

Designation of Priority Projects within Opportunity Zones

ATTORNEYS

- Jorge M. Ruiz-Montilla
- Rubén Méndez-Benabe
- Isis Carballo-Irigoyen
- Harry O. Cook
- Patricia George-Iguina
- Yamary I. González-Berríos
- Rubén Muñiz-Bonilla
- Marcos Rodríguez-Ema
- Melba I. Acosta-Febo
- Magda M. Boyles
- Xenia Vélez
- Adrián P. Goyco-Vera

PRACTICE AREAS

- Federal Funding Programs
- Real Estate, Hospitality & Finance
- Tax

An McV Recovery Financing Practice Team Alert

August 29, 2019

The Puerto Rico Incentives Code, Act No. 60-2019 (the “PR Incentives Code”), grants tax incentives to qualified opportunity funds (“QOF”) that invest in Priority Projects (as defined below) located in qualified opportunity zones (“QOZ”) that have been designated for Puerto Rico as such, under Section 1400Z-1(b)(3) of the United States Internal Revenue Code of 1986, as amended.

On August 19, 2019, the Opportunity Zones Priority Projects Committee (the “Committee”) adopted Resolution 19-01 to determine that the following commercial activities shall qualify as Priority Projects within the QOZ (to the extent they are not eligible for tax benefits under any of the acts designated in Section 6070.55(a)(20)(B) of the PR Incentives Code) (collectively, the “Priority Projects”):

1. The development (*i.e.*, acquisition of property and construction thereon and/or substantial improvement of existing property) of low-income residential properties for sale or rent.
2. The development (*i.e.*, acquisition of property and construction thereon and/or substantial improvement of existing property) of residential and/or commercial real property for sale or rent.
3. The development (*i.e.*, acquisition of property and construction thereon and/or substantial improvement of existing property) of industrial real property for sale or rent.
4. The substantial improvement of an existing commercial property for sale or rent.

The Priority Projects approved by the Committee under Resolution 19-01 will be in effect for a one-year minimum period and thereafter, until the Committee amends the Resolution.

In order to benefit from the tax incentives, the QOF must invest its funds in an eligible business that has been classified as an Exempt Business by the Office of Industrial Tax Exemption. An Exempt Business is a juridical entity that (i) conducts the entirety of its business within the QOZ, (ii) is not eligible for a tax incentive under any other tax incentives law, (iii) is managed by a QOF or entity

Designation of Priority Projects within Opportunity Zones

in which the QOF invests, (iv) is engaged in a Priority Project, and (v) has obtained a tax concession decree from the Office of Industrial Tax Exemption.

The following summarizes the main tax incentives that the PR Incentives Code provides:

For Exempt Businesses:

- Flat income tax rate of 18.5% on the net income derived from the exempt operations;
- 100% tax exemption for dividends from an Exempt Business;
- 25% property tax exemption (real and personal property), which could be raised to up to 75%, if authorized by an ordinance issued by the municipality in which the Exempt Business is located;
- 25% municipal license tax (*patente*) and municipal construction tax exemption, which could be increased to a maximum of 75%, if authorized by an ordinance issued by the municipality in which the Exempt Business is located;
- Agile procedure for the evaluation and issuance of permits for the Exempt Business and projects; and
- 100% tax exemption for interest earned on bonds or loans to the Exempt Business and projects.

For Investors (individuals or entities):

- 100% tax exemption on dividends received from an Exempt Business;
- Tax deferral on capital gains from the sale or exchange of capital assets if an amount equal to the capital gain realized from said sale or exchange is invested in a QOF. An investor may defer such taxes until the earlier of (i) the date on which it sells or exchanges its investment in the QOF or (ii) December 31, 2026;
- Step up in basis (reduction of the capital gain) for gains invested in a QOF in Puerto Rico under norms similar to those approved in the federal legislation (10% of step up for a 5-year investment and 15% for a 7-year investment);
- Permanent exclusion from taxable income of capital gains realized from the sale of an investment in a QOF under norms similar to those approved in federal legislation;

Designation of Priority Projects within Opportunity Zones

- Transferable credits of up to 25% of the total amount invested in a QOF, as determined by the Committee. Pursuant to Resolution 19-01, investors are eligible to receive a minimum of 5% of the amount invested in any of the initial Priority Projects listed in Resolution 19-01 as transferable credit; and
- Priority ranking for this credit over all other tax credits granted by other incentives acts in Puerto Rico.

The content of this McV Alert has been prepared for information purposes only. It is not intended as, and does not constitute, either legal advice or solicitation of any prospective client. An attorney-client relationship with McConnell Valdés LLC cannot be formed by reading or responding to this McV Alert. Such a relationship may be formed only by express agreement with McConnell Valdés LLC.