

Working Capital Safe Harbor Plan Instructions For Using This Document

- 1. When** - This document should be completed by the time working capital assets are first received. In certain narrow circumstances the plan may be modified as provided in Proposed Regulations. The Written Schedule and the Written Plan should be maintained in the taxpayer's records.

- 2. What** - Provide a description of the business development plan on the page titled Written Plan. For help in drafting the Written Plan, review the guidance in paragraph 3 below and on the Written Plan. With respect to the Written Schedule, insert information into the cells highlighted in yellow. Use the guidance provided in paragraph 4 below and on the Written Schedule.

- 3. How (Instructions for the Written Plan)** - The regulations provide little guidance in how to complete the Written Plan. See Treas. Reg. §1.1400Z2(d)-1(d)(3)(v)(A). And, there are no official templates or other good examples of what the written plan should look like. However, the following may be helpful - it was adapted from "The Key to QOZB Compliance- The Working Capital Safe Harbor", Duval & Stachenfeld LLP. On the Written Plan, there is a fine line to walk between being detailed enough, but not too detailed. Under the consistent use requirement, working capital assets must be used in a manner that is substantially consistent with the Written Plan, and any disagreement about what "substantially consistent" actually means will come down to the facts. For example, if the development plan describes the building of a multifamily property at a specific site with 75 units, a parking garage, and 3 retail units, then the Written Plan might say that the plan is to build a multifamily property at a specific site, possibly with a parking garage and retail, pending final approvals and architectural plans. This way if the project ends up having 80 units and a parking garage, but no retail, it is within the scope of the Written Plan. If the site plans themselves are still up in the air depending on environmental considerations, zoning approvals, or some other uncertainty, then the Written Plan should reflect as many details as possible about the project, and perhaps a few alternatives depending on how the uncertainties might play out. The Written Plan should also note the reason for the lack of specificity, so any future reader (such as an IRS audit agent) understands why the Written Plan is not more definitive. Once the QOZB's plans become clearer, it might consider updating the Written Plan, but be mindful of making wholesale changes as they are generally not permitted. Finally, if a QOZB was formed to help manage certain investment deadlines and is essentially a place to "park" at least 90% of a QOF's assets so that the QOF does not fail its 90% investment test, then the Written Plan should indicate as many details as possible about the intended business of the QOZB. For example, if the QOZB is intending to acquire property in a certain geographic region or in a certain asset class, certainly include that information. The WCSH file should also contain written records showing efforts made to secure an investment, such as emails to potential sellers inquiring about a property, letters of intent, draft term sheets, financing materials from possible lenders, and marketing materials from the QOF itself (if relevant). There is no guarantee that a Written Plan without a specific property will pass muster, so the more evidence a QOZB has to show diligent efforts to obtain qualifying property, the better.

4. How (Instructions for the Written Schedule) - The regulations provide little guidance how to complete the Written Schedule. See Treas. Reg. §1.1400Z2(d)-1(d)(3)(v)(B). Again, there are no official templates or other good examples of what the Written Schedule should look like. However, the following may be helpful - it was adapted from "The Key to QOZB Compliance-The Working Capital Safe Harbor", Duval & Stachenfeld LLP. The Written Schedule should have a hefty amount of detail. The balancing act will be to include enough evidence to show a true plan to spend the working capital assets in the 31-month period without getting bogged down in specifying costs to the penny. Given the requirement that spending must be consistent with the Written Schedule, it may actually be better to bundle certain expenses... For example, instead of specifying hard dollar costs for each building material, it should be sufficient to list "building materials (including, steel, cement, wood, etc.)" and then the expected costs. "

Disclaimer: This document has been extensively reviewed to be as complete and accurate as possible. However, due to the complexity of these rules, this document undoubtedly includes errors and omissions. You should consult a tax professional for advice regarding your own situation. Further, this document was not created to be relied on by anyone. Instead, this document was created to help give other tax professionals a starting point for creating their own such document, based on their own review, analysis, and interpretations of the law. This document is not updated for changes in the tax laws.

**Safe Harbor for Reasonable Amount of Working Capital
Reg. §1.1400Z2(d)-1(d)(3)(v)(A) "Written Plan"
Initial Plan**

Description of Plan

Use this page, or a Word document, to describe the plan. Include facts about the business to be developed, such as:

- what type of business is being developed,*
- in which Qualified Opportunity Zone will the business operate,*
- when is business expected to open for business,*
- what steps are involved in the development of the business,*
- details about the tangible QOZ Business Property that will be acquired, constructed, and/or leased, in the Qualified Opportunity Zone,*
- details about the plan to improve any of the tangible QOZ Business Property, and*
- details of any intangible property to be purchased or licensed by the OZ business.*

Company Name

By: _____

Name: _____

Title: _____

Date: _____

Safe Harbor for Reasonable Amount of Working Capital
 Reg. §1.140022(d)-1(d)(3)(v)(B) "Written Schedule"
 Initial Plan

A.

B. Plan Date

Month & Year
Jun-23
MM/YY

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Month #	
June-23	1
July-23	2
August-23	3
September-23	4
October-23	5
November-23	6
December-23	7
January-24	8
February-24	9
March-24	10
April-24	11
May-24	12
June-24	13
July-24	14
August-24	15
September-24	16
October-24	17
November-24	18
December-24	19
January-25	20
February-25	21
March-25	22
April-25	23
May-25	24
June-25	25
July-25	26
August-25	27
September-25	28
October-25	29
November-25	30
	31

Part 1 - Working Capital Assets to be Received

List Working Capital Assets To Be Received	Month #	Amount
1.		
2.		
3.		
4.		
<i>Include more rows if necessary</i>		
Totals		0

Provide description above of each working capital asst (e.g., contribution, grant, loan, etc...) expected (as of plan date) to be received in connection with the initial "plan". Include amount and month # expected. To determine month #, use the list of months to the right.

Part2 - Budgeted Expenditure of Working Capital Assets

List Expenditures to be Made Under the Plan	Beg Month #	End Month #	Amount
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			
13.			
14.			
15.			
<i>Include more rows if necessary</i>			
Totals			0 E.

Notes

- A. This document is intended to represent a Written Schedule consistent with the ordinary start-up of a trade or business for the expenditure of the working capital assets. The working capital assets must be spent within 31 months, but up to 54 months in certain instances. However, a business may benefit from one or more 31-month periods, for a total of 62 months (84 months in certain circumstances), in the form of multiple overlapping or sequential applications of the working capital safe harbor.
- B. The month and year of the "Plan Date" should be the month and year working capital assets are first expected to be received. If an overlapping or sequential application of the working capital is appropriate, a supplemental Written Schedule should be prepared with a new Plan Date (that corresponds to the month and date new working capital is first received).
- C. List categories of expenditures the working capital assets are expected to be spent on according to the Written Plan. For instance, if the Written Plan describes the purchase and development of a commercial real estate rental business, this Written Schedule should at a minimum include categories for the the following: (i) acquisition of land, (ii) construction/improvement costs of the building, and (iii) ancillary but necessary expenditures for the project. See Treas. Reg. §1.1400Z2(d)-1(d)(3)(X), Example. But, include more detail as would be expected in the budgeting process for the ordinary start-up of a business. However, see the words of caution in paragraph 4 on the Instructions tab.
- D. Include estimated amount of expenditures along with the month # the expenditures will begin and the month # the expenditures will end.
- E. The total budgeted expenditures in Part 2 should equal or exceed the working capital assets identified in Part 1.

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