivalent employee* has the same meaning as in § 1.6039K–1(a)(4).

(6) *Qualified opportunity fund.* The term *qualified opportunity fund,* or *QOF,* means, with respect to an entity's taxable year or portion thereof, any entity that files a self-certification under § 1.1400Z2(d)–1(a)(2)(i) for such taxable year or a portion thereof. For purposes of this section, an entity that files a self-certification under § 1.1400Z2(d)–1(a)(2) for its taxable year is treated as certified as a QOF for the portion of the taxable year beginning on the effective date identified in that self-certification.

(7) *Qualified opportunity zone.* The term *qualified opportunity zone,* or *QOZ,* has the same meaning as in section 1400Z–1(a) and § 1.1400Z2(a)–1(b)(28).

(8) *Qualified opportunity zone business property.* The term *qualified opportunity zone business property,* or *QOZ business property,* has the same meaning as in section 1400Z–2(d)(2)(D) and § 1.1400Z2(a)–1(b)(30).

(9) *Qualified opportunity zone partnership interest.* The term *qualified opportunity zone partnership interest,* or *QOZ partnership interest,* has the same meaning as in section 1400Z–2(d)(2)(C) and § 1.1400Z2(d)–1(c)(3).

(10) *Qualified opportunity zone stock.* The term *qualified opportunity zone stock,* or *QOZ stock,* has the same meaning as in section 1400Z–2(d)(2)(B) and § 1.1400Z2(d)–1(c)(2).

(11) *Real property.* The term *real property* has the same meaning as in § 1.6039K–1(a)(11).

(12) *Relevant QOF.* The term *relevant QOF* means—

(i) With respect to an applicable QOZB that is a corporation, any QOF that holds QOZ stock in such corporation; and

(ii) With respect to an applicable QOZB that is a partnership, any QOF that holds QOZ partnership interest(s) in such partnership.

(13) *Residential unit.* The term *residential unit* has the same meaning as in § 1.6039K–1(a)(13).

(14) *Tangible personal property.* The term *tangible personal property* has the same meaning as in § 1.48–1(c).

(b) *Requirement to furnish qualified opportunity zone business statement.* Every applicable QOZB must furnish to each relevant QOF a written statement (QOZB statement), signed under penalties of perjury, for each calendar year containing the information set forth in paragraphs (b)(1) through (8) of this section (as applicable).

(1) The name, address, and taxpayer identification number of the applicable QOZB;

(2) The percent of equity ownership or (if applicable) capital or profits interest in the applicable QOZB by the relevant QOF as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year;

(3) Total value of tangible property (including tangible property that is qualified opportunity zone business property and tangible property that is not qualified opportunity zone business property) held by the applicable QOZB as of the applicable QOZB testing dates;

(4) The population census tract number(s) in which the QOZ business property directly owned or leased by the applicable QOZB is used, and for each of these census tracts—

(i) The physical address of the QOZB's business activity;

(ii) The North American Industry Classification System (NAICS) code that applies to the QOZB's business activity;

(iii) As of the applicable QOZB testing dates—

(A) The total value of QOZ business property directly owned by the applicable QOZB; and

(B) The total value of QOZ business property directly leased by the applicable QOZB;

(iv) The total value of QOZ business property directly owned or leased by the applicable QOZB that is real property as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year;

(v) The number of residential units (if any) as of December 31 of the calendar year ending with or within the applicable QOZB's taxable year;

(vi) The approximate average monthly number of full-time equivalent employees of the applicable QOZB whose primary work location is within the population census tract for the calendar year ending with or within the applicable QOZB's taxable year;

(vii) The first date that any QOZ business property was acquired by purchase or leased by the applicable QOZB;

(viii) Whether there is any QOZ business property that the applicable QOZB is substantially improving, as provided in section 1400Z–2(d)(2)(D)(ii), and, if applicable, the date on which that improvement began; and

(ix) Whether the applicable QOZB is utilizing a working capital safe harbor, as provided in § 1.1400Z2(d)–1(d)(3)(v), and, if applicable, the date that the working capital safe harbor is expected to end;

(5) For the applicable QOZB's taxable year, an attestation that the applicable QOZB meets all the requirements of section 1400Z–2(d)(3) and § 1.1400Z2(d)–1(d) including that—

(i) The applicable QOZB meets the 70-percent tangible property standard;

(ii) The applicable QOZB meets the gross income requirement under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3)(i);

(iii) The applicable QOZB meets the use of intangible property requirement under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3)(ii);

(iv) The applicable QOZB satisfies the non-qualified financial property limitation under section 1400Z–2(d)(3)(A)(ii) and § 1.1400Z2(d)–1(d)(3)(iv); and

(v) The trade or business of the applicable QOZB is not described in section 144(c)(6)(B);

(6) If the applicable QOZB cannot provide the attestation referenced in paragraph (b)(5) of this section because the applicable QOZB does not meet all the requirements of section 1400Z–2(d)(3) and § 1.1400Z2(d)–1(d), an attestation that the applicable QOZB is

utilizing the cure period, as defined in § 1.1400Z2(d)–1(d)(6), to correct its failure to meet the requirements of section 1400Z–2(d)(3) and § 1.1400Z2(d)–1(d) and the month in which the stock or partnership interest of the applicable QOZB lost its qualification as qualified opportunity zone stock or a qualified opportunity zone partnership interest;

(7) Whether the applicable QOZB used the applicable financial statement valuation method as defined in § 1.1400Z2(d)–1(b)(3) or the alternative valuation method as defined in § 1.1400Z2(d)–1(b)(4) to value the property necessary to provide the information set forth in paragraphs (b)(1) through (8) of this section; and

(8) Such other information as required to be reported by the relevant QOF with respect to the applicable QOZB as set forth in Form 8996 (or any successor form) or instructions.

(c) [Reserved]

(d) *Time for and manner of furnishing statements*—(1) *Time for furnishing.* Every applicable QOZB required to furnish a QOZB statement to one or more relevant QOFs under paragraph (b) of this section must furnish such statements on or before the 1st day of the second month following the close of the applicable QOZB's taxable year.

(2) *Manner of furnishing.* An applicable QOZB required by paragraph (b) of this section to furnish a QOZB statement may furnish the statement using any form that includes all the information set forth in paragraph (b) of this section. Notwithstanding the previous sentence, if the IRS prescribes a form for the QOZB statement, the applicable QOZB must use that prescribed form or a form that contains provisions that are substantially similar to those in the prescribed form. A QOZB statement is considered to be furnished to a relevant QOF if it is mailed to the last known address of the relevant QOF and is considered to be furnished on the date that it is so mailed. Alternatively, if the relevant QOF consents in writing to receiving the QOZB statement in an electronic format, an applicable QOZB may furnish the QOZB statement in an electronic format in lieu of a paper format. An applicable QOZB that electronically furnishes a QOZB statement to a relevant QOF pursuant to the relevant QOF's consent is treated as furnishing the QOZB statement on the date that the statement is electronically transmitted to the relevant QOF.

(e) *QOZB statements.* For provisions for failure to furnish timely a correct payee statement, *see* § 301.6722 of this chapter. *See* § 301.6724–1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(f) *Applicability date.* This section applies to QOZB statements required to be furnished on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 7.**Section 1.6045–1 is amended by:

■ 1. Adding a sentence to the end of paragraph (a)(9)(i);

■ 2. Revising paragraph (c)(3)(i)(B)(*1*);

■ 3. Adding a sentence after the second sentence of paragraph (d)(2)(i)(A); and

■ 4. Adding a sentence to the end of paragraph (q).

The revision and additions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

(a) * * *

(9) * * *

(i) * * * The term sale also includes an inclusion event as defined in § 1.1400Z2(b)–1(c).

* * * * *

(c) * * *

(3) * * *

(i) * * *

(B) * * *

(*1*) A corporation as defined in section 7701(a)(3), whether domestic or foreign, except that this exclusion does not apply to sales of covered securities acquired on or after January 1, 2012, by an S corporation as defined in section 1361(a) and does not apply to the reporting of any sale described in paragraph (a)(9)(i) of this section that is an inclusion event as defined in § 1.1400Z2(b)–1(c);

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) * * * In addition, a broker must also report on Form 1099–B whether the sale constitutes a disposition of ownership of an interest in a qualified opportunity fund or an inclusion event as defined in § 1.1400Z2(b)–1(c). * * *

* * * * *

(q) * * * This section applies to information returns required to be filed after [date of publication of final regulations in the **Federal Register**].

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 8.** The authority citation for part 301 is amended by adding an entry for § 301.6726–1 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Section 301.6726–1 also issued under 26 U.S.C. 6726.

* * * * *

§ 301.6011–2 [Amended]

■ **Par. 9.** Section 301.6011–2 is amended by, in paragraph (b)(1), removing the language "Form 8027," and adding the language "Form 8027, Form 8996," in its place.

■ **Par. 10.** Section 301.6011–3 is amended by adding sentences to the ends of paragraphs (d)(4) and (f) to read as follows:

§ 301.6011–3 Required use of electronic form for partnership returns.

* * * * *

(d) * * *

(4) * * * For purposes of this section, a form or schedule required to be included with or attached to a partnership return does not include an information return, such as Form 8996, that is required to be filed by attachment to a partnership return.

* * * * *

(f) * * * The revisions to this section applicable to Forms 8996 apply to partnership returns required to be filed after [date of publication of final regulations in the **Federal Register**].

■ **Par. 11.** Section 301.6011–5 is amended by adding sentences to the end of paragraphs (d)(4) and (f) to read as follows:

§ 301.6011–5 Required use of electronic form for corporate income tax returns.

* * * * *

(d) * * *

(4) * * * For purposes of this section, a form, schedule, or statement required to be attached to a corporate income tax return does not include an information return, such as Form 8996, that is required to be filed by attachment to a corporate income tax return.

* * * * *

(f) * * * The revisions to this section applicable to Forms 8996 apply to corporate income tax returns required to be filed beginning after [date of publication of final regulations in the **Federal Register**].

■ **Par. 12.** Section 301.6037–2 is amended by adding sentences to the ends of paragraphs (d)(3) and (f) to read as follows:

§ 301.6037–2 Required use of electronic form for returns of electing small business corporation.

* * * * *

(d) * * *

(3) * * * For purposes of this section, a form, schedule, or statement required to be attached to an electing small business corporation return does not

include an information return, such as Form 8996, that is required to be filed by attachment to a corporate income tax return.

* * * * *

(f) * * * The revisions to this section applicable to Forms 8996 apply to electing small business corporation returns required to be filed after [date of publication of final regulations in the **Federal Register**].

■ **Par. 13.** Section 301.6722–1 is amended by:

■ 1. Removing the word ''or'' from the end of paragraph (e)(2)(xxxvii); and

■ 2. Adding paragraphs (e)(2)(xxxix) and (xl), and (g)(2)(iii).

The additions read as follows:

§ 301.6722–1 Failure to furnish correct payee statements.

* * * * *

(e) * * *

(2) * * *

(xxxix) Section 6039K(c) (relating to reporting of investor dispositions and voluntary decertifications with respect to qualified opportunity funds); or

(xl) Section 6039L (relating to information required from certain qualified opportunity zone businesses).

* * * * *

(g) * * *

(2) * * *

(iii) Paragraphs (e)(2)(xxxix) and (xl) of this section apply with respect to payee statements required to be furnished on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 14.** Section 301.6724–1 is amended by:

■ 1. In paragraph (g)(1), removing the language ''6721 through 6723'' wherever it appears, and adding the language ''6721 through 6723 and 6726'' in its places;

■ 2. Removing the word ''or'' from the end of paragraph (g)(1)(i)(B);

■ 3. Adding paragraph (g)(1)(i)(D);

■ 4. Removing the word ''and'' from the end of paragraph (j)(2);

■ 5. In paragraph (j)(3), removing the period at the end of the paragraph and adding the language ''; and'' in its place;

■ 6. Adding paragraph (j)(4);

■ 7. In paragraph (n), removing the language ''6721 through 6723'' and adding the language ''6721 through 6723 and 6726'' in its place;

■ 8. In paragraph (o)(1), removing the language ''paragraphs (o)(2) and (3)'' wherever it appears, and adding the language ''paragraphs (o)(2) through (4)'' in its places; and

■ 9. Adding paragraph (o)(4).

The additions read as follows:

§ 301.6724–1 Reasonable cause.

* * * * *

(g) * * *

(1) * * *

(i) * * *

(D) Information return as required by § 1.6039K(a)–1 of this chapter; or

* * * * *

(j) * * *

(4) A failure described under § 301.6726–1(a)(2) relating to the failure to file a timely correct information return as required by section 6039K(b)(1).

* * * * *

(o) * * *

(4) *Information returns and payee statements required under §§ 1.6039K–1 and 1.6039L–1* of this chapter. This section applies to information returns required to be filed under § 1.6039K–1 of this chapter (without extensions) and payee statements required to be furnished under § 1.6039L–1 of this chapter on or after [date of publication of final regulations in the **Federal Register**].

■ **Par. 15.** Section 301.6726–1 is added to read as follows:

§ 301.6726–1 Failure to comply with information reporting requirements relating to qualified opportunity funds and qualified rural opportunity funds.

(a) *Imposition of penalty*—(1) *General rule.* A penalty of $500 is imposed under section 6726 of the Internal Revenue Code (Code) for each day that a person, required to file an information return under section 6039K of the Code (section 6039K return), fails to file such return under paragraph (a)(2) of this section. No more than one penalty will be imposed under this paragraph (a)(1) with respect to a single section 6039K return even though there may be more than one failure with respect to such return. *See* paragraph (b) of this section for the maximum penalty that may be imposed under this section with respect to any one section 6039K return. *See* paragraph (c) of this section for higher penalties if a failure is due to intentional disregard of the requirement to file timely correct information returns. *See* paragraph (d) of this section for inflation adjustments to penalty amounts. *See* § 301.6724–1(a)(1) for waiver of the penalty for a failure that is due to reasonable cause.

(2) *Failures subject to the penalty*—(i) *Scope.* The failures to which section 6726(a)(1) apply are—

(A) A failure to file the section 6039K return on or before the required filing date (failure to file timely); and

(B) A failure to include all the information required to be shown on the section 6039K return or including incorrect information (failure to include correct information).

(ii) *Other rules.* A failure to file timely includes a failure to file in the required manner, for example, electronically or in other machine-readable form as provided under section 6011(e) of the Code. A failure to include correct information under paragraph (a)(2)(i)(B) of this section encompasses a failure to include all information required by § 1.6039K–1(b) of this chapter, Form 8996, or any successor form, and any instructions to such form. A failure to include information in the correct format may be either a failure to file timely an information return or a failure to include correct information on the information return. For example, an error on an electronic submission to the Internal Revenue Service that prevents processing by the Internal Revenue Service may constitute a failure to file timely. However, if information is set forth on the wrong field of the electronic submission, that error may constitute a failure to file timely or a failure to include correct information, depending upon the extent of the failure.

(3) *Termination of penalty when a correction made.* The per-day penalty imposed under this paragraph (a) for any failure to file the section 6039K return will terminate on the day that the QOF files the section 6039K return (showing all the correct information required to be shown on the section 6039K return) as provided in § 1.6039K–1(g) of this chapter.

(4) *Example.* R is a corporation with gross assets that are not in excess of $10,000,000. R is a qualified opportunity fund required under section 6039K to file a section 6039K return each year. For calendar year 2026, R fails to file its section 6039K return by the March 15, 2027, due date for that return. On March 30, 2027, R files a complete and correct section 6039K return. Because the penalty under this paragraph (a) applies for each day for which the person required to file section 6039K return fails to file such return, R would be subject to a $7,500 penalty ($500 × 15 days).

(b) *Limitation on penalties*—(1) *In general.* Except as provided in paragraph (b)(2) of this section, the total penalty amount imposed on any person under paragraph (a) of this section for any failure under paragraph (a)(2) of this section with respect to a single section 6039K return may not exceed $10,000.

(2) *Higher limitation on the maximum penalty for Large QOFs.* In the case of any failure under paragraph (a)(2) of this section with respect to a single section 6039K return required to be filed by a QOF the gross assets of which (determined on the last day of the QOF's taxable year) are in excess of

$10,000,000, the total penalty amount imposed under paragraph (a)(2) of this section may not exceed $50,000.

(c) *Higher penalty for intentional disregard of requirement to file timely correct information return*—(1) *Application of section 6726(a).* If a failure described in paragraph (a)(2) of this section is due to intentional disregard of the requirement to file timely or to include correct information on a return, the penalty amount imposed under paragraph (a)(1) of this section must be determined under paragraph (c)(4) of this section.

(2) *Meaning of intentional disregard.* A failure is due to intentional disregard if it is a knowing or willful—

(i) Failure to file timely; or

(ii) Failure to include correct information. Whether a person knowingly or willfully fails to file timely or fails to include correct information is determined on the basis of all the facts and circumstances in the particular case.

(3) *Facts and circumstances considered.* The facts and circumstances that are considered in determining whether a failure is due to intentional disregard include, but are not limited to—

(i) Whether the failure to file timely or the failure to include correct information is part of a pattern of conduct by the person who filed the information return of repeatedly failing to file timely or repeatedly failing to include correct information;

(ii) Whether correction was promptly made upon discovery of the failure;

(iii) Whether the filer corrects a failure to file or a failure to include correct information within 30 days after the date of any written request from the IRS to file or to correct; and

(iv) Whether the amount of the information reporting penalties is less than the cost of complying with the requirement to file timely or to include correct information on an information return.

(4) *Amount of the penalty.* If one or more failures to file timely or to include correct information are due to intentional disregard of the requirement to file timely or to include correct information, then, with respect to each failure determined under this paragraph (c)—

(i) The per-day penalty set forth in paragraph (a)(1) of this section applies by substituting ''$2,500'' for ''$500'';

(ii) The limitation on penalties set forth in paragraph (b)(1) of this section applies by substituting ''$50,000'' for ''$10,000''; and

(iii) The higher limitation on the maximum penalty for Large QOFs set forth in paragraph (b)(2) of this section applies by substituting ''$250,000'' for ''$50,000'';

(d) *Adjustment for inflation.* Each of the dollar amounts under paragraphs (a)(1), (b)(1) and (2), and (c)(4)(i) through (iii) of this section will be adjusted for inflation pursuant to section 6726(d).

(e) *Applicability date.* This section applies with respect to information returns required to be filed by corporations (without regard to extensions of the filer's annual tax return) and partnerships (without regard to extensions of the filer's annual return) on or after [date of publication of final regulations in the **Federal Register**].

Frank J. Bisignano,

Chief Executive Officer.

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