

Charitable Conservation Easement Program Integrity Act

The Charitable Conservation Easement Program Integrity Act was signed into law on December 29, 2022. This legislation effectively shuts down a tax avoidance scheme that took advantage of the federal conservation easement tax incentive. (For more details on abusive syndicated conservation easement transactions and the legislative efforts to curtail them, see the [Alliance's blog](#)). The Alliance expects the U.S. Treasury to propose regulations implementing the components of the Integrity Act but the timing is unknown.

The key components of the Integrity Act found in Section 605 (page 935) of the [funding bill](#) are: ***The Act disallows a charitable deduction for a qualified conservation contribution if the deduction claimed exceeds 2.5 times the sum of each partner's relevant basis in the contributing partnership, unless one of the following two exceptions is met:***

- a. The contribution meets a three-year holding period test.***
- b. Substantially all of the contributing partnership is owned by members of a family.***

Notes

- This provision does not implicitly approve donations of easements valued up to 2.5 times basis; as such, claims below the 2.5 times threshold can continue to be audited and challenged by the IRS.
- If the 2.5 times threshold is exceeded, the entire deduction is disallowed.
- This provision is prospective, so it is effective for contributions made after the date of enactment of this Act, which is Dec. 29, 2022.
- This provision does not apply to any qualified conservation contribution whose conservation purpose is the preservation of any building that is a certified historic structure.
- The validity of a conservation easement continues to be determined under state law; the Act only addresses the donor's charitable donation.
- All Land Trust Alliance member land trusts adopt and commit to implement [Land Trust Standards and Practices](#), the ethical and technical guidelines for the responsible operation of a land trust. Those guidelines require that all Alliance member land trusts refuse to knowingly participate in tax shelter transactions. (See the Alliance's "[Advisory: Tax Shelter Abuse of Conservation Donations](#)")

The Act also provided taxpayers the opportunity to [correct certain "defects"](#) in an easement deed. The opportunity to amend via the safe harbor language is no longer available—the window to amend began on April 24 and closed on July 24, 2023. The IRS has advised that extensions are not available.

This is a complex topic. If you have questions or concerns about this Advisory, please contact us.

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