



Proposed PR Opportunity Zone and Economic  
Development Incentives Act  
2019 Puerto Rico Investment Summit

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# PR Qualified Opportunity Zone Program

## Summary

- Introduced in October 2018 by the PR Legislature (PC 1887).
- Aims to make Puerto Rico opportunity zone investments more attractive by providing tax incentives to business activities that generally have not been incentivized in the past.
- Expected to be approved during February 2019.

# PR Qualified Opportunity Zone Program

## OZ Fund Certification Process and Eligibility Criteria

- The proposed bill would apply to an Opportunity Zone Fund (OZ Fund), or to an entity in which the OZ Fund invests (OZ Sub), that qualifies under Section 1400Z-2 of the US Internal Revenue Code of 1986, as amended (US-IRC), and that conducts a business that is a **“priority project”** in an **“eligible zone”** in Puerto Rico (OZ Eligible Business Activities).
- A **“priority project”** is one that will contribute to the economic *recovery, diversification and transformation of Puerto Rico* as approved by the Opportunity Zone Committee (OZ Committee) and the Governor of Puerto Rico.
- An **“eligible zone”** as an Opportunity Zone (OZ) under US-IRC Section 1400Z-1(b)(3) and designated as such by the OZ Committee.
- The OZ Committee is a committee that would be established by the proposed bill and is comprised of the person in charge of the CFO role established by Executive Order OE-2013-007, the person in charge of the CIO role established by Executive Order OE-2018-035, the Executive Director of the Puerto Rico Fiscal Agency & Financial Advisory Authority (FAFAA), and two additional members, one of which is appointed by the PR Senate and another one by the PR House of Representatives.
- Any OZ Fund, or OZ Sub, must first request a meeting with the OZ Committee as a condition precedent to filing an application to obtain tax incentives under the PR QOZ Program.
- The tax incentives under the proposed bill would be granted by way of a tax decree between the OZ Fund, or the OZ Sub, or both, and the Government of Puerto Rico (QOZ Decree).

# PR Qualified Opportunity Zone Program

## OZ Fund Certification Process and Eligibility Criteria (cont'd)

- The QOZ Decree would be issued for a 15-year term, and may be renegotiated for an additional term to be established by regulations to be issued by the Secretary of the Puerto Rico Department of Economic Development and Commerce.
- Business activities that qualify for tax incentives under Act 73-2008 (manufacturing), Act 74-2010 (tourism), Act 83-2010 (green energy), Act 27-2011 (film industry), and Act 20-2012 (export services), do not qualify as OZ Eligible Business Activities and are not eligible for tax incentives under the proposed bill.

# PR Qualified Opportunity Zone Program

## Tax Incentives for QOZ Decree Holders

- The proposed bill provides OZ Funds, or OZ Subs, with a valid QOZ Decree (QOZ Decree Holders) with the following tax incentives:
  - 20% corporate income tax rate;
  - capital gains tax exemption on gains realized from sale of assets during term of the QOZ Decree, if the QOZ Decree Holder reinvests the proceeds in compliance with US-IRC Section 1400Z-2(d)(1);
  - 50% MLT exemption on gross income earned from OZ Eligible Business Activities, or 75% MLT exemption on gross income earned from OZ Eligible Business Activities treated as “eligible residential priority projects”;
    - An “eligible residential priority project” is any priority project located in an eligible zone that has an important social interest housing component, as determined by the OZ Committee.
  - 50% personal and real property tax exemption, or 75% personal and real property tax exemption on property used in “eligible residential priority projects”; and
  - 75% exemption on construction excise taxes associated to the OZ Eligible Business Activities; this exemption would apply also to subcontractors of QOZ Decree Holders.
  - In addition, the proposed OZEDIA exempts from income tax and MLT (i) interest paid on debt instruments of a QOZ Decree Holder held for the development, construction, rehabilitation, or improvements of OZ Eligible Business Activities, or (ii) interest paid by a QOZ Decree Holder on existing loans, to the extent the proceeds from such loans originally were used in their entirety for the development, construction, rehabilitation, or improvements of OZ Eligible Business Activities.

# PR Qualified Opportunity Zone Program

## Additional Incentives and Considerations

### PR Tax Credits

- The proposed bill includes investment tax credits to investors for investments that QOZ Decree Holders make in OZ Eligible Business Activities (QOZ Tax Credits).
- The QOZ Tax Credits % will be fixed by the OZ Committee but may not exceed 15% of the cash capital contributions the investors make to the OZ Fund, or the OZ Sub at the level of the OZ Fund, or OZ Sub.

### Failure to Meet 90% Investment Requirement

- If the OZ Fund fails to meet the 90% investment requirement, the OZ Fund will be required to pay a penalty to the PR Treasury Department with the OZ Fund's PR income tax return corresponding to the year in which the penalty was imposed.

### Tax Incentives for PR Resident Investors

- The proposed bill would amend the PR-IRC to include a provision that mirrors US-IRC Section 1400Z-2.

# PR Qualified Opportunity Zone Program

## Expedited Permitting Process

- To facilitate implementation of a “priority project” within the limited time frame available to benefit from an OZ Fund, the proposed bill would establish a special expedited permitting process.
- Under this proposed mechanism, the permits, licenses, franchises, “consultas” or certifications necessary to develop a “priority project” would have to be processed in specified reduced time frames (e.g., 10 working days to obtain agency comments, 30 working days to process a “consulta” approval and 10 working days to process other development permits).
- The proposed OZEDIA would also require that all of these permits be evaluated and processed by the Office of Management of Permits (OGPe) regardless of the location of the project or the existence of a Hierarchies Transfer Agreement (“Convenio de Transferencia de Jerarquías”) with a Municipality, thereby consolidating the process in the central government.
- In addition, the review and final determination related to environmental documents would be under the jurisdiction of an Environmental Compliance Interagency Subcommittee, appointed by the Governor. This entity would be required to process environmental documents (e.g., environmental assessments and environmental impact statements) in a period of 20 working days (extendable to 45 days in extraordinary circumstances).
- Expedited/simplified procedures for challenging a permit decision would also be established, which would include providing as sole remedy for this challenge the filing of a request for judicial review, reducing the time frame to request this remedy and precluding stays of challenged actions other than in exceptional circumstances.

# Thank you

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