

118TH CONGRESS
2D SESSION

H. R. 9203

To amend the Internal Revenue Code of 1986 to establish special rules for capital gains invested in brownfield and superfund sites.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 2024

Mr. EDWARDS (for himself and Mr. NICKEL) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to establish special rules for capital gains invested in brownfield and superfund sites.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Economic Opportunity
5 for Distressed Communities Act”.

1 **SEC. 2. ESTABLISHMENT OF SPECIAL RULES FOR CAPITAL**
2 **GAINS INVESTED IN DISTRESSED OPPOR-**
3 **TUNITY ZONES.**

4 (a) IN GENERAL.—Subchapter Z of chapter 1 of the
5 Internal Revenue Code of 1986 is amended by adding at
6 the end the following new section:

7 **“SEC. 1400Z-3. SPECIAL RULES FOR CAPITAL GAINS IN-**
8 **VESTED IN DISTRESSED OPPORTUNITY**
9 **ZONES.**

10 “(a) IN GENERAL.—

11 “(1) TREATMENT OF GAINS.—In the case of
12 capital gains from the sale to, or exchange with, an
13 unrelated person of any property held by the tax-
14 payer, at the election of the taxpayer—

15 “(A) gross income for the taxable year
16 shall not include so much of such gain as does
17 not exceed the aggregate amount invested by
18 the taxpayer in a qualified distressed oppor-
19 tunity fund during the 180-day period begin-
20 ning on the date of such sale or exchange,

21 “(B) the amount of gain excluded by sub-
22 paragraph (A) shall be included in gross income
23 as provided by subsection (b), and

24 “(C) subsection (c) shall apply.

25 “(2) ELECTION.—No election may be made
26 under paragraph (1)—

1 “(A) with respect to a sale or exchange if
2 an election previously made with respect to such
3 sale or exchange is in effect, or

4 “(B) with respect to any sale or exchange
5 after December 31, 2032.

6 “(b) DEFERRAL OF GAIN INVESTED IN QUALIFIED
7 DISTRESSED OPPORTUNITY ZONE PROPERTY.—

8 “(1) YEAR OF INCLUSION.—Gain to which sub-
9 section (a)(1)(B) applies shall be included in income
10 in the taxable year which includes the earlier of—

11 “(A) the date on which such investment is
12 sold or exchanged, or

13 “(B) December 31, 2032.

14 “(2) AMOUNT INCLUDIBLE.—

15 “(A) IN GENERAL.—The amount of gain
16 included in gross income under subsection
17 (a)(1)(A) shall be the excess of—

18 “(i) the lesser of the amount of gain
19 excluded under paragraph (1) or the fair
20 market value of the investment as deter-
21 mined as of the date described in para-
22 graph (1), over

23 “(ii) the taxpayer’s basis in the in-
24 vestment.

1 “(B) DETERMINATION OF BASIS QUALI-
2 FIED DISTRESSED OPPORTUNITY ZONE PROP-
3 ERTY.—

4 “(i) IN GENERAL.—Except as other-
5 wise provided in this clause or subsection
6 (c), the taxpayer’s basis in the investment
7 shall be zero.

8 “(ii) INCREASE FOR GAIN RECOG-
9 NIZED UNDER SUBSECTION (a)(1)(B).—
10 The basis in the investment shall be in-
11 creased by the amount of gain recognized
12 by reason of subsection (a)(1)(B) with re-
13 spect to such property.

14 “(iii) INVESTMENTS HELD FOR 5
15 YEARS.—In the case of any investment
16 held for at least 5 years, the basis of such
17 investment shall be increased by an
18 amount equal to 10 percent of the amount
19 of gain deferred by reason of subsection
20 (a)(1)(A).

21 “(iv) INVESTMENTS HELD FOR 7
22 YEARS.—In the case of any investment
23 held by the taxpayer for at least 7 years,
24 in addition to any adjustment made under
25 clause (iii), the basis of such property shall

1 be increased by an amount equal to 5 per-
2 cent of the amount of gain deferred by rea-
3 son of subsection (a)(1)(A).

4 “(c) SPECIAL RULE FOR INVESTMENTS HELD FOR
5 AT LEAST 10 YEARS.—In the case of any investment held
6 by the taxpayer for at least 10 years and with respect to
7 which the taxpayer makes an election under this sub-
8 section, the basis of such property shall be equal to the
9 fair market value of such investment on the date that the
10 investment is sold or exchanged.

11 “(d) QUALIFIED DISTRESSED OPPORTUNITY
12 FUND.—For purposes of this section—

13 “(1) IN GENERAL.—The term ‘qualified dis-
14 tressed opportunity fund’ means any investment ve-
15 hicle which is organized as a corporation or a part-
16 nership for the purpose of investing in qualified dis-
17 tressed opportunity zone property (other than an-
18 other qualified distressed opportunity fund) that
19 holds at least 90 percent of its assets in qualified
20 distressed opportunity zone property, determined by
21 the average of the percentage of qualified distressed
22 opportunity zone property held in the fund as meas-
23 ured—

24 “(A) on the last day of the first 6-month
25 period of the taxable year of the fund, and

1 “(B) on the last day of the taxable year of
2 the fund.

3 “(2) QUALIFIED DISTRESSED OPPORTUNITY
4 ZONE PROPERTY.—

5 “(A) IN GENERAL.—The term ‘qualified
6 distressed opportunity zone property’ means
7 property which is—

8 “(i) qualified distressed opportunity
9 zone stock,

10 “(ii) qualified distressed opportunity
11 zone partnership interest, or

12 “(iii) qualified distressed opportunity
13 zone business property.

14 “(B) QUALIFIED DISTRESSED OPPOR-
15 TUNITY ZONE STOCK.—

16 “(i) IN GENERAL.—Except as pro-
17 vided in clause (ii), the term ‘qualified dis-
18 tressed opportunity zone stock’ means any
19 stock in a domestic corporation if—

20 “(I) such stock is acquired by the
21 qualified distressed opportunity fund
22 after December 31, 2024, at its origi-
23 nal issue (directly or through an un-
24 derwriter) from the corporation solely
25 in exchange for cash,

1 “(II) as of the time such stock
2 was issued, such corporation was a
3 qualified distressed opportunity zone
4 business (or, in the case of a new cor-
5 poration, such corporation was being
6 organized for purposes of being a
7 qualified distressed opportunity zone
8 business), and

9 “(III) during substantially all of
10 the qualified distressed opportunity
11 fund’s holding period for such stock,
12 such corporation qualified as a quali-
13 fied distressed opportunity zone busi-
14 ness.

15 “(ii) REDEMPTIONS.—A rule similar
16 to the rule of section 1202(c)(3) shall
17 apply for purposes of this paragraph.

18 “(C) QUALIFIED DISTRESSED OPPOR-
19 TUNITY ZONE PARTNERSHIP INTEREST.—The
20 term ‘qualified distressed opportunity zone
21 partnership interest’ means any capital or prof-
22 its interest in a domestic partnership if—

23 “(i) such interest in acquired by the
24 qualified distressed opportunity fund after

1 December 31, 2024, from the partnership
2 solely in exchange for cash,

3 “(ii) as of the time such interest was
4 acquired, such partnership was a qualified
5 distressed opportunity zone business (or, in
6 the case of a new partnership, such part-
7 nership was being organized for purposes
8 of being a qualified distressed opportunity
9 zone business), and

10 “(iii) during substantially all of the
11 qualified distressed opportunity fund’s
12 holding period for such interest, such part-
13 nership qualified as a qualified distressed
14 opportunity zone business.

15 “(D) QUALIFIED DISTRESSED OPPOR-
16 TUNITY ZONE BUSINESS PROPERTY.—

17 “(i) IN GENERAL.—The term ‘quali-
18 fied distressed opportunity zone business
19 property’ means tangible property used in
20 a trade or business of the qualified dis-
21 tressed opportunity fund if—

22 “(I) such property was acquired
23 by the qualified distressed opportunity
24 fund by purchase (as defined in sec-

1 tion 179(d)(2)) after December 31,
2 2024,

3 “(II) the original use of such
4 property in the qualified distressed
5 opportunity zone commences with the
6 qualified distressed opportunity fund
7 or the qualified distressed opportunity
8 fund substantially improves the prop-
9 erty, and

10 “(III) during substantially all of
11 the qualified distressed opportunity
12 fund’s holding period for such prop-
13 erty, substantially all of the use of
14 such property was in a qualified dis-
15 tressed opportunity zone.

16 “(ii) SUBSTANTIAL IMPROVEMENT.—

17 For purposes of subparagraph (A)(ii),
18 property shall be treated as substantially
19 improved by the qualified distressed oppor-
20 tunity fund only if, during any 30-month
21 period beginning after the date of acquisi-
22 tion of such property, additions to basis
23 with respect to such property in the hands
24 of the qualified distressed opportunity fund
25 exceed an amount equal to the adjusted

1 basis of such property at the beginning of
2 such 30-month period in the hands of the
3 qualified distressed opportunity fund.

4 “(iii) RELATED PARTY.—For pur-
5 poses of subparagraph (A)(i), the related
6 person rule of section 179(d)(2) shall be
7 applied pursuant to subsection (e)(2) in
8 lieu of the application of such rule in sec-
9 tion 179(d)(2)(A).

10 “(3) QUALIFIED DISTRESSED OPPORTUNITY
11 ZONE BUSINESS.—

12 “(A) IN GENERAL.—The term ‘qualified
13 distressed opportunity zone business’ means a
14 trade or business—

15 “(i) in which substantially all of the
16 tangible property owned or leased by the
17 taxpayer is qualified distressed opportunity
18 zone business property (determined by sub-
19 stituting ‘qualified distressed opportunity
20 zone business’ for ‘qualified distressed op-
21 portunity fund’ each place it appears in
22 subparagraph (D)),

23 “(ii) which satisfies the requirements
24 of paragraphs (2), (4), and (8) of section
25 1397C(b), and

1 “(iii) which is not described in section
2 144(e)(6)(B).

3 “(B) SPECIAL RULE.—For purposes of
4 subparagraph (A), tangible property that ceases
5 to be a qualified distressed opportunity zone
6 business property shall continue to be treated
7 as a qualified distressed opportunity zone busi-
8 ness property for the lesser of—

9 “(i) 5 years after the date on which
10 such tangible property ceases to be so
11 qualified, or

12 “(ii) the date on which such tangible
13 property is no longer held by the qualified
14 distressed opportunity zone business.

15 “(4) QUALIFIED DISTRESSED OPPORTUNITY
16 ZONE.—The term ‘qualified distressed opportunity
17 zone’ means—

18 “(A) a brownfield site (as defined in sec-
19 tion 101(39) of the Comprehensive Environ-
20 mental Response, Compensation, and Liability
21 Act of 1980), or

22 “(B) a facility that is included on the Na-
23 tional Priorities List developed by the President
24 in accordance with section 105(a)(8)(B) of the

1 Comprehensive Environmental Response, Com-
2 pensation, and Liability Act of 1980.

3 “(e) APPLICABLE RULES.—

4 “(1) TREATMENT OF INVESTMENTS WITH
5 MIXED FUNDS.—In the case of any investment in a
6 qualified distressed opportunity fund only a portion
7 of which consists of investments of gain to which an
8 election under subsection (a) is in effect—

9 “(A) such investment shall be treated as 2
10 separate investments, consisting of—

11 “(i) one investment that only includes
12 amounts to which the election under sub-
13 section (a) applies, and

14 “(ii) a separate investment consisting
15 of other amounts, and

16 “(B) subsections (a), (b), and (c) shall
17 only apply to the investment described in sub-
18 paragraph (A)(i).

19 “(2) RELATED PERSONS.—For purposes of this
20 section, persons are related to each other if such
21 persons are described in section 267(b) or 707(b)(1),
22 determined by substituting ‘20 percent’ for ‘50 per-
23 cent’ each place it occurs in such sections.

24 “(3) DECEDENTS.—In the case of a decedent,
25 amounts recognized under this section shall, if not

1 properly includible in the gross income of the dece-
2 dent, be included in gross income as provided by sec-
3 tion 691.

4 “(4) REGULATIONS.—The Secretary shall pre-
5 scribe such regulations as may be necessary or ap-
6 propriate to carry out the purposes of this section,
7 including—

8 “(A) rules for the certification of qualified
9 distressed opportunity funds for the purposes of
10 this section,

11 “(B) rules to ensure a qualified distressed
12 opportunity fund has a reasonable period of
13 time to reinvest the return of capital from in-
14 vestments in qualified distressed opportunity
15 zone stock and qualified distressed opportunity
16 zone partnership interests, and to reinvest pro-
17 ceeds received from the sale or disposition of
18 qualified distressed opportunity zone property,
19 and

20 “(C) rules to prevent abuse.

21 “(f) FAILURE OF QUALIFIED DISTRESSED OPPOR-
22 TUNITY FUND TO MAINTAIN INVESTMENT STANDARD.—

23 “(1) IN GENERAL.—If a qualified distressed op-
24 portunity fund fails to meet the 90-percent require-
25 ment of subsection (d)(1), the qualified distressed

1 opportunity fund shall pay a penalty for reach
 2 month it fails to meet the requirement in an amount
 3 equal to the product of—

4 “(A) the excess of—

5 “(i) the amount equal to 90 percent of
 6 its aggregate assets, over

7 “(ii) the aggregate amount of quali-
 8 fied distressed opportunity zone property
 9 held by the fund, multiplied by

10 “(B) the underpayment rate established
 11 under section 6621(a)(2) for such month.

12 “(2) SPECIAL RULE FOR PARTNERSHIPS.—In
 13 the case that the qualified distressed opportunity
 14 fund is a partnership, the penalty imposed by para-
 15 graph (1) shall be taken into account proportionately
 16 as part of the distributive share of each partner of
 17 the partnership.

18 “(3) REASONABLE CAUSE EXCEPTION.—No
 19 penalty shall be imposed under this subsection with
 20 respect to any failure if it is shown that such failure
 21 is due to reasonable cause.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
 23 for subchapter Z of chapter 1 is amended by adding at
 24 the end the following new item:

“Sec. 1400Z-3. Special rules for capital gains invested in distressed oppor-
 tunity zones.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts invested after the date
3 of the enactment of this Act.

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