

Seminar Title: Practical Pointers on IRS Form 8283 & Gift Letters

Learning Objective:

1. Understand how to avoid the common pitfalls of IRS Form 8283, get familiar with the current version of the form, learn what attachments to include and what should be in those attachments, and how to analyze donor appraisals and what to do if a donor's appraisal is so high as to "shock the conscience"
2. Understand what should be contained in the contemporaneous written acknowledgement required by IRC § 170(f)(8) and (f)(17)
3. Understand what transaction expenses are deductible and why and the implications of recent changes to the form 8283, LTA's Standards & Practices, and recent tax court cases

Description: Correctly completing Form 8283 can make or break a conservation easement deduction and the IRS issued a new version of this form in Dec. 2020. The IRS has fully denied deductions because of improperly completed forms or the lack of required documentation. A contemporaneous written acknowledgement is required to be received by the donor for the donation to be deductible. Knowing what transaction expenses are deductible is also critical, as many are unaware that reimbursing a landowner for such expenses could render the donation a "bargain sale." While donors are legally responsible for substantiating donations, land trusts may assist donors to understand the forms, so long as they don't provide legal advice. The session will also discuss how a donee organization should review a donor's appraisal, what to do if the claimed value is so high as to "shock the conscience," and recent changes to Land Trust Standards and Practices and recent court cases related to Form 8283 and gift letters.

Outline:

1. Intro (5 min)
2. Form 8283 (26 U.S.C. § 170(f)(11) and 26 C.F.R. § 1.170A-16) – 15 min
 - a. Who is responsible for what?
 - b. Appraiser signatures
 - c. Land Trust signature – or not
 - d. Recent cases (*Oakhill Woods, LLC v. Commissioner*, T.C. Memo 2020-24; *Hewitt v. Comm'r*, T.C. Memo. 2020-89) – 3 min
 - e. Attachments – Required versus Recommended – 2 min
 - i. Narrative
 - ii. Contemporaneous Written Acknowledgement (26 U.S.C. § 170(f)(8) and (f)(17))
 - iii. Appraisal (26 U.S.C. § 170(f)(11), 26 C.F.R. § 1.170A-16 and -17)
 - iv. Conservation Easement (26 U.S.C. § 170(h), 26 C.F.R. § 1.170A-14)
 - v. Baseline (26 C.F.R. § 1.170A-14(g)(5))
3. Supplemental Statement in detail - 15 min
4. Contemporaneous Written Acknowledgement (26 U.S.C. § 170(f)(8) and (f)(17)) – 15 min
 - a. What is it?
 - b. Who is responsible?
 - c. Contents
 - d. Substantial Compliance
 - e. Examples

f. Recent cases

5. Role of the Land Trust – 10 min
6. Recent changes to LTA's S&Ps, IRC, Treasury Regulations, and tax court cases (*See IRS Audit Guide 2021 for a roundup*) – 10 min
7. Discussion of Hypothetical Scenarios – 10 min
8. Q&A – 5 min