

RALLY 2019



National Land Conservation Conference | October 17-19 | Raleigh, NC

Practical Pointers on IRS Form 8283 & Gift Letters



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October 18, 2019

#RALLY2019



Form 8283

(Noncash Charitable Contributions)

Form 8283 (Rev. December 2014) Department of the Treasury Internal Revenue Service	Noncash Charitable Contributions ▶ Attach to your tax return if you claimed a total deduction of over \$500 for all contributed property. ▶ Information about Form 8283 and its separate instructions is at www.irs.gov/form8283 .	OMB No. 1545-0008 Attachment Sequence No. 155 Identifying number 123-45-6789					
Name(s) shown on your income tax return Ima Landsaver							
Note. Figure the amount of your contribution deduction before completing this form. See your tax return instructions.							
Section A. Donated Property of \$5,000 or Less and Publicly Traded Securities —List in this section only items (or groups of similar items) for which you claimed a deduction of \$5,000 or less. Also list publicly traded securities even if the deduction is more than \$5,000 (see instructions).							
Part I Information on Donated Property —If you need more space, attach a statement.							
1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description of donated property (For a vehicle, enter the year, make, model, and mileage. For securities, enter the company name and the number of shares.)				
A		<input type="checkbox"/>					
B		<input type="checkbox"/>					
C		<input type="checkbox"/>					
D		<input type="checkbox"/>					
E		<input type="checkbox"/>					
Note. If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (e), (f), and (g).							
A	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value	
A							
B							
C							
D							
E							
Part II Partial Interests and Restricted Use Property —Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).							
2a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ▶ If Part II applies to more than one property, attach a separate statement.							
b Total amount claimed as a deduction for the property listed in Part I: (1) For this tax year ▶ (2) For any prior tax years ▶							
c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above): Name of charitable organization (donee) _____ Address (number, street, and room or suite no.) _____ City or town, state, and ZIP code _____							
d For tangible property, enter the place where the property is located or kept ▶ _____ e Name of any person, other than the donee organization, having actual possession of the property ▶ _____							
3a Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?						Yes	No
b Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire?						Yes	No
c Is there a restriction limiting the donated property for a particular use?						Yes	No

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 62299J

Form 8283 (Rev. 12-2014)



Name(s) shown on your income tax return

Identifying number

Ima Landsaver

123-45-6789

Section B. Donated Property Over \$5,000 (Except Publicly Traded Securities)—Complete this section for one item (or one group of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions of publicly traded securities reported in Section A). Provide a separate form for each property donated unless it is part of a group of similar items. An appraisal is generally required for property listed in Section B. See instructions.

Part I Information on Donated Property—To be completed by the taxpayer and/or the appraiser.

4 Check the box that describes the type of property donated:

- a** Art* (contribution of \$20,000 or more)
- b** Qualified Conservation Contribution
- c** Equipment
- d** Art* (contribution of less than \$20,000)
- e** Other Real Estate
- f** Securities
- g** Collectibles**
- h** Intellectual Property
- i** Vehicles
- j** Other

*Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note. In certain cases, you must attach a qualified appraisal of the property. See instructions.

5	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If tangible property was donated, give a brief summary of the overall physical condition of the property at the time of the gift	(c) Appraised fair market value
A	<u>Qualified conservation contribution (i.e.,</u>		<u>\$3,000,000</u>
B	<u>conservation easement) over approx. 500 acres in</u>		
C	<u>Rolling Hills County, California, as more</u>		
D	<u>particularly described in the attached narrative.</u>		
	(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis
A	<u>January 1980</u>	<u>Inheritance</u>	<u>\$500,000</u>
B			<u>\$1,000,000</u>
C			
D			
			See instructions
			(h) Amount claimed as a deduction
			(i) Date of contribution

Part II Taxpayer (Donor) Statement—List each item included in Part I above that the appraisal identifies as having a value of \$500 or less. See instructions.

I declare that the following item(s) included in Part I above has to the best of my knowledge and belief an appraised value of not more than \$500 (per item). Enter identifying letter from Part I and describe the specific item. See instructions. ▶ _____

Signature of taxpayer (donor) ▶ _____

Date ▶ _____



Part III Declaration of Appraiser

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). In addition, I understand that I may be subject to a penalty under section 6695A if I know, or reasonably should know, that my appraisal is to be used in connection with a return or claim for refund and a substantial or gross valuation misstatement results from my appraisal. I affirm that I have not been barred from presenting evidence or testimony by the Office of Professional Responsibility.

Sign Here

Signature ▶

Title ▶ **Appraiser**

Date ▶

Business address (including room or suite no.)

170 Uspap Avenue

City or town, state, and ZIP code

Green Valley City, CA 98765

Identifying number

EIN123456789

Part IV Donee Acknowledgment—To be completed by the charitable organization.

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ▶ **December 28, 2017**

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file **Form 8282**, Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? ▶ Yes No

Name of charitable organization (donee)

California Agricultural Land Trust

Address (number, street, and room or suite no.)

24 Good Farm Road

Authorized signature

Employer identification number

98-7654321

City or town, state, and ZIP code

Green Valley City, CA 98765

Title

Executive Director

Date

Form **8283** (Rev. 12-2014)



Recent 8283 Cases

- **RERI Holdings I, LLC v. Commissioner**, 149 T.C. No. 1 (U.S.T.C. July 3, 2017), *aff'd* USCA DC, No. 17-1266 (May 24, 2019)
 - > Inflated appraisal value. Taxpayer paid \$2.9 million for property interest and claimed \$33 million deduction. IRS and courts avoid appraisal battle by focusing on Form 8283
 - > Deduction denied: Taxpayer failed to enter its basis in Part B Section I
 - > Circuit Court finds that basis must be completed to substantially comply with Reg. §1.170A-13(c)(2)
- **PBBM-Rose Hill v. Comm'r.**, Bench Op. (Oct. 7, 2016)
 - > IRS argues that deduction should be denied because taxpayer failed to complete Part B Section I
 - > Tax Court disagrees. BUT note: Bench opinions are not precedential and tax court position changed in RERI Holdings (2017)
 - > Tax Court denies deduction on other grounds and Fifth Circuit affirms
- **Lesson: Avoid the argument. Fill out the form!**



Form 8283 Attachments

- Required
 - > Narrative – *See sample*
 - > Full appraisal report – *Required only if donated property worth more than \$500k*
- Recommended
 - > Contemporaneous written acknowledgment
 - > Baseline documentation report
 - > Conservation easement
- Optional
 - > Management plan(s)
 - > Pledge/donation agreement(s)

Narrative Elements

- Descriptions
 - > Donated property
 - > Conservation Values
 - > Conservation Purpose(s) – IRC § 170(h)(4)
- Numbers
 - > Date Property Acquired and Owner's Basis
 - > Appraised Value and Appraisal Method – Before and After
 - > Deduction Amount
- Special Issues
 - > Quid Pro Quo: Indicate whether the conveyance is due to permit requirement or other obligation
 - > Contiguity and Enhancement Rules: Indicate whether a related person owns property nearby

Narrative Sample, Part 1

CHARITABLE CONTRIBUTION OF CONSERVATION EASEMENT

Ima Landsaver [Name of Taxpayer]

Tax ID: 123-45-6789

Parties & CE



Pursuant to Internal Revenue Code section 170(h), the taxpayer, Ima Landsaver (“Donor”), donated, through a bargain sale, a qualified conservation contribution (“Conservation Easement” or “Easement”) on approximately 500 acres (“Property”) of Donor’s property to the California Agricultural Land Trust

Donee Qualification



(“Donee”), a California nonprofit public benefit corporation and a “qualified organization” pursuant to Internal Revenue Code section 170(h)(3), on December 28, 2017, recorded as Document Number 2017-00123456 in the Official Records of the County of Rolling Hills, State of California. Donee has represented that it possesses the resources and commitment to monitor and enforce the subject Conservation Easement in perpetuity.



Narrative Sample, Part 2

**Property &
Baseline**
→

The subject Property is located at 1234 Lovely Creek Road, Green Valley City, California, and is more particularly described on Exhibit A of the Conservation Easement document, which is attached as Attachment 1. The condition of the Property at the time of the donation was documented and established through extensive baseline documentation (“Baseline Documentation Report”) acknowledged by the parties to be an accurate representation of the condition of the Property as of the time of the donation.

The Property possesses significant scenic, open-space, agricultural, wildlife habitat, and watershed values (collectively, the “Conservation Values”) of great importance to Donor, Donee, the people of Rolling Hills County, and the people of the State of California.

Narrative Sample, Part 3

**Conservation
Values**
→

In particular, the Property contains extensive frontage along Lovely Creek, and, therefore, the Conservation Values of the Property include its significant wildlife habitat, watershed, and riparian values, including habitat for [_____]. The Property supports two California [_____] habitats: [_____]. The Property is located in the Rolling Hills Core Area for [_____] recovery actions, according to the 2010 Recovery Plan for the California [_____].

Further, the Conservation Values of the Property include the scenic and open-space qualities of its forested and pastoral landscapes as the Property is adjacent to and visible from several public roads, including [_____].

The protection of the Property is also pursuant to and consistent with clearly delineated public conservation policy, such as state [_____] and county [_____].

Narrative Sample, Part 4

Purposes →

Accordingly, pursuant to Treasury Regulations section 1.170A-14(d)(ii) and (iii), the qualified conservation contribution furthers the following conservation purposes (“Conservation Purposes”) for the reasons set forth above and more fully described in the Conservation Easement and Baseline Documentation Report: (1) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of paragraph (d)(3) of that section; and (2) the preservation of certain open space (including farmland and forest land) within the meaning of paragraph (d)(4) of that section. In particular, the Property’s open space is preserved (A) pursuant to a clearly delineated federal, state, or local governmental conservation policy and will yield a significant public benefit; and (B) for the scenic enjoyment of the general public and will yield a significant public benefit.

The Conservation Easement will prevent subdivision of the Property and will preserve the Property’s significant habitat and other Conservation Values, including providing riparian protections on Lovely Creek, in perpetuity by prohibiting any use of the Property that will impair, degrade, or damage the Conservation Values. The Conservation Easement contains extensive prohibitions and restrictions designed to ensure that the Property will remain predominantly in its natural, scenic, forested, open-space, and agricultural condition in perpetuity.

Narrative Sample, Part 5

According to the qualified appraisal, attached hereto as Attachment 2, the Conservation Easement is valued as follows:

CE Value
→

The value of Property before the Easement: \$9,000,000
subtract

The value of the Property after the Easement: \$6,000,000

The value of the Conservation Easement: \$3,000,000
subtract

Donation Value
→

Bargain sale payment to Donor: \$1,000,000

Total charitable contribution: \$2,000,000

Basis
→

Donor obtained the two (2) parcels (Rolling Hills County Assessor's Parcel Numbers xxx-ccc-bb and aaa-ttt-ff) comprising the Property by inheritance in June 1980. The Property's adjusted basis in the hands of Donor is \$500,000.



Narrative Sample, Part 6

- Quid Pro Quo**
→ The qualified conservation contribution was not made in order to obtain a permit or other approval from a local or other governmental authority and was not required by any contract or other agreement. The
- Contiguity/
Enhancement**
→ Property is not contiguous to any other real property owned by Donor or a related party to Donor. The appraisal addresses any enhancement to nearby property owned by Donor or related parties.
- Gift Letter**
→ Pursuant to Internal Revenue Code section 170(f)(8), Donor received a contemporaneous written acknowledgement (“Acknowledgement” or “170(f)(8) letter”) from Donee dated January 10, 2018, describing the contributed property (the Conservation Easement) and acknowledging that, other than the stated proceeds of the sale, Donor received no goods or services in consideration, in whole or in part, for Donor’s contribution of the Conservation Easement. A copy of such Acknowledgement is included as Attachment 3.



Narrative Sample, Part 7

Donation → Accordingly, pursuant to Code section 170(h) and the regulations promulgated thereunder, Donor is entitled to claim a federal income tax deduction in the amount of \$2,000,000 for Donor's charitable contribution of the Conservation Easement to Donee, as shown on the Form 8283, which represents the difference between the fair market value of the Conservation Easement and the amount of cash proceeds received by Donor in the bargain sale.



Sample Gift Letter

Dear [____],

I am delighted that you recently completed your [gift—*or*—bargain-sale] of a conservation easement over [____] acres of property located at [address], which conservation easement was recorded in the Official Records of [county] on [date].

100% Donation



Please retain this letter as our acknowledgment of your gift of easement valued at [\$____] and a contribution amount of [\$____] for stewardship and transaction costs. [Other than \$[____], which [Land Trust] contributed to the cost of the appraisal,] [Land Trust] did not provide you with any goods or services in exchange for your contribution.

Bargain-Sale Purchase



—*or*—

As you know, our acquisition of the conservation easement occurred through a bargain-sale, for which you were paid \$____, which was appraised at a significantly higher value. Aside from the foregoing bargain purchase price, this letter acknowledges that [Land Trust] did not provide you with any goods or services in exchange for your [bargain-sale] contribution. Please retain this letter as our acknowledgement of your donation to [Land Trust].



Updated Gift Substantiation Regs _____

- Form 8283 and Appraisal
 - > If deduction exceeds \$500,000, both must be attached to returns for carryforward years
- Appraisal Standards
 - > Generally accepted appraisal standards, defined as “the substance and principles” of USPAP
- Appraiser Qualifications: “Education and experience” valuing particular type of property
 - > (1) successfully complete professional or college-level coursework for valuing that type of property and have 2+ years of experience in valuing that type of property, *or*
 - > (2) the appraiser has earned a recognized appraiser designation by a generally recognized professional appraiser organization due to demonstrated competency
- Effective Dates
 - > 8283 and appraisal attached for donations after July 30, 2018 (A-16)
 - > New qualification rules for appraisals and appraisers effective for donations on or after January 1, 2019 (A-17)



Proposed Update to Form 8382

- Published August 9, 2019
- Simple, Clarifying Changes:

- > Section B Title

Section B. Donated Property Over \$5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory reportable in Section A)—Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

- > Part I, 5(b) description:

5	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If any tangible personal property or real property was donated, give a brief summary of the overall physical condition of the property at the time of the gift	(c) Appraised fair market value
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- More substantive change: Appraiser Certification

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). ~~In addition,~~ I understand that ~~I may be subject to a penalty under section 6695A if I know, or reasonably should know, that~~ my appraisal ~~is to~~will be used in connection with a return or claim for refund ~~and~~. I also understand that, if there is a substantial or gross valuation misstatement results from of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony ~~by the Office of Professional Responsibility before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. 330(c).~~



Legal Requirements for Land Trusts_____

- Form 8283
 - > No obligation to sign. However, signing is administrative rather than substantive. “This acknowledgment does not represent agreement with the claimed value.” Form 8283
- Appraisal
 - > No obligation to prepare or review for full donations. If the land trust is providing any consideration for the conservation easement, then an appraisal is necessary to confirm that fair market value or less is being paid. Section 501(c)(3)
- Gift Letter
 - > Land trust is not required to provide, but donor must receive for deduction. IRC 170(f)(8)
- Preparation of Documents
 - > The landowner should obtain its own counsel to prepare and review the Form 8283 and appraisal. If the land trust does commission the appraisal to be used by the landowner, the cost of such preparation must be deducted from the total donation amount and the gift letter must note that the donation is a “bargain-sale.”



LTA Standards and Practices

STANDARD 9: ENSURING SOUND TRANSACTIONS

H. Purchasing Land or Conservation Easements

1. When buying land, conservation easements or other real property interests, obtain an independent appraisal by a qualified appraiser in advance of closing to support the purchase price

a. However, a letter of opinion from a qualified real estate professional may be obtained in the limited circumstances when:

i. A property has a very low economic value

ii. A full appraisal is not feasible before a public auction

iii. Or the amount paid is significantly below market value

2. In limited circumstances where acquiring land, conservation easements or other real property interests above the appraised value is warranted, contemporaneously document:

a. The justification for the purchase price

b. That there is no private inurement or impermissible private benefit



LTA Standards and Practices

STANDARD 10: TAX BENEFITS AND APPRAISALS

A. Landowner Notification

1. Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that:

a. The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements

b. The donor is responsible for any determination of the value of the donation

c. The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000

d. Prior to making the decision to sign IRS Form 8283, the land trust will request a copy of the completed appraisal

e. The land trust is not providing individualized legal or tax advice

2. Do not make assurances as to:

a. Whether a particular land or conservation easement donation will be deductible

b. What monetary value of the gift the IRS and/or state will accept

c. What the resulting tax benefits of the deduction or credit will be, if any



LTA Standards and Practices

STANDARD 10: TAX BENEFITS AND APPRAISALS, CONT'D

B. Legal Requirements: Land Trust Responsibilities

1. If the land trust holds federally tax-deductible conservation easements, it meets the requirements for a qualified organization under IRC §170(h)

2. Sign the Form 8283 only if the information in Section B, Part I, “Information on Donated Property,” is complete and is an accurate representation of the gift

a. Refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described

3. File IRS Form 8282 when conveying a donated real property interest within three years of the date the land trust received the property



LTA Standards and Practices

STANDARD 10: TAX BENEFITS AND APPRAISALS, CONT'D

C. Avoiding Fraudulent or Abusive Transactions

1. Review, on the land trust's own behalf, each transaction for consistency with federal and state income tax deduction or credit requirements
2. Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal
3. Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as:
 - a. Documenting that the land trust has shared those concerns with the donor
 - b. Seeking additional substantiation of value
 - c. Withdrawing from the transaction prior to closing
 - d. Or refusing to sign the Form 8283
4. When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS,
 - a. Require a copy of the appraisal prior to closing
 - b. Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory



LTA Standards and Practices

STANDARD 5: FUNDRAISING

B. Accountability to Donors

...

2. Provide timely written acknowledgment of all gifts, including land and conservation easements, in keeping with IRS charitable contribution substantiation requirements



Case Studies

HEADLANDS RESERVE V. CENTER FOR NATURAL LANDS MANAGEMENT

523 F.Supp.2d 1113 (2007)

- Development permit required conveyance of conservation easement or fee title to conservation organization
- Landowner negotiated sale of fee to Center for Natural Lands Management (CNLM)
- CNLM believed landowner's intention in preserving the property was based on governmentally-imposed mitigation obligations
- CNLM purchased land from landowner for \$11.9 million
- One year later, landowner presented CNLM with Form 8283 showing charitable deduction of \$115+ million
- CNLM refused to sign form; landowner sued; land trust won



Case Studies

HYPOTHETICAL #1

- Land trust obtained grant funding from public agency to purchase CE on property
- Agency-approved appraisal valued CE at \$1,000,000
- Closing did not occur until 2 years after date of appraisal
- Land trust paid landowner \$1,000,000 for CE
- On April 10 of following year, landowner presents land trust with Form 8283 showing donation amount of \$100,000 based on landowner's appraisal (\$1,100,000) dated as of the date of CE conveyance



Case Studies

HYPOTHETICAL #2

- Same facts, except:
- Closing occurs 6 months after date of agency-approved appraisal
- On April 10 of following year, landowner presents land trust with Form 8283 showing donation amount of \$1,000,000 based on landowner's appraisal (\$2,000,000) dated as of the date of CE conveyance



Case Studies

HYPOTHETICAL: RECOMMENDED ACTIONS

- Review appraisal, analyzing methodology, comps, current market, and conclusion
 - > Consider lapsed time between initial appraisal and owner's appraisal
 - 6 months?
 - 2 years?
 - > Consider monetary difference between initial appraisal and owner's appraisal
 - \$1 million?
 - \$100,000?
- Consider legal requirements and LTA Standards & Practices
- Consider hiring appraiser to perform review appraisal if questioning landowner's appraisal
- Consult attorney



Questions? _____

Ellen A. Fred

Traverse City, MI

510-290-0165

efred@conservationpartners.com

Misti M. Schmidt

Oakland, CA

510-214-2217

mschmidt@conservationpartners.com



Noncash Charitable Contributions

OMB No. 1545-0908

▶ **Attach to your tax return if you claimed a total deduction of over \$500 for all contributed property.**

Attachment Sequence No. **155**

▶ **Information about Form 8283 and its separate instructions is at www.irs.gov/form8283.**

Name(s) shown on your income tax return

Identifying number

Note. Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

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Part I Information on Donated Property—If you need more space, attach a statement.

1	(a) Name and address of the donee organization	(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description of donated property (For a vehicle, enter the year, make, model, and mileage. For securities, enter the company name and the number of shares.)
A		<input type="checkbox"/>	
B		<input type="checkbox"/>	
C		<input type="checkbox"/>	
D		<input type="checkbox"/>	
E		<input type="checkbox"/>	

Note. If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (e), (f), and (g).

	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
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Part II Partial Interests and Restricted Use Property—Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).

2a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ▶ _____
 If Part II applies to more than one property, attach a separate statement.

b Total amount claimed as a deduction for the property listed in Part I: **(1)** For this tax year ▶ _____
(2) For any prior tax years ▶ _____

c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above):

Name of charitable organization (donee)

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

d For tangible property, enter the place where the property is located or kept ▶ _____

e Name of any person, other than the donee organization, having actual possession of the property ▶ _____

3a	Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?	Yes	No
b	Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire?		
c	Is there a restriction limiting the donated property for a particular use?		

Name(s) shown on your income tax return

Identifying number

Section B. Donated Property Over \$5,000 (Except Publicly Traded Securities)—Complete this section for one item (or one group of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions of publicly traded securities reported in Section A). Provide a separate form for each property donated unless it is part of a group of similar items. An appraisal is generally required for property listed in Section B. See instructions.

Part I Information on Donated Property—To be completed by the taxpayer and/or the appraiser.

4 Check the box that describes the type of property donated:

- a** Art* (contribution of \$20,000 or more)
- b** Qualified Conservation Contribution
- c** Equipment
- d** Art* (contribution of less than \$20,000)
- e** Other Real Estate
- f** Securities
- g** Collectibles**
- h** Intellectual Property
- i** Vehicles
- j** Other

*Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note. In certain cases, you must attach a qualified appraisal of the property. See instructions.

5	(a) Description of donated property (if you need more space, attach a separate statement)	(b) If tangible property was donated, give a brief summary of the overall physical condition of the property at the time of the gift	(c) Appraised fair market value
A			
B			
C			
D			

(d) Date acquired by donor (mo., yr.)	(e) How acquired by donor	(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received	See instructions	
				(h) Amount claimed as a deduction	(i) Date of contribution
A					
B					
C					
D					

Part II Taxpayer (Donor) Statement—List each item included in Part I above that the appraisal identifies as having a value of \$500 or less. See instructions.

I declare that the following item(s) included in Part I above has to the best of my knowledge and belief an appraised value of not more than \$500 (per item). Enter identifying letter from Part I and describe the specific item. See instructions. ► _____

Signature of taxpayer (donor) ► _____

Date ► _____

Part III Declaration of Appraiser

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons. And, if regularly used by the donor, donee, or party to the transaction, I performed the majority of my appraisals during my tax year for other persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value. Furthermore, I understand that a false or fraudulent overstatement of the property value as described in the qualified appraisal or this Form 8283 may subject me to the penalty under section 6701(a) (aiding and abetting the understatement of tax liability). In addition, I understand that I may be subject to a penalty under section 6695A if I know, or reasonably should know, that my appraisal is to be used in connection with a return or claim for refund and a substantial or gross valuation misstatement results from my appraisal. I affirm that I have not been barred from presenting evidence or testimony by the Office of Professional Responsibility.

Sign

Here Signature ► _____

Title ► _____

Date ► _____

Business address (including room or suite no.)

Identifying number

City or town, state, and ZIP code

Part IV Donee Acknowledgment—To be completed by the charitable organization.

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date ► _____

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file **Form 8282**, Donee Information Return, with the IRS and give the donor a copy of that form. This acknowledgment does not represent agreement with the claimed fair market value.

Does the organization intend to use the property for an unrelated use? ► Yes No

Name of charitable organization (donee)	Employer identification number
Address (number, street, and room or suite no.)	City or town, state, and ZIP code
Authorized signature	Title Date

Note: *The draft you are looking for begins on the next page.*



Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information. **Do not file draft forms** and do **not** rely on draft forms, instructions, and publications for filing. We generally do not release draft forms until we believe we have incorporated all changes, but sometimes unexpected issues arise, or legislation is passed. Also, forms generally are subject to OMB approval before they can be officially released. Drafts of instructions and publications usually have some changes before their final release.

Early release drafts are at [IRS.gov/DraftForms](https://www.irs.gov/DraftForms) and may remain there even after the final release is posted at [IRS.gov/LatestForms](https://www.irs.gov/LatestForms). All information about all forms, instructions, and pubs is at [IRS.gov/Forms](https://www.irs.gov/Forms).

Almost every form and publication also has a page on IRS.gov with a friendly shortcut. For example, the Form 1040 page is at [IRS.gov/Form1040](https://www.irs.gov/Form1040); the Pub. 501 page is at [IRS.gov/Pub501](https://www.irs.gov/Pub501); the Form W-4 page is at [IRS.gov/W4](https://www.irs.gov/W4); and the Schedule A (Form 1040) page is at [IRS.gov/ScheduleA](https://www.irs.gov/ScheduleA). If typing in a link above instead of clicking on it, be sure to type the link into the address bar of your browser, not a Search box.

If you wish, you can submit comments about draft or final forms, instructions, or publications at [IRS.gov/FormsComments](https://www.irs.gov/FormsComments). We cannot respond to all comments due to the high volume we receive. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

Noncash Charitable Contributions

OMB No. 1545-0908

- ▶ Attach one or more Forms 8283 to your tax return if you claimed a total deduction of over \$500 for all contributed property.
- ▶ Go to www.irs.gov/Form8283 for instructions and the latest information.

Attachment Sequence No. **155**

Name(s) shown on your income tax return

Identifying number

Note: Figure the amount of your contribution deduction before completing this form. See your tax return instructions.

Section A. Donated Property of \$5,000 or Less and Publicly Traded Securities—List in this section **only** an item (or groups of similar items) for which you claimed a deduction of \$5,000 or less. Also list publicly traded securities and certain other property even if the deduction is more than \$5,000 (see instructions).

Part I Information on Donated Property—If you need more space, attach a statement.

1	(a) Name and address of the donee organization		(b) If donated property is a vehicle (see instructions), check the box. Also enter the vehicle identification number (unless Form 1098-C is attached).	(c) Description and condition of donated property (For a vehicle, enter the year, make, model, and mileage. For securities and other property, see instructions.)
A		<input type="checkbox"/>		
B		<input type="checkbox"/>		
C		<input type="checkbox"/>		
D		<input type="checkbox"/>		
E		<input type="checkbox"/>		

Note: If the amount you claimed as a deduction for an item is \$500 or less, you do not have to complete columns (e), (f), and (g).

A	(d) Date of the contribution	(e) Date acquired by donor (mo., yr.)	(f) How acquired by donor	(g) Donor's cost or adjusted basis	(h) Fair market value (see instructions)	(i) Method used to determine the fair market value
A						
B						
C						
D						
E						

Part II Partial Interests and Restricted Use Property—Complete lines 2a through 2e if you gave less than an entire interest in a property listed in Part I. Complete lines 3a through 3c if conditions were placed on a contribution listed in Part I; also attach the required statement (see instructions).

2a Enter the letter from Part I that identifies the property for which you gave less than an entire interest ▶ _____
 If Part II applies to more than one property, attach a separate statement.

b Total amount claimed as a deduction for the property listed in Part I: **(1)** For this tax year ▶ _____
(2) For any prior tax years ▶ _____

c Name and address of each organization to which any such contribution was made in a prior year (complete only if different from the donee organization above):

Name of charitable organization (donee)

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

d For tangible property, enter the place where the property is located or kept ▶ _____

e Name of any person, other than the donee organization, having actual possession of the property ▶ _____

	Yes	No
3a Is there a restriction, either temporary or permanent, on the donee's right to use or dispose of the donated property?	<input type="checkbox"/>	<input type="checkbox"/>
b Did you give to anyone (other than the donee organization or another organization participating with the donee organization in cooperative fundraising) the right to the income from the donated property or to the possession of the property, including the right to vote donated securities, to acquire the property by purchase or otherwise, or to designate the person having such income, possession, or right to acquire?	<input type="checkbox"/>	<input type="checkbox"/>
c Is there a restriction limiting the donated property for a particular use?	<input type="checkbox"/>	<input type="checkbox"/>

Name(s) shown on your income tax return

Identifying number

Section B. Donated Property Over \$5,000 (Except Publicly Traded Securities, Vehicles, Intellectual Property or Inventory reportable in Section A) — Complete this section for one item (or a group of similar items) for which you claimed a deduction of more than \$5,000 per item or group (except contributions reportable in Section A). Provide a separate form for each item donated unless it is part of a group of similar items. A qualified appraisal is generally required for items reportable in Section B. See instructions.

Part I Information on Donated Property

4 Check the box that describes the type of property donated.

- a Art* (contribution of \$20,000 or more) b Qualified Conservation Contribution c Equipment d Art* (contribution of less than \$20,000) e Other Real Estate f Securities g Collectibles** h Intellectual Property i Vehicles j Other

*Art includes paintings, sculptures, watercolors, prints, drawings, ceramics, antiques, decorative arts, textiles, carpets, silver, rare manuscripts, historical memorabilia, and other similar objects.

**Collectibles include coins, stamps, books, gems, jewelry, sports memorabilia, dolls, etc., but not art as defined above.

Note: In certain cases, you must attach a qualified appraisal of the property. See instructions.

Table with 5 main columns: (a) Description of donated property, (b) Physical condition summary, (c) Appraised fair market value, (d) Date acquired, (e) How acquired, (f) Donor's cost, (g) Bargain sales amount, (h) Amount claimed as deduction, (i) Date of contribution.

Part II Taxpayer (Donor) Statement — List each item included in Part I above that the appraisal identifies as having a value of \$500 or less. See instructions.

I declare that the following item(s) included in Part I above has to the best of my knowledge and belief an appraised value of not more than \$500 (per item). Enter identifying letter from Part I and describe the specific item. See instructions.

Signature of taxpayer (donor)

Date

Part III Declaration of Appraiser

I declare that I am not the donor, the donee, a party to the transaction in which the donor acquired the property, employed by, or related to any of the foregoing persons, or married to any person who is related to any of the foregoing persons.

Also, I declare that I perform appraisals on a regular basis; and that because of my qualifications as described in the appraisal, I am qualified to make appraisals of the type of property being valued. I certify that the appraisal fees were not based on a percentage of the appraised property value.

Sign Here

Signature

Title

Date

Business address (including room or suite no.)

Identifying number

City or town, state, and ZIP code

Part IV Donee Acknowledgment — To be completed by the charitable organization.

This charitable organization acknowledges that it is a qualified organization under section 170(c) and that it received the donated property as described in Section B, Part I, above on the following date

Furthermore, this organization affirms that in the event it sells, exchanges, or otherwise disposes of the property described in Section B, Part I (or any portion thereof) within 3 years after the date of receipt, it will file Form 8282, Donee Information Return, with the IRS and give the donor a copy of that form.

Does the organization intend to use the property for an unrelated use? Yes No

Name of charitable organization (donee)

Employer identification number

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

Authorized signature

Title

Date

Instructions for Form 8283

(Rev. December 2014)



Department of the Treasury
Internal Revenue Service

Noncash Charitable Contributions

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Future Developments

Information about any future developments affecting Form 8283 (such as legislation enacted after we release it) will be posted at www.irs.gov/form8283.

Purpose of Form

Use Form 8283 to report information about noncash charitable contributions.

Do not use Form 8283 to report out-of-pocket expenses for volunteer work or amounts you gave by check or credit card. Treat these items as cash contributions. Also, do not use Form 8283 to figure your charitable contribution deduction. For details on how to figure the amount of the deduction, see your tax return instructions and Pub. 526, Charitable Contributions.

Who Must File

You must file Form 8283 if the amount of your deduction for all noncash gifts is more than \$500. For this purpose, “amount of your deduction” means your deduction before applying any income limits that could result in a carryover. The carryover rules are explained in Pub. 526. Make any required reductions to fair market value (FMV) before you determine if you must file Form 8283. See [Fair Market Value \(FMV\)](#), later.

Form 8283 is filed by individuals, partnerships, and corporations.

C corporations. C corporations, other than personal service corporations and closely held corporations, must file Form 8283 only if the amount claimed as a deduction is more than \$5,000.

Partnerships and S corporations. A partnership or S corporation that claims a deduction for noncash gifts of more than \$500 must file Form 8283 with Form 1065, 1065-B, or 1120S.

If the total deduction for any item or group of similar items is more than \$5,000, the partnership or S corporation must complete Section B of Form 8283 even if the amount allocated to each partner or shareholder is \$5,000 or less.

The partnership or S corporation must give a completed copy of Form 8283 to each partner or shareholder receiving an allocation of the contribution deduction shown in Section B of the Form 8283 of the partnership or S corporation.

Partners and shareholders. The partnership or S corporation will provide information about your share of the contribution on your Schedule K-1 (Form 1065 or

1120S). If you received a copy of Form 8283 from the partnership or S corporation, attach a copy to your tax return. Use the amount shown on your Schedule K-1, not the amount shown on the Form 8283, to figure your deduction.

If the partnership or S corporation is not required to give you a copy of its Form 8283, combine the amount of noncash contributions shown on your Schedule K-1 with your other noncash contributions to see if you must file Form 8283. If you need to file Form 8283, you do not have to complete all the information requested in Section A for your share of the partnership's or S corporation's contributions. Complete only column (h) of line 1 with your share of the contribution and enter “From Schedule K-1 (Form 1065 or 1120S)” across columns (d)–(g).

When To File

File Form 8283 with your tax return for the year you contribute the property and first claim a deduction.

Which Sections To Complete

Form 8283 has two sections. If you must file Form 8283, you may have to complete Section A, Section B, or both, depending on the type of property donated and the amount claimed as a deduction.

Use Section A to report donations of property for which you claimed a deduction of \$5,000 or less per item or group of similar items (defined later). Also use Section A to report donations of publicly traded securities. Use Section B to report donations of property for which you claimed a deduction of more than \$5,000 per item or group of similar items.

In figuring whether your deduction for a group of similar items was more than \$5,000, consider all items in the group, even if items in the group were donated to more than one donee organization. However, you must file a separate Form 8283, Section B, for each donee organization.

Example. You claimed a deduction of \$2,000 for books you gave to College A, \$2,500 for books you gave to College B, and \$900 for books you gave to College C. You must report these donations in Section B because the total deduction was more than \$5,000. You must file a separate Form 8283, Section B, for the donation to each of the three colleges.

Section A. Include in Section A only the following items.

1. Items (or groups of [similar items](#) as defined later) for which you claimed a deduction of \$5,000 or less per item (or group of similar items).
2. The following publicly traded securities even if the deduction is more than \$5,000:
 - a. Securities listed on an exchange in which quotations are published daily,

b. Securities regularly traded in national or regional over-the-counter markets for which published quotations are available, or

c. Securities that are shares of a mutual fund for which quotations are published on a daily basis in a newspaper of general circulation throughout the United States.

Section B. Include in Section B only items (or groups of similar items) for which you claimed a deduction of more than \$5,000. Do not include publicly traded securities reportable in Section A. With certain exceptions, items reportable in Section B require a written appraisal by a qualified appraiser. You must file a separate Form 8283, Section B, for each donee organization and each item of property (or group of similar items).

Similar Items of Property

Similar items of property are items of the same generic category or type, such as coin collections, paintings, books, clothing, jewelry, nonpublicly traded stock, land, or buildings.

Example. You claimed a deduction of \$400 for clothing, \$7,000 for publicly traded securities (quotations published daily), and \$6,000 for a collection of 15 books (\$400 each). Report the clothing and securities in Section A and the books (a group of similar items) in Section B.

Special Rule for Certain C Corporations

A special rule applies for deductions taken by certain C corporations under section 170(e)(3) or (4) for certain contributions of inventory or scientific equipment.

To determine if you must file Form 8283 or which section to complete, use the difference between the amount you claimed as a deduction and the amount you would have claimed as cost of goods sold (COGS) had you sold the property instead. This rule is only for purposes of Form 8283. It does not change the amount or method of figuring your contribution deduction.

If you do not have to file Form 8283 because of this rule, you must attach a statement to your tax return (similar to the one in the example below). Also, attach a statement if you must complete Section A, instead of Section B, because of this rule.

Example. You donated clothing from your inventory for the care of the needy. The clothing cost you \$5,000 and your claimed charitable deduction is \$8,000. Complete Section A instead of Section B because the difference between the amount you claimed as a charitable deduction and the amount that would have been your COGS deduction is \$3,000 (\$8,000 – \$5,000). Attach a statement to Form 8283 similar to the following:

Form 8283—Inventory

Contribution deduction	\$8,000
COGS (if sold, not donated)	– 5,000
For Form 8283 filing purposes	=\$3,000

Fair Market Value (FMV)

Although the amount of your deduction determines if you have to file Form 8283, you also need to have information about the FMV of your contribution to complete the form.

FMV is the price a willing, knowledgeable buyer would pay a willing, knowledgeable seller when neither has to buy or sell.

You may not always be able to deduct the FMV of your contribution. Depending on the type of property donated, you may have to reduce the FMV to figure the deductible amount, as explained next.

Reductions to FMV. The amount of the reduction (if any) depends on whether the property is ordinary income property or capital gain property. Attach a statement to your tax return showing how you figured the reduction.

Ordinary income property. Ordinary income property is property that would result in ordinary income or short-term capital gain if it were sold at its FMV on the date it was contributed. Examples of ordinary income property are inventory, works of art created by the donor, and capital assets held for 1 year or less. The deduction for a gift of ordinary income property is limited to the FMV minus the amount that would be ordinary income or short-term capital gain if the property were sold.

Capital gain property. Capital gain property is property that would result in long-term capital gain if it were sold at its FMV on the date it was contributed. For purposes of figuring your charitable contribution, capital gain property also includes certain real property and depreciable property used in your trade or business and, generally, held more than 1 year. However, to the extent of any gain from the property that must be recaptured as ordinary income under section 1245, section 1250, or any other Code provision, the property is treated as ordinary income property.

You usually may deduct gifts of capital gain property at their FMV. However, you must reduce the FMV by the amount of any appreciation if any of the following apply.

- The capital gain property is contributed to certain private nonoperating foundations. This rule does not apply to qualified appreciated stock.
- You choose the 50% limit instead of the special 30% limit for capital gain property.
- The contributed property is [intellectual property](#) (as defined later).
- The contributed property is certain taxidermy property.
- The contributed property is tangible personal property that is put to an unrelated use (as defined in Pub. 526) by the charity.
- The contributed property is certain tangible personal property with a claimed value of more than \$5,000 and is sold, exchanged, or otherwise disposed of by the charity during the year in which you made the contribution, and the charity has not made the required certification of exempt use (such as on Form 8282, Part IV).

Qualified conservation contribution. A qualified conservation contribution is a donation of a qualified real property interest, such as an easement, exclusively for certain conservation purposes. The donee must be a qualified organization as defined in section 170(h)(3) and must have the resources to be able to monitor and

enforce the conservation easement or other conservation restrictions. To enable the organization to do this, you must give it documents, such as maps and photographs, that establish the condition of the property at the time of the gift.

If the donation has no material effect on the real property's FMV, or enhances rather than reduces its FMV, no deduction is allowable. For example, little or no deduction may be allowed if the property's use is already restricted, such as by zoning or other law or contract, and the donation does not further restrict how the property can be used.

The FMV of a conservation easement cannot be determined by applying a standard percentage to the FMV of the underlying property. The best evidence of the FMV of an easement is the sales price of a comparable easement. If there are no comparable sales, the before and after method may be used.

Attach a statement that:

- Identifies the conservation purposes furthered by your donation,
- Shows, if before and after valuation is used, the FMV of the underlying property before and after the gift,
- States whether you made the donation in order to get a permit or other approval from a local or other governing authority and whether the donation was required by a contract, and
- If you or a related person has any interest in other property nearby, describes that interest.

If an appraisal is required, it must include the method of valuation (such as the income approach or the market data approach) and the specific basis for the valuation (such as specific comparable sales transactions).

Easements on buildings in historic districts. You cannot claim a deduction for this type of contribution unless the contributed interest includes restrictions preserving the entire exterior of the building (including front, sides, rear, and height) and prohibiting any change to the exterior of the building inconsistent with its historical character. If you claim a deduction for this type of contribution, you must include with your return:

- A signed copy of a qualified appraisal,
- Photographs of the entire exterior of the building, and
- A description of all restrictions on the development of the building. The description of the restrictions can be made by attaching a copy of the easement deed.

If you donate this type of property and claim a deduction of more than \$10,000, your deduction will not be allowed unless you pay a \$500 filing fee. See Form 8283-V and its instructions.

For more information about qualified conservation contributions, see Pub. 526 and Pub. 561, Determining the Value of Donated Property. Also see section 170(h), Regulations section 1.170A-14, and Notice 2004-41. Notice 2004-41, 2004-28 I.R.B. 31, is available at www.irs.gov/irb/2004-28_IRB/ar09.html.

Intellectual property. The FMV of intellectual property must be reduced to figure the amount of your deduction, as explained earlier. Intellectual property means a patent, copyright (other than a copyright described in section 1221(a)(3) or 1231(b)(1)(C)), trademark, trade name,

trade secret, know-how, software (other than software described in section 197(e)(3)(A)(i)), or similar property, or applications or registrations of such property.

However, you may be able to claim additional charitable contribution deductions in the year of the contribution and later years based on a percentage of the donee's net income, if any, from the property. The amount of the donee's net income from the property will be reported to you on Form 8899, Notice of Income From Donated Intellectual Property. See Pub. 526 for details.

Clothing and household items. The FMV of used household items and clothing is usually much lower than when new. A good measure of value might be the price that buyers of these used items actually pay in consignment or thrift shops. You can also review classified ads in the newspaper or on the Internet to see what similar products sell for.

You cannot claim a deduction for clothing or household items you donate unless the clothing or household items are in good used condition or better. However, you can claim a deduction for a contribution of an item of clothing or household item that is not in good used condition or better if you deduct more than \$500 for it and include a qualified appraisal of it with your return.

Qualified Vehicle Donations

A qualified vehicle is any motor vehicle manufactured primarily for use on public streets, roads, and highways; a boat; or an airplane. However, property held by the donor primarily for sale to customers, such as inventory of a car dealer, is not a qualified vehicle.

If you donate a qualified vehicle with a claimed value of more than \$500, you cannot claim a deduction unless you attach to your return a copy of the contemporaneous written acknowledgment you received from the donee organization. The donee organization may use Copy B of Form 1098-C as the acknowledgment. An acknowledgment is considered contemporaneous if the donee organization furnishes it to you no later than 30 days after the:

- Date of the sale, if the donee organization sold the vehicle in an arm's length transaction to an unrelated party, or
- Date of the contribution, if the donee organization will not sell the vehicle before completion of a material improvement or significant intervening use, or the donee organization will give or sell the vehicle to a needy individual for a price significantly below FMV to directly further the organization's charitable purpose of relieving the poor and distressed or underprivileged who need a means of transportation.

For a donated vehicle with a claimed value of more than \$500, you can deduct the smaller of the vehicle's FMV on the date of the contribution or the gross proceeds received from the sale of the vehicle, unless an exception applies as explained below. Form 1098-C (or other acknowledgment) will show the gross proceeds from the sale if no exception applies. If the FMV of the vehicle was more than your cost or other basis, you may have to

reduce the FMV to figure the deductible amount, as described under [Reductions to FMV](#), earlier.

If any of the following exceptions apply, your deduction is not limited to the gross proceeds received from the sale. Instead, you generally can deduct the vehicle's FMV on the date of the contribution if the donee organization:

- Makes a significant intervening use of the vehicle before transferring it,
- Makes a material improvement to the vehicle before transferring it, or
- Gives or sells the vehicle to a needy individual for a price significantly below FMV to directly further the organization's charitable purpose of relieving the poor and distressed or underprivileged who need a means of transportation.

Form 1098-C (or other acknowledgment) will show if any of these exceptions apply. If the FMV of the vehicle was more than your cost or other basis, you may have to reduce the FMV to figure the deductible amount, as described under [Reductions to FMV](#), earlier.

Determining FMV. A used car guide may be a good starting point for finding the FMV of your vehicle. These guides, published by commercial firms and trade organizations, contain vehicle sale prices for recent model years. The guides are sometimes available from public libraries or from a loan officer at a bank, credit union, or finance company. You can also find used car pricing information on the Internet.

An acceptable measure of the FMV of a donated vehicle is an amount not in excess of the price listed in a used vehicle pricing guide for a private party sale of a similar vehicle. However, the FMV may be less than that amount if the vehicle has engine trouble, body damage, high mileage, or any type of excessive wear. The FMV of a donated vehicle is the same as the price listed in a used vehicle pricing guide for a private party sale only if the guide lists a sales price for a vehicle that is the same make, model, and year, sold in the same area, in the same condition, with the same or similar options or accessories, and with the same or similar warranties as the donated vehicle.

Example. Neal donates his car, which he bought new in 2008 for \$20,000. A used vehicle pricing guide shows the FMV for his car is \$9,000. Neal receives a Form 1098-C showing the car was sold for \$7,000. Neal can deduct \$7,000 and must attach Form 1098-C to his return.

More information. For details, see Pub. 526 or Notice 2005-44. Notice 2005-44, 2005-25 I.R.B. 1287, is available at www.irs.gov/irb/2005-25_IRB/ar09.html.

Additional Information

You may want to see Pub. 526 and Pub. 561. If you contributed depreciable property, see Pub. 544, Sales and Other Disposition of Assets.

Specific Instructions

Identifying number. Individuals must enter their social security number. All other filers should enter their employer identification number.

Section A

Part I, Information on Donated Property

Line 1

Column (b). Check the box if the donated property is a qualified vehicle (defined earlier). If you are not attaching Form 1098-C (or other acknowledgment) to your return, enter the vehicle identification number (VIN) in the spaces provided below the checkbox.

You can find the VIN on the vehicle registration, the title, the proof of insurance, or the vehicle itself. Generally, the VIN is 17 characters made up of numbers and letters.

If the VIN has fewer than 17 characters, enter a zero in each of the remaining entry spaces to the left of the VIN. For example, if the VIN is "555555X555555," enter "0000555555X555555."

Column (c). Describe the property in sufficient detail. The greater the value of the property, the more detail you must provide. For example, a personal computer should be described in more detail than pots and pans.

If the donated property is a vehicle, give the year, make, model, condition, and mileage at the time of the donation (for example, "1963 Studebaker Lark, fair condition, 135,000 miles") regardless of whether you attach a Form 1098-C or other acknowledgment. If you do not know the actual mileage, use a good faith estimate based on car repair records or similar evidence.

For securities, include the following:

- Company name,
- Number of shares,
- Kind of security,
- Whether a share of a mutual fund, and
- Whether regularly traded on a stock exchange or in an over-the-counter market.

Column (d). Enter the date you contributed the property. If you made contributions on various dates, enter each contribution and its date on a separate row.

Note. If the amount you claimed as a deduction for the item is \$500 or less, you do not have to complete columns (e), (f), and (g).

Column (e). Enter the approximate date you acquired the property. If it was created, produced, or manufactured by or for you, enter the date it was substantially completed.

If you are donating a group of similar items and you acquired the items on various dates (but have held all the items for at least 12 months), you can enter "Various."

Column (f). State how you acquired the property. This could be by purchase, gift, inheritance, or exchange.

Column (g). Do not complete this column for property held at least 12 months or publicly traded securities. Keep records on cost or other basis.

Note. If you have reasonable cause for not providing the information in columns (e) and (g), attach an explanation.

Column (h). Enter the FMV of the property on the date you donated it. You must attach a statement if:

- You were required to reduce the FMV to figure the amount of your deduction, or
- You gave a qualified conservation contribution for which you claimed a deduction of \$5,000 or less. See [Fair Market Value \(FMV\)](#), earlier, for the type of statement to attach.

Column (i). Enter the method(s) you used to determine the FMV.

Examples of entries to make include “Appraisal,” “Thrift shop value” (for clothing or household items), “Catalog” (for stamp or coin collections), or “Comparable sales” (for real estate and other kinds of assets). See Pub. 561.

Part II, Partial Interests and Restricted Use Property

If Part II applies to more than one property, attach a separate statement. Give the required information for each property separately. Identify which property listed in Part I the information relates to.

Lines 2a Through 2e

Complete lines 2a–2e only if you contributed less than the entire interest in the donated property during the tax year and claimed a deduction for it of \$5,000 or less. On line 2b, enter the amount claimed as a deduction for this tax year and in any prior tax years for gifts of a partial interest in the same property.

Lines 3a Through 3c

Complete lines 3a–3c only if you attached restrictions to the right to the income, use, or disposition of the donated property. An example of a “restricted use” is furniture that you gave only to be used in the reading room of an organization’s library. Attach a statement explaining (1) the terms of any agreement or understanding regarding the restriction, and (2) whether the property is designated for a particular use.

Section B

Include in Section B only items (or groups of similar items) for which you claimed a deduction of more than \$5,000. File a separate Form 8283, Section B, for:

- Each donee, and
- Each item of property, except for an item that is part of a group of similar items.

Part I, Information on Donated Property

You must get a written appraisal from a qualified appraiser before completing Part I. However, see [Exceptions](#), below.

Generally, you do not need to attach the appraisals to your return but you should keep them for your records. But see [Art valued at \\$20,000 or more](#), [Clothing and household items not in good used condition](#), [Easements on buildings in historic districts](#), and [Deduction of more than \\$500,000](#), later.

Exceptions. You do not need a written appraisal if the property is:

1. Nonpublicly traded stock of \$10,000 or less,
2. A vehicle (including a car, boat, or airplane) if your deduction for the vehicle is limited to the gross proceeds from its sale,
3. Intellectual property (as defined earlier),
4. Certain securities considered to have market quotations readily available (see Regulations section 1.170A-13(c)(7)(xi)(B)),
5. Inventory and other property donated by a corporation that are “qualified contributions” for the care of the ill, the needy, or infants, within the meaning of section 170(e)(3)(A), or
6. Stock in trade, inventory, or property held primarily for sale to customers in the ordinary course of your trade or business.

Although a written appraisal is not required for the types of property just listed, you must provide certain information in Part I of Section B (see [Line 5](#)) and have the donee organization complete Part IV.

Art valued at \$20,000 or more. If your total deduction for art is \$20,000 or more, you must attach a complete copy of the signed appraisal. For individual objects valued at \$20,000 or more, a photograph must be provided upon request. The photograph must be of sufficient quality and size (preferably an 8 x 10 inch color photograph or a color transparency no smaller than 4 x 5 inches) to fully show the object.

Clothing and household items not in good used condition. You must include with your return a qualified appraisal of any single item of clothing or any household item that is not in good used condition or better for which you deduct more than \$500. The appraisal is required whether the donation is reportable in Section A or Section B. See [Clothing and household items](#), earlier.

Easements on buildings in historic districts. If you claim a deduction for a qualified conservation contribution of an easement on the exterior of a building in a registered historic district, you must include a signed copy of a qualified appraisal, photographs, and certain other information with your return. See [Easements on buildings in historic districts](#), under [Fair Market Value \(FMV\)](#), earlier.

Deduction of more than \$500,000. If you claim a deduction of more than \$500,000 for an item (or group of similar items) donated to one or more donees, you must attach a signed copy of a qualified appraisal of the property to your return unless an exception applies. See [Exceptions](#), earlier.

Appraisal Requirements

The appraisal must be made by a qualified appraiser (defined later) in accordance with generally accepted appraisal standards. It also must meet the relevant requirements of Regulations section 1.170A-13(c)(3) and Notice 2006-96, 2006-46 I.R.B. 902, is available at www.irs.gov/irb/2006-46_IRB/ar13.html.

The appraisal must be made not earlier than 60 days before the date you contribute the property. You must receive the appraisal before the due date (including extensions) of the return on which you first claim a deduction for the property. For a deduction first claimed on an amended return, the appraisal must be received before the date the amended return was filed.

A separate qualified appraisal and a separate Form 8283 are required for each item of property except for an item that is part of a group of similar items. Only one appraisal is required for a group of similar items contributed in the same tax year, if it includes all the required information for each item. The appraiser may group similar items with a collective value appraised at \$100 or less.

If you gave similar items to more than one donee for which you claimed a total deduction of more than \$5,000, you must attach a separate form for each donee.

Example. You claimed a deduction of \$2,000 for books given to College A, \$2,500 for books given to College B, and \$900 for books given to a public library. You must attach a separate Form 8283 for each donee.

Line 4

Check only one box on line 4 of each Form 8283. Complete as many separate Forms 8283 as necessary so that only one box has to be checked on line 4 of each Form 8283.

Vehicles. If you check box “i” to indicate the donated property is a vehicle, you must attach to your return a copy of Form 1098-C (or other acknowledgment) you received from the donee organization.

Line 5

You must complete at least column (a) of line 5 (and column (b) if applicable) before submitting Form 8283 to the donee. You may then complete the remaining columns.

Column (a). Provide a detailed description so a person unfamiliar with the property could be sure the property that was appraised is the property that was contributed. The greater the value of the property, the more detail you must provide.

For a qualified conservation contribution, describe the easement terms in detail, or attach a copy of the easement deed.

A description of donated securities should include the company name and number of shares donated.

Column (c). Include the FMV from the appraisal. If you were not required to get an appraisal, include the FMV you determine to be correct.

Column (d). If you are donating a group of similar items and you acquired the items on various dates (but have held all the items for at least 12 months), you can enter “Various.”

Columns (d)–(f). If you have reasonable cause for not providing the information in columns (d), (e), or (f), attach an explanation so your deduction will not automatically be disallowed.

For a qualified conservation contribution, indicate whether you are providing information about the underlying property or about the easement.

Column (g). A bargain sale is a transfer of property that is in part a sale or exchange and in part a contribution. Enter the amount received for bargain sales.

Column (h). Complete column (h) only if you were not required to get an appraisal, as explained earlier.

Column (i). Complete column (i) only if you were not required to get an appraisal, as explained earlier.

Part II, Taxpayer (Donor) Statement

Complete Section B, Part II, for each item included in Section B, Part I, that has an appraised value of \$500 or less. Because you do not have to show the value of these items in Section B, Part I, of the donee's copy of Form 8283, clearly identify them for the donee in Section B, Part II. Then, the donee does not have to file Form 8282, Donee Information Return, for the items valued at \$500 or less. See the [Note](#) under *Part IV, Donee Acknowledgment*, for more details about filing Form 8282.

The amount of information you give in Section B, Part II, depends on the description of the donated property you enter in Section B, Part I. If you show a single item as “Property A” in Part I and that item is appraised at \$500 or less, then the entry “Property A” in Part II is enough. However, if “Property A” consists of several items and the total appraised value is over \$500, list in Part II any item(s) you gave that is valued at \$500 or less.

All shares of nonpublicly traded stock or items in a set are considered one item. For example, a book collection by the same author, components of a stereo system, or six place settings of a pattern of silverware are one item for the \$500 test.

Example. You donated books valued at \$6,000. The appraisal states that one of the items, a collection of books by author “X,” is worth \$400. On the Form 8283 that you are required to give the donee, you decide not to show the appraised value of all of the books. But you also do not want the donee to have to file Form 8282 if the collection of books is sold within 3 years after the donation. If your description of Property A on line 5 includes all the books, then specify in Part II the “collection of books by X included in Property A.” But if your Property A description is “collection of books by X,” the only required entry in Part II is “Property A.”

In the above example, you may have chosen instead to give a completed copy of Form 8283 to the donee. The

donee would then be aware of the value. If you include all the books as Property A on line 5, and enter \$6,000 in column (c), you may still want to describe the specific collection in Part II so the donee can sell it without filing Form 8282.

Part III, Declaration of Appraiser

If you had to get an appraisal, you must get it from a qualified appraiser. A qualified appraiser is an individual who meets all the following requirements.

1. The individual either:
 - a. Has earned an appraisal designation from a recognized professional appraiser organization for demonstrated competency in valuing the type of property being appraised, or
 - b. Has met certain minimum education and experience requirements.
2. The individual regularly prepares appraisals for which he or she is paid.
3. The individual demonstrates verifiable education and experience in valuing the type of property being appraised. To do this, the appraiser can make a declaration that, because of his or her background, experience, education, and membership in professional associations, he or she is qualified to make appraisals of the type of property being valued. The declaration must be part of the appraisal. However, if the appraisal was already completed without this declaration, the declaration can be made separately and associated with the appraisal.
4. The individual has not been prohibited from practicing before the IRS under section 330(c) of title 31 of the United States Code at any time during the 3-year period ending on the date of the appraisal.

In addition, the appraiser must complete Part III of Form 8283. See section 170(f)(11)(E), Notice 2006-96, and Regulations section 1.170A-13(c)(5) for details.

If you use appraisals by more than one appraiser, or if two or more appraisers contribute to a single appraisal, all the appraisers must sign the appraisal and Part III of Form 8283.

Persons who cannot be qualified appraisers are listed in the Declaration of Appraiser. Generally, a party to the transaction in which you acquired the property being appraised will not qualify to sign the declaration. But a person who sold, exchanged, or gave the property to you may sign the declaration if the property was donated within 2 months of the date you acquired it and the property's appraised value did not exceed its acquisition price.

An appraiser may not be considered qualified if you had knowledge of facts that would cause a reasonable person to expect the appraiser to falsely overstate the value of the property. An example of this is an agreement between you and the appraiser about the property value when you know that the appraised amount exceeds the actual FMV.

Usually, appraisal fees cannot be based on a percentage of the appraised value unless the fees were

paid to certain not-for-profit associations. See Regulations section 1.170A-13(c)(6)(ii).

Identifying number. The appraiser's taxpayer identification number (social security number or employer identification number) must be entered in Part III.

Part IV, Donee Acknowledgment

The donee organization that received the property described in Part I of Section B must complete Part IV. Before submitting page 2 of Form 8283 to the donee for acknowledgment, complete at least your name, identifying number, and description of the donated property (line 5, column (a)). If tangible property is donated, also describe its physical condition (line 5, column (b)) at the time of the gift. Complete Part II, if applicable, before submitting the form to the donee. See the instructions for Part II.

The person acknowledging the gift must be an official authorized to sign the tax returns of the organization, or a person specifically designated to sign Form 8283. When you ask the donee to fill out Part IV, you should also ask the donee to provide you with a contemporaneous written acknowledgment required by section 170(f)(8).

After completing Part IV, the organization must return Form 8283 to you, the donor. You must give a copy of Section B of this form to the donee organization. You may then complete any remaining information required in Part I. Also, the qualified appraiser can complete Part III at this time.

In some cases, it may be impossible to get the donee's signature on Form 8283. The deduction will not be disallowed for that reason if you attach a detailed explanation of why it was impossible.

Note. If it is reasonable to expect that donated tangible personal property will be used for a purpose unrelated to the purpose or function of the donee, the donee should check the "Yes" box in Part IV. In this situation, your deduction will be limited. In addition, if the donee (or a successor donee) organization disposes of the property within 3 years after the date the original donee received it, the organization must file Form 8282, Donee Information Return, with the IRS and send a copy to the donor. (As a result of the sale by the donee, the donor's contribution deduction may be limited or part of the prior year contribution deduction may have to be recaptured. See Pub. 526.) An exception applies to items having a value of \$500 or less if the donor identified the items and signed the statement in Section B, Part II, of Form 8283. See the instructions for Part II.

Failure To File Form 8283

Your deduction generally will be disallowed if you fail to:

- Attach a required Form 8283 to your return,
 - Get a required appraisal and complete Section B of Form 8283, or
 - Attach to your return a required appraisal of clothing or household items not in good used condition, an easement on a building in a registered historic district, or property for which you claimed a deduction of more than \$500,000.
- However, your deduction will not be disallowed if your failure was due to reasonable cause and not willful neglect

or was due to a good-faith omission. If the IRS asks you to submit the form, you have 90 days to send a completed Section B of Form 8283 before your deduction is disallowed. However, your deduction will not be allowed if you did not get a required appraisal within the required period.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for individual taxpayers filing this form is approved under OMB control number 1545-0074 and is included in the estimates shown in the instructions for their individual income tax return. The estimated burden for all other taxpayers who file this form is shown below.

Recordkeeping	19 min.
Learning about the law or the form	29 min.
Preparing the form	1 hr 4 min.
Copying, assembling, and sending the form to the IRS	34 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.

Sample IRS Form 8283
Conservation Easement Narrative

CHARITABLE CONTRIBUTION OF CONSERVATION EASEMENT

Ima Landsaver [Name of Taxpayer]

Tax ID: 123-45-6789

Pursuant to Internal Revenue Code section 170(h), the taxpayer, Ima Landsaver (“**Donor**”), donated, through a bargain sale, a qualified conservation contribution (“**Conservation Easement**” or “**Easement**”) on approximately 540 acres (“**Property**”) of Donor’s property to the California Agricultural Land Trust (“**Donee**”), a California nonprofit public benefit corporation and a “qualified organization” pursuant to Internal Revenue Code section 170(h)(3), on December 28, 2017, recorded as Document Number 2016-00123456 in the Official Records of the County of Rolling Hills, State of California. Donee has represented that it possesses the resources and commitment to monitor and enforce the subject Conservation Easement in perpetuity.

The subject Property is located 235 Lovely Creek Road, Green Valley City, California, and is more particularly described on Exhibit A of the Conservation Easement document attached hereto as Attachment 1. The condition of the Property at the time of the donation was documented and established through extensive baseline documentation (“**Baseline Documentation Report**”) acknowledged by the parties to be an accurate representation of the condition of the Property as of the time of the donation.

The Property possesses significant scenic, open-space, agricultural, wildlife habitat, and watershed values (collectively, the “**Conservation Values**”) of great importance to Donor, Donee, the people of Rolling Hills County, and the people of the State of California.

In particular, the Property contains extensive frontage along Lovely Creek, and, therefore, the Conservation Values of the Property include its significant wildlife habitat, watershed, and riparian values, including habitat for central California coast (“CCC”) coho salmon (*Oncorhynchus kisutch*), central California coast steelhead (*Oncorhynchus mykiss irdeus*), California red-legged frog (*Rana draytonii*), and northern spotted owl (*Strix occidentalis*). The CCC coho salmon spawns in Lovely Creek and its tributaries on the Property. Lovely Creek also provides habitat and spawning grounds for CCC steelhead. Approximately fifteen percent of the Lovely Creek watershed, and 30 percent of main-stem aquatic habitat known to support coho salmon and steelhead, is in private ownership. Protection of habitat on private lands is critical for the success of salmonids in the Lovely Creek watershed. The Property supports two California red-legged frog habitats: fresh emergent wetlands and wetland-riparian. The Property is located in the Rolling Hills Core Area for California red-legged frog recovery actions, according to the 2002 Recovery Plan for the California Red-legged Frog.

The Property also contains significant forest values, including the coastal conifer forest, coastal redwood forest, and mixed broadleaf-evergreen forest on the Property, which support nesting pairs of northern spotted owl. Two separate nest sites that may represent a single pair or two different territories have been confirmed on the Property. Numerous other species reside within the forested portions of the Property.

Further, the Conservation Values of the Property include the scenic and open-space qualities of its forested and pastoral landscapes as the Property is adjacent to and visible from several public roads, including the heavily traveled California State Highway 1 and Lovely Creek Road. In addition, the Property is adjacent to and visible from the Rolling Waves National Seashore, a 71,028-acre park preserve located in Rolling Hills County and maintained by the US National Park Service as a nationally important nature preserve heavily utilized by the public.

The protection of the Property is also pursuant to and consistent with clearly delineated public conservation policy, namely, the State of California’s and County of Rolling Hills’s public policies favoring the preservation of agricultural lands and their resources. The state’s public policies are set forth in a number of statutes of which the following are only a sample: California Civil Code Section 815 states that: “The legislature finds and declares that

Ima Landsaver [Name of Taxpayer]
Tax ID: 123-45-6789

the preservation of land in its natural, scenic, agricultural, historical, forested or open-space condition is among the most important environmental assets of California." California Government Code Section 51220 [Williamson Act] states, among other findings as to the significant public benefit of preserving agricultural lands, "that the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation," "that agricultural lands have a definite public value as open space," and "that the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest." California Food and Agriculture Code Section 821 states that one of the major principles of the State's agricultural policy is "to sustain the long-term productivity of the State's farms by conserving and protecting the soil, water, and air, which are agriculture's basic resources."

The County of Rolling Hills also supports the protection and preservation of agricultural land uses, agricultural land, and open land through goals and implementing programs as expressed in the Natural Systems & Agriculture Element of the Rolling Hills Countywide Plan adopted November 6, 2007, including, inter alia, the preservation of agricultural lands and resources by agricultural conservation easements (Goal AG-1 – Policy AG-1.2 and Implementing Programs AG-1.d and AG-1.1). Further, Rolling Hills County has enacted a Right-to-Farm ordinance, Rolling Hills County Code Chapter 23.03, the policy of which is to "conserve, protect, enhance and encourage agricultural operations within the county" and upholding the Right-to-Farm ordinance is one of the Implementing Programs of the Goals of the Countywide Plan (AG-1.j). (See also Cal. Civ. Code section 3482.5.)

Finally, the Conservation Values of the Property include the capacity of the forest, grassland, and soils to store atmospheric carbon as a means to mitigate global warming, which is recognized as being a significant public benefit by the 1993 United Nations Framework Convention on Climate Change and the Federal Energy Policy Act of 1992, Sections 1605(a) and 9(b), and the United States Climate Challenge Program.

Accordingly, pursuant to Treasury Regulations section 1.170A-14(d)(ii) and (iii), the qualified conservation contribution furthers the following conservation purposes ("**Conservation Purposes**") for the reasons set forth above and more fully described in the Conservation Easement and Baseline Documentation Report: (1) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of paragraph (d)(3) of that section; and (2) the preservation of certain open space (including farmland and forest land) within the meaning of paragraph (d)(4) of that section. In particular, the Property's open space is preserved (A) pursuant to a clearly delineated federal, state, or local governmental conservation policy and will yield a significant public benefit; and (B) for the scenic enjoyment of the general public and will yield a significant public benefit.

The Conservation Easement will prevent subdivision of the Property and will preserve the Property's significant habitat and other Conservation Values, including providing riparian protections on Lovely Creek, in perpetuity by prohibiting any use of the Property that will impair, degrade, or damage the Conservation Values. The Conservation Easement contains extensive prohibitions and restrictions designed to ensure that the Property will remain predominantly in its natural, scenic, forested, open-space, and agricultural condition in perpetuity.

According to the qualified appraisal, attached hereto as Attachment 2, the Conservation Easement is valued as follows:

The value of Property before the Easement:	\$9,000,000
The value of the Property after the Easement:	\$6,000,000
The value of the Conservation Easement:	\$3,000,000
Bargain sale portion of Easement conveyance:	\$1,000,000
Total charitable contribution:	\$2,000,000

Ima Landsaver [Name of Taxpayer]
Tax ID: 123-45-6789

Donor obtained the two (2) parcels (Rolling Hills County Assessor's Parcel Numbers xxx-ccc-bb and aaa-ttt-ff) comprising the Property by inheritance in June 1980. The Property's adjusted basis in the hands of Donor is \$500,000.

The qualified conservation contribution was not made in order to obtain a permit or other approval from a local or other governmental authority and was not required by any contract or other agreement. The Property is not contiguous to any other real property owned by Donor or a related party to Donor. The appraisal addresses any enhancement to nearby property owned by Donor or related parties.

Pursuant to Internal Revenue Code section 170(f)(8), Donor received a contemporaneous written acknowledgement ("**Acknowledgement**" or "**170(f)(8) letter**") from Donee dated January 10, 2018, describing the contributed property (the Conservation Easement) and acknowledging that, other than the stated proceeds of the sale, Donor received no goods or services in consideration, in whole or in part, for Donor's contribution of the Conservation Easement. A copy of such Acknowledgement is attached hereto as Attachment 3.

Accordingly, pursuant to Code section 170(h) and the regulations promulgated thereunder, Donor is entitled to claim a federal income tax deduction in the amount of **\$2,000,000** for Donor's charitable contribution of the Conservation Easement to Donee, as shown on the Form 8283, which represents the difference between the fair market value of the Conservation Easement and the amount of cash proceeds received by Donor in the bargain sale.



IRS Publishes New Gift Substantiation Regulations

Last month, the IRS issued final regulations entitled “Substantiation and Reporting Requirements for Cash and Noncash Charitable Contribution Deductions,” codified as Treasury Regulation Sections 1.170A-15 (cash), -16 (noncash), -17 (qualified appraisals and appraisers), and -18 (clothing and household items).

For those of us who advise clients with regard to large noncash gifts—and conservation easements in particular—the most noteworthy changes to the existing regulations are:

Substantiation of Noncash Gifts: 1.170A-16.

1. A new section addresses noncash contributions of more than \$500,000. This section requires the full appraisal to be attached to the tax return filed for the year of the gift *and* for any carryover years in which the deduction will be claimed. *See* 170A-16(e).
2. The regulations include a specific statement that Form 8283 does not need to be completed before the donee signs it. The following information may be excluded: appraiser information, manner and date of acquisition, cost basis in the property, appraised fair market value of the property, and amount of charitable contribution. *See* 170A-16(d)(5). *Note regardless*, the Land Trust Alliance requires its member organizations to obtain this information prior to signing Form 8283 as a donee.

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Qualified Appraisals and Appraisers: 1.170A-17

1. To be qualified, an *appraisal* must be prepared in accordance with generally accepted appraisal standards, which are defined as the substance and principles of the Uniform Standards of Professional Appraisal Practice (USPAP), as developed by the Appraisal Standards Board of the Appraisal Foundation.
2. To be qualified, an *appraiser* must have the education and experience in valuing the type of property to be appraised. This means the individual has either (i) successfully completed professional or college-level coursework for valuing that type of property and has 2+ years of experience in valuing that type of property, *or* (ii) the appraiser has earned a recognized appraiser designation by a generally recognized professional appraiser organization due to demonstrated competency.

Cleanup Items:

1. Form 8283 and the appraisal must include the fair market value as of the “valuation effective date” rather than the contribution date. This makes sense because the appraisal is permitted to predate the contribution by 60 days and, if the report does predate the contribution, the appraiser, unless psychic, is usually unable to guess what the precise value will be on the exact date of contribution.
2. The donor is permitted to use “the approximate date” of the original property acquisition, rather than “the date” of the acquisition. A good change, because some long-time property owners may not have the records to determine the exact day the property was acquired.
3. The regulations now contain specific reference to Form 8283, rather than an appraisal summary on a form to be created by the IRS—for obvious reasons, since Form

› [Tax Court Upholds Amendment Clauses but Continues Attack on Floating Homesites in Conservation Easements](#)

› [Happy New Year’s Tidings for Land Trusts and Other Conservation Advocates](#)

Archives

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8283 is said appraisal summary that the IRS has since developed.

A minor revision was also made to the conservation easement regulations at Section 1.170A-14 to clarify that the existing substantiation rules in 1.170A-13 apply to conservation easements donated on or before July 30, 2018, while the new substantiation rules in 1.170A-16 apply to donations after July 30, 2018, and the new 1.170A-17 appraiser rules apply to donations after January 1, 2019. However, because the new regulations implement the American Jobs Creation Act of 2004 and the Pension Protection Act of 2006, a taxpayer may *elect* to have the new A-16 rules apply to donations made after June 3, 2004, and the new A-17 rules apply to donations made after August 17, 2006.

Substantiating charitable gifts can be quite complicated. An attorney or accountant familiar with the Treasury's requirements should be consulted prior to claiming a charitable deduction for high value contributions, such as conservation easements.

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By Misti M. Schmidt | August 20th, 2018 | [Exempt Organizations](#), [Federal Law](#), [IRS Positions and Tax Cases](#), [Tax Planning](#)

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[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9836]

RIN 1545-BH62

Substantiation and Reporting Requirements for Cash and Noncash Charitable Contribution Deductions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: These final regulations provide guidance concerning substantiation and reporting requirements for cash and noncash charitable contributions. The final regulations reflect the enactment of provisions of the American Jobs Creation Act of 2004 and the Pension Protection Act of 2006. These regulations provide guidance to individuals, partnerships, and corporations that make charitable contributions.

DATES: Effective date: These regulations are effective on **[INSERT DATE OF**

PUBLICATION IN THE FEDERAL REGISTER].

Applicability dates: For dates of applicability, see §§1.170A-1(k), 1.170A-14(j), 1.170A-15(h), 1.170A-16(g), 1.170A-17(c), 1.170A-18(d), 1.664-1(f), and 1.6050L-1(h).

FOR FURTHER INFORMATION CONTACT: Charles Gorham at (202) 317-7003 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in these final regulations have been

reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545-1953.

The collections of information in these final regulations are in §§1.170A-15(a) and (d)(1); 1.170A-16(a), (b), (c), (d), (e), and (f); and 1.170A-18(a)(2) and (b). These collections of information are required to obtain a benefit and will enable the IRS to determine if a taxpayer is entitled to a claimed deduction for a charitable contribution.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

Background

This document contains amendments to the Income Tax Regulations, 26 CFR parts 1 and 602, relating to substantiating and reporting deductions for charitable contributions under section 170 of the Internal Revenue Code. These final regulations reflect amendments to section 170 made by section 883 of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418, 1631) (Jobs Act), and sections 1216, 1217, and 1219 of the Pension Protection Act of 2006, Public Law 109-280 (120 Stat. 780, 1079-83) (PPA), which added new rules for substantiating charitable contributions. The final regulations also update cross-references to the section 170 regulations in other regulations.

Section 170(f)(8), which has been in the Code since 1993, provides that no deduction shall be allowed for any contribution of \$250 or more, cash or noncash, unless the taxpayer substantiates the contribution with a contemporaneous written acknowledgment of the contribution by the donee organization. The contemporaneous written acknowledgment must include: (1) the amount of cash and a description (but not value) of any property other than cash contributed; (2) a statement of whether the donee organization provided any goods or services in consideration, in whole or in part, for any such cash or property; and (3) a description and good faith estimate of the value of any such goods or services or, if such goods or services consist solely of intangible religious benefits, a statement to that effect.

Section 170(f)(11), as added by section 883 of the Jobs Act, restates, in part, section 155(a) of the Deficit Reduction Act of 1984 and contains reporting and substantiation requirements relating to the allowance of deductions for noncash charitable contributions. Under section 170(f)(11)(C), taxpayers are required to obtain a qualified appraisal for donated property for which a deduction of more than \$5,000 is claimed.

Under section 170(f)(11)(D), a qualified appraisal must be attached to any tax return claiming a deduction of more than \$500,000. Section 170(h)(4)(B), as added by section 1213 of the PPA, adds the requirement that a qualified appraisal must be included with the taxpayer's return for the taxable year of the contribution for any contribution of a qualified real property interest that is a restriction as to the exterior of a building described in section 170(h)(4)(C)(ii).

Section 170(f)(11)(E), as amended by section 1219 of the PPA, provides

statutory definitions of qualified appraisal and qualified appraiser for appraisals prepared with respect to returns filed after August 17, 2006.

Section 170(f)(11)(E)(i) provides that the term qualified appraisal means an appraisal that is (1) treated as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and (2) conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed by the Secretary.

Section 170(f)(11)(E)(ii) provides that the term qualified appraiser means an individual who (1) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary, (2) regularly performs appraisals for which the individual receives compensation, and (3) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

Section 170(f)(11)(E)(iii) provides that an individual will not be treated as a qualified appraiser with respect to any specific appraisal unless that individual (1) demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and (2) has not been prohibited from practicing before the IRS by the Secretary under section 330(c) of Title 31 of the United States Code at any time during the 3-year period ending on the date of the appraisal.

On October 19, 2006, the Treasury Department and the IRS released Notice 2006-96, 2006-2 CB 902 (see § 601.601(d)(2)(ii)(b)), which provides transitional guidance on the definitions of qualified appraisal and qualified appraiser that apply on and after the effective date of the PPA definitions.

Section 170(f)(16) as added by section 1216 of the PPA generally provides that no deduction is allowed for a contribution of clothing or a household item unless the clothing or household item is in good used condition or better.

Section 170(f)(17) as added by section 1217 of the PPA imposes a recordkeeping requirement for all cash contributions, regardless of amount. Specifically, section 170(f)(17) requires a donor to maintain as a record of any cash, check, or other monetary gift (1) a bank record, or (2) a written communication from the donee. The record must show the name of the donee organization, the date of the contribution, and the amount of the contribution.

On December 2, 2006, the Treasury Department and the IRS released Notice 2006-110, 2006-2 CB 1127 (see § 601.601(d)(2)(ii)(b)), which provides rules under section 170(f)(17) for substantiating charitable contributions made by payroll deduction.

On January 8, 2008, the Treasury Department and the IRS released Notice 2008-16, 2008-1 CB 315 (see § 601.601(d)(2)(ii)(b)), which provides rules under section 170(f)(17) for substantiating a one-time, lump-sum charitable contribution of a cash, check, or other monetary gift made through the Combined Federal Campaign (CFC) or a similar program. Taxpayers may rely on Notice 2006-96, Notice 2006-110, and Notice 2008-16 prior to the effective date of these final regulations.

On August 7, 2008, the Treasury Department and the IRS provided guidance on complying with section 170 as amended by the Jobs Act and the PPA in a notice of proposed rulemaking (REG-140029-07) in the **Federal Register** (73 FR 45908). The Treasury Department and the IRS received comments responding to the notice of proposed rulemaking, and a public hearing was held on January 23, 2009. Copies of

the comments received are available for public inspection at www.regulations.gov or upon request. After consideration of the comments received, the Treasury Department and the IRS adopt the proposed regulations as revised by this Treasury decision. The revisions are discussed in this preamble.

Explanation of Provisions and Summary of Comments

The final regulations implement changes made by the Jobs Act and PPA to the substantiation and reporting rules for charitable contributions under section 170. The final regulations set forth the substantiation requirements for contributions of more than \$500 under section 170(f)(11)(B) through (D) (added by the Jobs Act); the new definitions of qualified appraisal and qualified appraiser applicable to noncash contributions under section 170(f)(11)(E) (added by the PPA); substantiation requirements for contributions of clothing and household items under section 170(f)(16) (added by the PPA); and recordkeeping requirements for all cash contributions under section 170(f)(17) (added by the PPA).

In addition, these final regulations amend the heading of §1.170A-13 to alert readers to the updated regulations. The final regulations also update cross-references to the section 170 regulations in other regulations.

I. Cash, Check, or Other Monetary Gift Substantiation Requirements

Section 1.170A-15 implements the requirements of section 170(f)(17) for cash, check, or other monetary gift contributions, as added by the PPA, and clarifies that these rules supplement the substantiation rules in section 170(f)(8).

A. Contributions made to a distributing organization

A donor may make a charitable contribution of cash, check, or other monetary gift to an organization that collects contributions and distributes them to ultimate recipient organizations (pursuant to the donor's instructions or otherwise). The final regulations adopt the general rule of the proposed regulations that treats as a donee for purposes of sections 170(f)(8) and 170(f)(17) an organization described in section 170(c) or a Principal Combined Fund Organization (PCFO) for purposes of the Combined Federal Campaign (CFC) and acting in that capacity. The CFC is a workplace giving campaign established by Executive Order 10728, as amended by Executive Orders 10927, 12353, and 12404, and administered by the United States Office of Personnel Management (OPM). A PCFO administers the local campaign and acts as a fiscal agent for the CFC.

1. Blank Pledge Card is Not Substantiation

Some commenters asked whether a blank pledge card provided by a donee organization but filled out by the donor constitutes adequate substantiation for a contribution of cash to a distributing organization. Section 170(f)(17) requires a taxpayer to maintain as a record of a contribution of a cash, check, or other monetary gift either a bank record or a written communication from the donee that shows the name of the donee organization, the date of the contribution, and the amount of the contribution. The proposed and final regulations at §1.170A-15(b)(2) provide that a bank record includes a statement from a financial institution, an electronic fund transfer receipt, a canceled check, a scanned image of both sides of a canceled check obtained from a bank website, or a credit card statement. In addition, the proposed and final regulations provide that a written communication includes an email. Because a blank

pledge card provided by the donee organization to a donor does not show the information required under section 170(f)(17), it is not sufficient substantiation for a cash, check, or other monetary gift.

2. Name of Donee for Purposes of CFC

One commenter noted that because the CFC generally does not include the name of the donee organization on its pledge cards, and a PCFO for purposes of the CFC often is a potential ultimate recipient of a contribution to the CFC, including the name of the PCFO on the pledge card could unduly influence donors to contribute to the PCFO rather than to other eligible donees. The commenter asked that the name of the local CFC campaign be treated as the name of the donee organization. The Treasury Department and the IRS agree with this comment. Accordingly, § 1.170A-15(d)(2)(ii) provides that the name of the local CFC may be used instead of the name of the PCFO and may be treated as the donee organization for purposes of sections 170(f)(8) and 170(f)(17) and §1.170A-15(d)(1)(ii).

B. Compliance with 170(f)(8) and 170(f)(17) in a Single Document

Some commenters asked if a single written acknowledgment can be used to satisfy the substantiation rules under sections 170(f)(8) and 170(f)(17). Section 170(f)(8) does not require that a contemporaneous written acknowledgment by the donee organization include the date of the contribution. In addition, section 170(f)(17) does not require that a written communication from the donee include a statement of whether any goods or services were provided in exchange for the contribution. Although there are different requirements under sections 170(f)(8) and 170(f)(17), §1.170A-15(a)(3) of the final regulations provides that a single written acknowledgment

that satisfies all substantiation requirements under both sections 170(f)(8) and 170(f)(17) is adequate substantiation for contributions of a cash, check, or other monetary gift.

II. Noncash Substantiation Requirements

Section 1.170A-16 implements the requirements of section 170(f)(11) for noncash contributions, as added by the Jobs Act, and clarifies that these rules are in addition to the requirements in section 170(f)(8).

Proposed and final §1.170A-16 provide that a donor who claims a deduction for a noncash contribution of less than \$250 is required only to obtain a receipt from the donee or keep reliable records. A donor who claims a noncash contribution of at least \$250 but not more than \$500 is required only to obtain a contemporaneous written acknowledgment, as provided under section 170(f)(8) and §1.170A-13(f). For claimed noncash contributions of more than \$500 but not more than \$5,000, the donor must obtain a contemporaneous written acknowledgment and must also file a completed Form 8283 (Section A), "Noncash Charitable Contributions," with the return on which the deduction is claimed. For claimed noncash contributions of more than \$5,000, in addition to a contemporaneous written acknowledgment, the donor generally must obtain a qualified appraisal and must also complete and file either Section A or Section B of Form 8283 (depending on the type of property contributed) with the return on which the deduction is claimed. For claimed noncash contributions of more than \$500,000, the donor must also attach a copy of the qualified appraisal to the return for the taxable year in which the contribution is made.

Section 170(f)(11)(F) provides that for purposes of the \$500, \$5,000, and

\$500,000 thresholds in section 170(f)(11), similar items contributed during the taxable year are treated as one property. In determining whether a contribution meets the \$250 threshold, §1.170A-13(f)(1) provides that separate contributions made during the tax year, regardless of whether the sum of those contributions equal or exceed \$250, are not combined. The proposed and final regulations also provide that the requirements for substantiation that must be submitted with a return also apply to the return for any carryover year under section 170(d).

A. Reasonable Cause Exception

In light of recent case law (see Crimi v. Commissioner, T.C. Memo. 2013-51), the paragraph relating to the reasonable cause exception set forth in proposed regulation §1.170A-16(f)(6) has been deleted from the final regulations because it is inconsistent with the Tax Court's position. In Crimi, the IRS argued that there was no qualified appraisal. The Tax Court discussed the doctrine of substantial compliance with respect to the qualified appraisal regulation, but stated that it was unnecessary to decide whether it was applicable to the petitioners' case because they established that the failure was due to reasonable cause. Specifically, the court stated that a reasonable cause inquiry is "inherently a fact-intensive one, and facts and circumstances must be judged on a case-by-case basis." Id. at *99. The court found that petitioners reasonably and in good faith relied on their long-time certified public accountant's advice that their appraisal met all the legal requirements to claim the deduction. Thus, the final regulations do not contain a standard for the reasonable cause exception.

B. Appraiser privacy concerns

A number of commenters expressed concern over appraisers' privacy if the

appraiser's social security number is required on qualified appraisals and Forms 8283 (Section B). This concern was addressed by the proposed regulations. Both the proposed and final regulations require an appraiser to use a taxpayer identification number on an appraisal, but that number does not need to be the appraiser's social security number. An appraiser may use an employer identification number, which may be obtained by: (1) applying on the IRS website (www.regulations.gov); or (2) filing a completed Form SS-4, Application for Employer Identification Number, by mail or by fax. The IRS has modified the instructions to Form 8283 to make clear that an appraiser may use either a social security number or an employer identification number.

C. Form 8283 is not a contemporaneous written acknowledgment

One commenter asked whether a Form 8283 can satisfy the requirement for a contemporaneous written acknowledgment under section 170(f)(8). Although no format is prescribed for a contemporaneous written acknowledgment (for example, an email may qualify), a contemporaneous written acknowledgment of a contribution by the donee organization must contain all of the information required by section 170(f)(8)(B). Moreover, section 170(f)(8)(A) states that the acknowledgment is made "by the donee organization." Only Section B, part IV of Form 8283, completed for property valued at over \$5,000, is a donee acknowledgment, and this acknowledgment only contains some of the information required by section 170(f)(8)(B). Accordingly, even a fully-completed Form 8283 does not satisfy the requirements of section 170(f)(8).

D. Form 8283 (Section B) provided to donee.

Another commenter suggested that the Form 8283 (Section B) should be required to be fully completed, including the appraiser information and the appraised or

claimed value of the property, before the donor obtains the donee's signature. Section 1.170A-16(d)(5)(iii) of the proposed regulations provides that specific portions of the Form 8283 (Section B) must be completed before it is signed by the donee, but that the Form 8283 (Section B) does not need to contain certain other information, such as the appraiser information and the appraised or claimed value of the property, before the donee signs the form. Regardless of any benefits that may result from additional information sharing, the public should have the opportunity to comment on any proposed requirement to share additional information with the donee. Accordingly, the final regulations adopt the proposed regulation language without adoption of this suggestion.

E. Attaching appraisal to carryover year returns

One commenter suggested deleting the requirement in the regulations to attach an appraisal to the tax returns for carryover years. Because the need for the IRS to have the appraisal attached to each return reflecting a contribution in excess of \$500,000 outweighs the burden on taxpayers to supply it, the final regulations retain this requirement. Accordingly, if the appraisal is required to be attached to the return for the contribution year, it must also be attached to the returns for the carryover years.

III. New Requirements for Qualified Appraisals and Qualified Appraisers

As prescribed in section 170(f)(11)(E), as amended by the PPA, §1.170A-17 of the proposed and final regulations provides definitions for qualified appraisal and qualified appraiser.

A. Transitional rule

One commenter suggested that a transitional rule be included for §1.170A-17

because additional time may be needed to meet the education and experience requirements in §1.170A-17 for qualified appraisers. In order to provide appraisers with a reasonable amount of time to meet the new education and experience requirements, the final rules under §1.170A-17 apply only to contributions made on or after January 1, 2019.

B. Definition of generally accepted appraisal standards

Section 170(f)(11)(E)(i)(II) provides that the term qualified appraisal means an appraisal that is conducted by a qualified appraiser in accordance with generally accepted appraisal standards. Generally accepted appraisal standards are defined in the proposed regulations at §1.170A-17(a)(2) as the “substance and principles of the Uniform Standards of Professional Appraisal Practice [USPAP], as developed by the Appraisal Standards Board of the Appraisal Foundation.” Several commenters recommended that the final regulations require appraisal documents to be prepared “in accordance with USPAP” and not merely in accordance with the “substance and principles of USPAP.” Other commenters indicated that strict compliance with USPAP would eliminate use of all other appraisal standards, including some that are generally accepted in the appraisal industry. The Treasury Department and the IRS agree that it is beneficial to provide some flexibility by requiring conformity with appraisal standards that are consistent with the substance and principles of USPAP rather than requiring that all appraisals be prepared strictly in accordance with USPAP. Accordingly, the final regulations do not adopt the recommendation to require strict compliance with USPAP and retain the requirement of consistency with the substance and principles of USPAP.

C. Education and experience requirement for qualified appraisers

Section 170(f)(11)(E)(ii)(I) and (iii)(I) and §1.170A-17(b) of the proposed regulations provide that a qualified appraiser is an individual with verifiable education and experience in valuing the type of property for which the appraisal is performed. Some commenters reiterated suggestions made in response to Notice 2006-96 that the final regulations interpret the requirement in section 170(f)(11)(E) that a qualified appraiser have verifiable “education and experience” as requiring verifiable “education or experience.” The Treasury Department and the IRS did not adopt this suggestion in the proposed regulations, and do not do so in the final regulations, because it would be contrary to the clear language of the statute.

Section 1.170A-17(b)(4) of the proposed regulations requires an appraiser to specify in the appraisal the appraiser’s education and experience in valuing the type of property and to make a declaration in the appraisal that, because of the appraiser’s education and experience, the appraiser is qualified to make appraisals of the type of property being valued. A commenter suggested that, to meet the “verifiable” requirement in §1.170A-17(b), the appraiser should be required to specify in the appraisal only that the appraiser is a qualified appraiser under §1.170A-17(b) and that the appraisal was prepared in accordance with the substance and principles of USPAP. The general statement of qualification suggested by the commenter does not demonstrate, as required under section 170(f)(11)(E)(iii)(I), that the appraiser has verifiable education and experience that qualifies the appraiser to prepare the appraisal for that type of property. Accordingly, the final regulations do not adopt this suggestion.

D. Parity between “designation” and “education and experience”

Section 1.170A-17(b)(2)(i) of the proposed regulations provides that an individual is treated as having education and experience in valuing the type of property if, as of the date the individual signs the appraisal, the individual has satisfied the following requirements: (A) successfully completed professional or college-level coursework in valuing the type of property and has two or more years of experience in valuing the type of property; or (B) earned a recognized appraiser designation for the type of property. One commenter suggested that it is much more difficult to earn a designation from a generally recognized professional appraiser organization under §1.170A-17(b)(2)(i)(B) than to satisfy the education and experience requirements under §1.170A-17(b)(2)(i)(A). The commenter suggested that the education and experience requirements be made more stringent. In enacting section 170(f)(11)(E), Congress intended to improve the accuracy of deductions claimed for noncash contributions by requiring qualified appraisers to meet more stringent qualification standards, including by requiring that both education and experience requirements be met. See H.R. Rep. No. 108-548, pt. 1, at 356 (2004). The requirements for education and experience in the proposed regulations are sufficiently stringent as intended by Congress. Accordingly, the final regulations do not adopt this suggestion and retain without modification the requirements for education and experience in the proposed regulations.

E. Satisfying verifiable education requirement

Section 170(f)(11)(E)(iii)(I) requires verifiable education and experience in valuing the type of property subject to the appraisal. Section 1.170A-17(b)(2)(i)(A) of the proposed regulations provides that an individual is treated as having education and experience in valuing the type of property if, as of the date the individual signs the

appraisal, the individual has successfully completed (for example, received a passing grade on a final examination) professional or college-level coursework in valuing the type of property, and has two or more years of experience in valuing the type of property. One commenter asked whether attendance at a training event that does not include a final examination meets the requirement of successful completion of coursework. The reference to a passing grade on a final examination in §1.170A-17(b)(2)(i)(A) is merely an example of what is considered successful completion of professional or college-level coursework, and other evidence of successful completion may be sufficient. However, mere attendance at a training event is not sufficient, and evidence of successful completion of coursework is necessary under the final regulations.

F. Education provided by trade organization

Two commenters pointed out that, in addition to generally recognized professional appraiser organizations, a generally recognized professional trade organization may provide coursework that satisfies the requirement for verifiable education in valuing the type of property under §1.170A-17(b)(2)(i)(A) and (ii)(B). The Treasury Department and the IRS agree with this comment, and the final regulations provide that an appraiser also can satisfy §1.170A-17(b)(2)(i)(A) and (ii)(B) by successfully completing coursework in valuing the type of property from a generally recognized professional trade organization.

G. Examples of generally recognized professional appraiser organizations

Some commenters objected to the references in the proposed regulations to designations conferred by one particular organization as examples of recognized

appraiser designations. The Treasury Department and the IRS do not require or prefer the designation of any particular appraiser organization, and, therefore, the final regulations do not contain examples of any designations.

IV. Additional Comments

A number of commenters requested that the Treasury Department and the IRS provide that the final regulations apply to charitable contributions for all federal tax purposes, including estate and gift tax. These regulations are promulgated under Jobs Act and PPA provisions that apply only to income tax deductions for charitable contributions under section 170. No substantive changes were made to the proposed regulations in response to these comments because these comments were beyond the scope of the proposed regulations.

Some commenters suggested that appraisers be allowed to use certain IRS valuation tables, such as those for charitable remainder trusts, other remainder interests in property, and life insurance policies, instead of a qualified appraisal. These tables may be used to value property in certain other contexts, but they do not necessarily provide a fair market value of the property contributed. Therefore, these tables are not acceptable substitutes for a qualified appraisal to substantiate deductions for charitable contributions under section 170.

Another commenter suggested that taxpayers should not be required to substantiate their charitable contribution deduction with a qualified appraisal when they purchase medical equipment, such as a Magnetic Resonance Imaging (MRI) machine, and donate the equipment to a qualified organization. The purchase price of the medical equipment may differ from its fair market value. A qualified appraisal prepared

by a qualified appraiser is required to determine the fair market value at the time of contribution. Therefore, no changes were made to the proposed regulations in response to this comment.

Effect on Other Documents

Notice 2006-96 provides transitional guidance on the definitions of qualified appraisal and qualified appraiser under section 170(f)(11). Notice 2006-110 provides transitional guidance under section 170(f)(17) for substantiating charitable contributions made by payroll deduction. Notice 2008-16 provides transitional guidance under section 170(f)(17) for substantiating a one-time, lump-sum charitable contribution of a cash, check, or other monetary gift made through the CFC or a similar program. All three notices provide that taxpayers may rely on the notices until final regulations are effective. Accordingly, Notice 2006-110 and Notice 2008-16 are obsolete as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and Notice 2006-96 is obsolete as of January 1, 2019.

V. Applicability Dates

In general, §§1.170A-15, 1.170A-16, and 1.170A-18 apply to contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Section 1.170A-17 applies to contributions made on or after January 1, 2019. Taxpayers are reminded that the effective dates of the Jobs Act and the PPA relating to substantiating and reporting charitable contributions precede the effective date of these final regulations, and the Jobs Act and the PPA apply in accordance with their applicability dates. See Notice 2006-96.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations. Further it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Although this rule could affect a substantial number of small entities, any economic impact is expected to be minimal. The final rule provides clarifications and simplifications to the existing substantiation and reporting requirements for charitable contributions and are designed to reduce the burden on taxpayers. Further, any substantiation and reporting rules contained in these final regulations that are in addition to the rules in current regulations reflect statutory substantiation and reporting requirements. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding this regulation was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal author of these regulations is Charles Gorham of the Office of Associate Chief Counsel (Income Tax and Accounting). Other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 amended by adding sectional authorities for §§1.170A-15 through 1.170A-18 in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

- §1.170A-15 also issued under 26 U.S.C. 170(a)(1).
- §1.170A-16 also issued under 26 U.S.C. 170(a)(1) and 170(f)(11).
- §1.170A-17 also issued under 26 U.S.C. 170(a)(1) and 170(f)(11).
- §1.170A-18 also issued under 26 U.S.C. 170(a)(1).

* * * * *

§§1.170-0, 1.170-1, and 1.170-2 [Removed]

Par. 2. Sections 1.170-0, 1.170-1, and 1.170-2 are removed.

Par. 3. Section 1.170A-1 is amended by revising the third sentence of paragraph

(a) and adding two sentences to the end of paragraph (k) to read as follows:

§1.170A-1 Charitable, etc., contributions and gifts; allowance of deduction.

(a) * * * For rules relating to record keeping and return requirements in support of deductions for charitable contributions (whether by an itemizing or nonitemizing taxpayer), see §§1.170A-13, 1.170A-14, 1.170A-15, 1.170A-16, 1.170A-17, and 1.170A-18. * * *

* * * * *

(k) * * * The third sentence of paragraph (a) applies as provided in the sections

referenced in that sentence.

Par. 4. Section 1.170A-13 is amended by revising the heading to read as follows:

§1.170A-13 Recordkeeping and return requirements for deductions for charitable contributions.

* * * * *

Par. 5. Section 1.170A-14 is amended by revising paragraphs (i) and (j) to read as follows:

§1.170A-14. Qualified conservation contributions.

* * * * *

(i) Substantiation requirement. If a taxpayer makes a qualified conservation contribution and claims a deduction, the taxpayer must maintain written records of the fair market value of the underlying property before and after the donation and the conservation purpose furthered by the donation, and such information shall be stated in the taxpayer's income tax return if required by the return or its instructions. See also §1.170A-13(c) (relating to substantiation requirements for deductions in excess of \$5,000 for charitable contributions made on or before **INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**); §1.170A-16(d) (relating to substantiation of charitable contributions of more than \$5,000 made after **INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**); §1.170A-17 (relating to the definitions of qualified appraisal and qualified appraiser for substantiation of contributions made on or after January 1, 2019); and section 6662 (relating to the imposition of an accuracy-related penalty on underpayments). Taxpayers may rely on

the rules in §1.170A-16(d) for contributions made after June 3, 2004, or appraisals prepared for returns or submissions filed after August 17, 2006. Taxpayers may rely on the rules in §1.170A-17 for appraisals prepared for returns or submissions filed after August 17, 2006.

(j) Effective/applicability dates. Except as otherwise provided in §1.170A-14(g)(4)(ii) and §1.170A-14(i), this section applies only to contributions made on or after December 18, 1980.

Par. 6. Section 1.170A-15 is added to read as follows:

§1.170A-15 Substantiation requirements for charitable contribution of a cash, check, or other monetary gift.

(a) In general--(1) Bank record or written communication required. No deduction is allowed under sections 170(a) and 170(f)(17) for a charitable contribution in the form of a cash, check, or other monetary gift, as described in paragraph (b)(1) of this section, unless the donor substantiates the deduction with a bank record, as described in paragraph (b)(2) of this section, or a written communication, as described in paragraph (b)(3) of this section, from the donee showing the name of the donee, the date of the contribution, and the amount of the contribution.

(2) Additional substantiation required for contributions of \$250 or more. No deduction is allowed under section 170(a) for any contribution of \$250 or more unless the donor substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and §1.170A-13(f), from the donee.

(3) Single document may be used. The requirements of paragraphs (a)(1) and (2) of this section may be met by a single document that contains all the information

required by paragraphs (a)(1) and (2) of this section, if the document is obtained by the donor no later than the date prescribed by paragraph (c) of this section.

(b) Terms--(1) Monetary gift includes a transfer of a gift card redeemable for cash, and a payment made by credit card, electronic fund transfer (as described in section 5061(e)(2)), an online payment service, or payroll deduction.

(2) Bank record includes a statement from a financial institution, an electronic fund transfer receipt, a canceled check, a scanned image of both sides of a canceled check obtained from a bank website, or a credit card statement.

(3) Written communication includes email.

(c) Deadline for receipt of substantiation. The substantiation described in paragraph (a) of this section must be received by the donor on or before the earlier of--

(1) The date the donor files the original return for the taxable year in which the contribution was made; or

(2) The due date, including any extension, for filing the donor's original return for that year.

(d) Special rules--(1) Contributions made by payroll deduction. In the case of a charitable contribution made by payroll deduction, a donor is treated as meeting the requirements of section 170(f)(17) and paragraph (a) of this section if, no later than the date described in paragraph (c) of this section, the donor obtains--

(i) A pay stub, Form W-2, "Wage and Tax Statement," or other employer-furnished document that sets forth the amount withheld during the taxable year for payment to a donee; and

(ii) A pledge card or other document prepared by or at the direction of the donee

that shows the name of the donee.

(2) Distributing organizations as donees. The following organizations are treated as donees for purposes of section 170(f)(17) and paragraph (a) of this section, even if the organization (pursuant to the donor's instructions or otherwise) distributes the amount received to one or more organizations described in section 170(c):

(i) An organization described in section 170(c).

(ii) An organization described in 5 CFR 950.105 (a Principal Combined Fund Organization (PCFO) for purposes of the Combined Federal Campaign (CFC)) and acting in that capacity. For purposes of the requirement for a written communication under section 170(f)(17), if the donee is a PCFO, the name of the local CFC campaign may be treated as the name of the donee organization.

(e) Substantiation of out-of-pocket expenses. Paragraph (a)(1) of this section does not apply to a donor who incurs unreimbursed expenses of less than \$250 incident to the rendition of services, within the meaning of §1.170A-1(g). For substantiation of unreimbursed out-of-pocket expenses of \$250 or more, see §1.170A-13(f)(10).

(f) Charitable contributions made by partnership or S corporation. If a partnership or an S corporation makes a charitable contribution, the partnership or S corporation is treated as the donor for purposes of section 170(f)(17) and paragraph (a) of this section.

(g) Transfers to certain trusts. The requirements of section 170(f)(17) and paragraphs (a)(1) and (3) of this section do not apply to a transfer of a cash, check, or other monetary gift to a trust described in section 170(f)(2)(B); a charitable remainder annuity trust, as described in section 664(d)(1) and the corresponding regulations; or a

charitable remainder unitrust, as described in section 664(d)(2) or (d)(3) and the corresponding regulations. The requirements of section 170(f)(17) and paragraphs (a)(1) and (2) of this section do apply, however, to a transfer to a pooled income fund, as defined in section 642(c)(5).

(h) Effective/applicability date. This section applies to contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Taxpayers may rely on the rules of this section for contributions made in taxable years beginning after August 17, 2006.

Par. 7. Section 1.170A-16 is added to read as follows:

§1.170A-16 Substantiation and reporting requirements for noncash charitable contributions.

(a) Substantiation of charitable contributions of less than \$250--(1) Individuals, partnerships, and certain corporations required to obtain receipt. Except as provided in paragraph (a)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of less than \$250 by an individual, partnership, S corporation, or C corporation that is a personal service corporation or closely held corporation unless the donor maintains for each contribution a receipt from the donee showing the following information:

(i) The name and address of the donee;

(ii) The date of the contribution;

(iii) A description of the property in sufficient detail under the circumstances (taking into account the value of the property) for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed

property; and

(iv) In the case of securities, the name of the issuer, the type of security, and whether the securities are publicly traded securities within the meaning of §1.170A-13(c)(7)(xi).

(2) Substitution of reliable written records--(i) In general. If it is impracticable to obtain a receipt (for example, where a donor deposits property at a donee's unattended drop site), the donor may satisfy the recordkeeping rules of this paragraph (a) by maintaining reliable written records, as described in paragraphs (a)(2)(ii) and (iii) of this section, for the contributed property.

(ii) Reliable written records. The reliability of written records is to be determined on the basis of all of the facts and circumstances of a particular case, including the proximity in time of the written record to the contribution.

(iii) Contents of reliable written records. Reliable written records must include--

- (A) The information required by paragraph (a)(1) of this section;
- (B) The fair market value of the property on the date the contribution was made;
- (C) The method used in determining the fair market value; and
- (D) In the case of a contribution of clothing or a household item as defined in §1.170A-18(c), the condition of the item.

(3) Additional substantiation rules may apply. For additional substantiation rules, see paragraph (f) of this section.

(b) Substantiation of charitable contributions of \$250 or more but not more than \$500. No deduction is allowed under section 170(a) for a noncash charitable contribution of \$250 or more but not more than \$500 unless the donor substantiates the

contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and §1.170A-13(f).

(c) Substantiation of charitable contributions of more than \$500 but not more than \$5,000--(1) In general. No deduction is allowed under section 170(a) for a noncash charitable contribution of more than \$500 but not more than \$5,000 unless the donor substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and §1.170A-13(f), and meets the applicable requirements of this section.

(2) Individuals, partnerships, and certain corporations also required to file Form 8283 (Section A). No deduction is allowed under section 170(a) for a noncash charitable contribution of more than \$500 but not more than \$5,000 by an individual, partnership, S corporation, or C corporation that is a personal service corporation or closely held corporation unless the donor completes Form 8283 (Section A), "Noncash Charitable Contributions," as provided in paragraph (c)(3) of this section, or a successor form, and files it with the return on which the deduction is claimed.

(3) Completion of Form 8283 (Section A). A completed Form 8283 (Section A) includes--

(i) The donor's name and taxpayer identification number (for example, a social security number or employer identification number);

(ii) The name and address of the donee;

(iii) The date of the contribution;

(iv) The following information about the contributed property:

(A) A description of the property in sufficient detail under the circumstances,

taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property;

(B) In the case of real or tangible personal property, the condition of the property;

(C) In the case of securities, the name of the issuer, the type of security, and whether the securities are publicly traded securities within the meaning of §1.170A-13(c)(7)(xi);

(D) The fair market value of the property on the date the contribution was made and the method used in determining the fair market value;

(E) The manner of acquisition (for example, by purchase, gift, bequest, inheritance, or exchange), and the approximate date of acquisition of the property by the donor (except that in the case of a contribution of publicly traded securities as defined in §1.170A-13(c)(7)(xi), a representation that the donor held the securities for more than one year is sufficient) or, if the property was created, produced, or manufactured by or for the donor, the approximate date the property was substantially completed;

(F) The cost or other basis, adjusted as provided by section 1016, of the property (except that the cost or basis is not required for contributions of publicly traded securities (as defined in §1.170A-13(c)(7)(xi)) that would have resulted in long-term capital gain if sold on the contribution date, unless the donor has elected to limit the deduction to basis under section 170(b)(1)(C)(iii));

(G) In the case of tangible personal property, whether the donee has certified it for a use related to the purpose or function constituting the donee's basis for exemption

under section 501, or in the case of a governmental unit, an exclusively public purpose; and

(v) Any other information required by Form 8283 (Section A) or the instructions to Form 8283 (Section A).

(4) Additional requirement for certain vehicle contributions. In the case of a contribution of a qualified vehicle described in section 170(f)(12)(E) for which an acknowledgment by the donee organization is required under section 170(f)(12)(D), the donor must attach a copy of the acknowledgment to the Form 8283 (Section A) for the return on which the deduction is claimed.

(5) Additional substantiation rules may apply. For additional substantiation rules, see paragraph (f) of this section.

(d) Substantiation of charitable contributions of more than \$5,000--(1) In general. Except as provided in paragraph (d)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of more than \$5,000 unless the donor--

(i) Substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and §1.170A-13(f);

(ii) Obtains a qualified appraisal, as defined in §1.170A-17(a)(1), prepared by a qualified appraiser, as defined in §1.170A-17(b)(1); and

(iii) Completes Form 8283 (Section B), as provided in paragraph (d)(3) of this section, or a successor form, and files it with the return on which the deduction is claimed.

(2) Exception for certain noncash contributions. A qualified appraisal is not

required, and a completed Form 8283 (Section A) containing the information required in paragraph (c)(3) of this section meets the requirements of paragraph (d)(1)(iii) of this section for contributions of--

(i) Publicly traded securities as defined in §1.170A-13(c)(7)(xi);

(ii) Property described in section 170(e)(1)(B)(iii) (certain intellectual property);

(iii) A qualified vehicle described in section 170(f)(12)(A)(ii) for which an acknowledgment under section 170(f)(12)(B)(iii) is provided; and

(iv) Property described in section 1221(a)(1) (inventory and property held by the donor primarily for sale to customers in the ordinary course of the donor's trade or business).

(3) Completed Form 8283 (Section B). A completed Form 8283 (Section B) includes--

(i) The donor's name and taxpayer identification number (for example, a social security number or employer identification number);

(ii) The donee's name, address, taxpayer identification number, signature, the date signed by the donee, and the date the donee received the property;

(iii) The appraiser's name, address, taxpayer identification number, appraiser declaration, as described in paragraph (d)(4) of this section, signature, and the date signed by the appraiser;

(iv) The following information about the contributed property:

(A) The fair market value on the valuation effective date, as defined in §1.170A-17(a)(5)(i).

(B) A description in sufficient detail under the circumstances, taking into account

the value of the property, for a person who is not generally familiar with the type of property to ascertain that the described property is the contributed property.

(C) In the case of real property or tangible personal property, the condition of the property;

(v) The manner of acquisition (for example, by purchase, gift, bequest, inheritance, or exchange), and the approximate date of acquisition of the property by the donor, or, if the property was created, produced, or manufactured by or for the donor, the approximate date the property was substantially completed;

(vi) The cost or other basis of the property, adjusted as provided by section 1016;

(vii) A statement explaining whether the charitable contribution was made by means of a bargain sale and, if so, the amount of any consideration received for the contribution; and

(viii) Any other information required by Form 8283 (Section B) or the instructions to Form 8283 (Section B).

(4) Appraiser declaration. The appraiser declaration referred to in paragraph (d)(3)(iii) of this section must include the following statement: "I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C.

section 330(c).”

(5) Donee signature--(i) Person authorized to sign. The person who signs Form 8283 (Section B) for the donee must be either an official authorized to sign the tax or information returns of the donee, or a person specifically authorized to sign Forms 8283 (Section B) by that official. In the case of a donee that is a governmental unit, the person who signs Form 8283 (Section B) for the donee must be an official of the governmental unit.

(ii) Effect of donee signature. The signature of the donee on Form 8283 (Section B) does not represent concurrence in the appraised value of the contributed property. Rather, it represents acknowledgment of receipt of the property described in Form 8283 (Section B) on the date specified in Form 8283 (Section B) and that the donee understands the information reporting requirements imposed by section 6050L and §1.6050L-1.

(iii) Certain information not required on Form 8283 (Section B) before donee signs. Before Form 8283 (Section B) is signed by the donee, Form 8283 (Section B) must be completed (as described in paragraph (d)(3) of this section), except that it is not required to contain the following:

- (A) The appraiser declaration or information about the qualified appraiser.
 - (B) The manner or date of acquisition.
 - (C) The cost or other basis of the property.
 - (D) The appraised fair market value of the contributed property.
 - (E) The amount claimed as a charitable contribution.
- (6) Additional substantiation rules may apply. For additional substantiation rules,

see paragraph (f) of this section.

(7) More than one appraiser. More than one appraiser may appraise the donated property. If more than one appraiser appraises the property, the donor does not have to use each appraiser's appraisal for purposes of substantiating the charitable contribution deduction under this paragraph (d). If the donor uses the appraisal of more than one appraiser, or if two or more appraisers contribute to a single appraisal, each appraiser shall comply with the requirements of this paragraph (d) and the requirements in §1.170A-17, including signing the qualified appraisal and appraisal summary.

(e) Substantiation of noncash charitable contributions of more than \$500,000--(1)
In general. Except as provided in paragraph (e)(2) of this section, no deduction is allowed under section 170(a) for a noncash charitable contribution of more than \$500,000 unless the donor--

(i) Substantiates the contribution with a contemporaneous written acknowledgment, as described in section 170(f)(8) and §1.170A-13(f);

(ii) Obtains a qualified appraisal, as defined in §1.170A-17(a)(1), prepared by a qualified appraiser, as defined in §1.170A-17(b)(1);

(iii) Completes, as described in paragraph (d)(3) of this section, Form 8283 (Section B) and files it with the return on which the deduction is claimed; and

(iv) Attaches the qualified appraisal of the property to the return on which the deduction is claimed.

(2) Exception for certain noncash contributions. For contributions of property described in paragraph (d)(2) of this section, a qualified appraisal is not required, and a completed Form 8283 (Section A), containing the information required in paragraph

(c)(3) of this section, meets the requirements of paragraph (e)(1)(iii) of this section.

(3) Additional substantiation rules may apply. For additional substantiation rules, see paragraph (f) of this section.

(f) Additional substantiation rules--(1) Form 8283 (Section B) furnished by donor to donee. A donor who presents a Form 8283 (Section B) to a donee for signature must furnish to the donee a copy of the Form 8283 (Section B).

(2) Number of Forms 8283 (Section A or Section B)--(i) In general. For each item of contributed property for which a Form 8283 (Section A or Section B) is required under paragraphs (c), (d), or (e) of this section, a donor must attach a separate Form 8283 (Section A or Section B) to the return on which the deduction for the item is claimed.

(ii) Exception for similar items. The donor may attach a single Form 8283 (Section A or Section B) for all similar items of property, as defined in §1.170A-13(c)(7)(iii), contributed to the same donee during the donor's taxable year, if the donor includes on Form 8283 (Section A or Section B) the information required by paragraph (c)(3) or (d)(3) of this section for each item of property.

(3) Substantiation requirements for carryovers of noncash contribution deductions. The rules in paragraphs (c), (d), and (e) of this section (regarding substantiation that must be submitted with a return) also apply to the return for any carryover year under section 170(d).

(4) Partners and S corporation shareholders--(i) Form 8283 (Section A or Section B) must be provided to partners and S corporation shareholders. If the donor is a partnership or S corporation, the donor must provide a copy of the completed Form

8283 (Section A or Section B) to every partner or shareholder who receives an allocation of a charitable contribution deduction under section 170 for the property described in Form 8283 (Section A or Section B). Similarly, a recipient partner or shareholder that is a partnership or S corporation must provide a copy of the completed Form 8283 (Section A or Section B) to each of its partners or shareholders who receives an allocation of a charitable contribution deduction under section 170 for the property described in Form 8283 (Section A or Section B).

(ii) Partners and S corporation shareholders must attach Form 8283 (Section A or Section B) to return. A partner of a partnership or shareholder of an S corporation who receives an allocation of a charitable contribution deduction under section 170 for property to which paragraph (c), (d), or (e) of this section applies must attach a copy of the partnership's or S corporation's completed Form 8283 (Section A or Section B) to the return on which the deduction is claimed.

(5) Determination of deduction amount for purposes of substantiation rules--(i) In general. In determining whether the amount of a donor's deduction exceeds the amounts set forth in section 170(f)(11)(B) (noncash contributions exceeding \$500), 170(f)(11)(C) (noncash contributions exceeding \$5,000), or 170(f)(11)(D) (noncash contributions exceeding \$500,000), the rules of paragraphs (f)(5)(ii) and (iii) of this section apply.

(ii) Similar items of property must be aggregated. Under section 170(f)(11)(F), the donor must aggregate the amount claimed as a deduction for all similar items of property, as defined in §1.170A-13(c)(7)(iii), contributed during the taxable year. For rules regarding the number of qualified appraisals and Forms 8283 (Section A or

Section B) required if similar items of property are contributed, see §1.170A-13(c)(3)(iv)(A) and (4)(iv)(B).

(iii) For contributions of certain inventory and scientific property, excess of amount claimed over cost of goods sold taken into account--(A) In general. In determining the amount of a donor's contribution of property to which section 170(e)(3) (relating to contributions of inventory and other property) or (e)(4) (relating to contributions of scientific property used for research) applies, the donor must take into account only the excess of the amount claimed as a deduction over the amount that would have been treated as the cost of goods sold if the donor had sold the contributed property to the donee.

(B) Example. The following example illustrates the rule of this paragraph (f)(5)(iii):

Example. X Corporation makes a contribution of inventory described in section 1221(a)(2). The contribution, described in section 170(e)(3), is for the care of the needy. The cost of the property to X Corporation is \$5,000 and the fair market value of the property at the time of the contribution is \$11,000. Pursuant to section 170(e)(3)(B), X Corporation claims a charitable contribution deduction of \$8,000 ($\$5,000 + 1/2 \times (\$11,000 - 5,000) = \$8,000$). The amount taken into account for purposes of determining the \$5,000 threshold of paragraph (d) of this section is \$3,000 ($\$8,000 - \$5,000$).

(g) Effective/applicability date. This section applies to contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Taxpayers may rely on the rules of this section for contributions made after June 3, 2004, or appraisals prepared for returns or submissions filed after August 17, 2006.

Par. 8. Section 1.170A-17 is added to read as follows:

§1.170A-17 Qualified appraisal and qualified appraiser.

(a) Qualified appraisal--(1) Definition. For purposes of section 170(f)(11) and

§1.170A-16(d)(1)(ii) and (e)(1)(ii), the term qualified appraisal means an appraisal document that is prepared by a qualified appraiser (as defined in paragraph (b)(1) of this section) in accordance with generally accepted appraisal standards (as defined in paragraph (a)(2) of this section) and otherwise complies with the requirements of this paragraph (a).

(2) Generally accepted appraisal standards defined. For purposes of paragraph (a)(1) of this section, generally accepted appraisal standards means the substance and principles of the Uniform Standards of Professional Appraisal Practice, as developed by the Appraisal Standards Board of the Appraisal Foundation.

(3) Contents of qualified appraisal. A qualified appraisal must include--

(i) The following information about the contributed property:

(A) A description in sufficient detail under the circumstances, taking into account the value of the property, for a person who is not generally familiar with the type of property to ascertain that the appraised property is the contributed property.

(B) In the case of real property or tangible personal property, the condition of the property.

(C) The valuation effective date, as defined in paragraph (a)(5)(i) of this section.

(D) The fair market value, within the meaning of §1.170A-1(c)(2), of the contributed property on the valuation effective date;

(ii) The terms of any agreement or understanding by or on behalf of the donor and donee that relates to the use, sale, or other disposition of the contributed property, including, for example, the terms of any agreement or understanding that--

(A) Restricts temporarily or permanently a donee's right to use or dispose of the

contributed property;

(B) Reserves to, or confers upon, anyone, other than a donee or an organization participating with a donee in cooperative fundraising, any right to the income from the contributed property or to the possession of the property, including the right to vote contributed securities, to acquire the property by purchase or otherwise, or to designate the person having income, possession, or right to acquire; or

(C) Earmarks contributed property for a particular use;

(iii) The date, or expected date, of the contribution to the donee;

(iv) The following information about the appraiser:

(A) Name, address, and taxpayer identification number.

(B) Qualifications to value the type of property being valued, including the appraiser's education and experience.

(C) If the appraiser is acting in his or her capacity as a partner in a partnership, an employee of any person, whether an individual, corporation, or partnership, or an independent contractor engaged by a person other than the donor, the name, address, and taxpayer identification number of the partnership or the person who employs or engages the qualified appraiser;

(v) The signature of the appraiser and the date signed by the appraiser (appraisal report date);

(vi) The following declaration by the appraiser: "I understand that my appraisal will be used in connection with a return or claim for refund. I also understand that, if there is a substantial or gross valuation misstatement of the value of the property claimed on the return or claim for refund that is based on my appraisal, I may be subject

to a penalty under section 6695A of the Internal Revenue Code, as well as other applicable penalties. I affirm that I have not been at any time in the three-year period ending on the date of the appraisal barred from presenting evidence or testimony before the Department of the Treasury or the Internal Revenue Service pursuant to 31 U.S.C. section 330(c)";

(vii) A statement that the appraisal was prepared for income tax purposes;

(viii) The method of valuation used to determine the fair market value, such as the income approach, the market-data approach, or the replacement-cost-less-depreciation approach; and

(ix) The specific basis for the valuation, such as specific comparable sales transactions or statistical sampling, including a justification for using sampling and an explanation of the sampling procedure employed.

(4) Timely appraisal report. A qualified appraisal must be signed and dated by the qualified appraiser no earlier than 60 days before the date of the contribution and no later than--

(i) The due date, including extensions, of the return on which the deduction for the contribution is first claimed;

(ii) In the case of a donor that is a partnership or S corporation, the due date, including extensions, of the return on which the deduction for the contribution is first reported; or

(iii) In the case of a deduction first claimed on an amended return, the date on which the amended return is filed.

(5) Valuation effective date--(i) Definition. The valuation effective date is the date

to which the value opinion applies.

(ii) Timely valuation effective date. For an appraisal report dated before the date of the contribution, as described in §1.170A-1(b), the valuation effective date must be no earlier than 60 days before the date of the contribution and no later than the date of the contribution. For an appraisal report dated on or after the date of the contribution, the valuation effective date must be the date of the contribution.

(6) Exclusion for donor knowledge of falsity. An appraisal is not a qualified appraisal for a particular contribution, even if the requirements of this paragraph (a) are met, if the donor either failed to disclose or misrepresented facts, and a reasonable person would expect that this failure or misrepresentation would cause the appraiser to misstate the value of the contributed property.

(7) Number of appraisals required. A donor must obtain a separate qualified appraisal for each item of property for which an appraisal is required under section 170(f)(11)(C) and (D) and paragraph (d) or (e) of §1.170A-16 and that is not included in a group of similar items of property, as defined in §1.170A-13(c)(7)(iii). For rules regarding the number of appraisals required if similar items of property are contributed, see section 170(f)(11)(F) and §1.170A-13(c)(3)(iv)(A).

(8) Time of receipt of qualified appraisal. The qualified appraisal must be received by the donor before the due date, including extensions, of the return on which a deduction is first claimed, or reported in the case of a donor that is a partnership or S corporation, under section 170 with respect to the donated property, or, in the case of a deduction first claimed, or reported, on an amended return, the date on which the return is filed.

(9) Prohibited appraisal fees. The fee for a qualified appraisal cannot be based to any extent on the appraised value of the property. For example, a fee for an appraisal will be treated as based on the appraised value of the property if any part of the fee depends on the amount of the appraised value that is allowed by the Internal Revenue Service after an examination.

(10) Retention of qualified appraisal. The donor must retain the qualified appraisal for so long as it may be relevant in the administration of any internal revenue law.

(11) Effect of appraisal disregarded pursuant to 31 U.S.C. section 330(c). If an appraiser has been prohibited from practicing before the Internal Revenue Service by the Secretary under 31 U.S.C. section 330(c) at any time during the three-year period ending on the date the appraisal is signed by the appraiser, any appraisal prepared by the appraiser will be disregarded as to value, but could constitute a qualified appraisal if the requirements of this section are otherwise satisfied, and the donor had no knowledge that the signature, date, or declaration was false when the appraisal and Form 8283 (Section B) were signed by the appraiser.

(12) Partial interest. If the contributed property is a partial interest, the appraisal must be of the partial interest.

(b) Qualified appraiser--(1) Definition. For purposes of section 170(f)(11) and §1.170A-16(d)(1)(ii) and (e)(1)(ii), the term qualified appraiser means an individual with verifiable education and experience in valuing the type of property for which the appraisal is performed, as described in paragraphs (b)(2) through (4) of this section.

(2) Education and experience in valuing the type of property--(i) In general. An

individual is treated as having education and experience in valuing the type of property within the meaning of paragraph (b)(1) of this section if, as of the date the individual signs the appraisal, the individual has--

(A) Successfully completed (for example, received a passing grade on a final examination) professional or college-level coursework, as described in paragraph (b)(2)(ii) of this section, in valuing the type of property, as described in paragraph (b)(3) of this section, and has two or more years of experience in valuing the type of property, as described in paragraph (b)(3) of this section; or

(B) Earned a recognized appraiser designation, as described in paragraph (b)(2)(iii) of this section, for the type of property, as described in paragraph (b)(3) of this section.

(ii) Coursework must be obtained from an educational organization, generally recognized professional trade or appraiser organization, or employer educational program. For purposes of paragraph (b)(2)(i)(A) of this section, the coursework must be obtained from--

(A) A professional or college-level educational organization described in section 170(b)(1)(A)(ii);

(B) A generally recognized professional trade or appraiser organization that regularly offers educational programs in valuing the type of property; or

(C) An employer as part of an employee apprenticeship or educational program substantially similar to the educational programs described in paragraphs (b)(2)(ii)(A) and (B) of this section.

(iii) Recognized appraiser designation defined. A recognized appraiser

designation means a designation awarded by a generally recognized professional appraiser organization on the basis of demonstrated competency.

(3) Type of property defined--(i) In general. The type of property means the category of property customary in the appraisal field for an appraiser to value.

(ii) Examples. The following examples illustrate the rule of paragraphs (b)(2)(i) and (b)(3)(i) of this section:

Example (1). Coursework in valuing type of property. There are very few professional-level courses offered in widget appraising, and it is customary in the appraisal field for personal property appraisers to appraise widgets. Appraiser A has successfully completed professional-level coursework in valuing personal property generally but has completed no coursework in valuing widgets. The coursework completed by Appraiser A is for the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section.

Example (2). Experience in valuing type of property. It is customary for professional antique appraisers to appraise antique widgets. Appraiser B has 2 years of experience in valuing antiques generally and is asked to appraise an antique widget. Appraiser B has obtained experience in valuing the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section.

Example (3). No experience in valuing type of property. It is not customary for professional antique appraisers to appraise new widgets. Appraiser C has experience in appraising antiques generally but no experience in appraising new widgets. Appraiser C is asked to appraise a new widget. Appraiser C does not have experience in valuing the type of property under paragraphs (b)(2)(i) and (b)(3)(i) of this section.

(4) Verifiable. For purposes of paragraph (b)(1) of this section, education and experience in valuing the type of property are verifiable if the appraiser specifies in the appraisal the appraiser's education and experience in valuing the type of property, as described in paragraphs (b)(2) and (3) of this section, and the appraiser makes a declaration in the appraisal that, because of the appraiser's education and experience, the appraiser is qualified to make appraisals of the type of property being valued.

(5) Individuals who are not qualified appraisers. The following individuals are not

qualified appraisers for the appraised property:

(i) An individual who receives a fee prohibited by paragraph (a)(9) of this section for the appraisal of the appraised property.

(ii) The donor of the property.

(iii) A party to the transaction in which the donor acquired the property (for example, the individual who sold, exchanged, or gave the property to the donor, or any individual who acted as an agent for the transferor or for the donor for the sale, exchange, or gift), unless the property is contributed within 2 months of the date of acquisition and its appraised value does not exceed its acquisition price.

(iv) The donee of the property.

(v) Any individual who is either--

(A) Related, within the meaning of section 267(b), to, or an employee of, an individual described in paragraph (b)(5)(ii), (iii), or (iv) of this section;

(B) Married to an individual described in paragraph (b)(5)(v)(A) of this section; or

(C) An independent contractor who is regularly used as an appraiser by any of the individuals described in paragraph (b)(5)(ii), (iii), or (iv) of this section, and who does not perform a majority of his or her appraisals for others during the taxable year.

(vi) An individual who is prohibited from practicing before the Internal Revenue Service by the Secretary under 31 U.S.C. section 330(c) at any time during the three-year period ending on the date the appraisal is signed by the individual.

(c) Effective/applicability date. This section applies to contributions made on or after January 1, 2019. Taxpayers may rely on the rules of this section for appraisals prepared for returns or submissions filed after August 17, 2006.

Par. 9. Section 1.170A-18 is added to read as follows:

§1.170A-18 Contributions of clothing and household items.

(a) In general. Except as provided in paragraph (b) of this section, no deduction is allowed under section 170(a) for a contribution of clothing or a household item (as described in paragraph (c) of this section) unless--

(1) The item is in good used condition or better at the time of the contribution;

and

(2) The donor meets the substantiation requirements of §1.170A-16.

(b) Certain contributions of clothing or household items with claimed value of more than \$500. The rule described in paragraph (a)(1) of this section does not apply to a contribution of a single item of clothing or a household item for which a deduction of more than \$500 is claimed, if the donor submits with the return on which the deduction is claimed a qualified appraisal, as defined in §1.170A-17(a)(1), of the property prepared by a qualified appraiser, as defined in §1.170A-17(b)(1), and a completed Form 8283 (Section B), "Noncash Charitable Contributions," as described in §1.170A-16(d)(3).

(c) Definition of household items. For purposes of section 170(f)(16) and this section, the term household items includes furniture, furnishings, electronics, appliances, linens, and other similar items. Food, paintings, antiques, and other objects of art, jewelry, gems, and collections are not household items.

(d) Effective/applicability date. This section applies to contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Taxpayers may rely on the rules of this section for contributions made after August 17, 2006.

Par. 10. §1.664-1 is amended by revising paragraph (a)(7)(i)(b) and adding a sentence to the end of paragraph (f)(1) to read as follows:

§1.664-1. Charitable remainder trusts.

(a) * * *

(7) * * *

(i) * * *

(b) Determined by a current qualified appraisal from a qualified appraiser, as those terms are defined in—

(1) Section 1.170A-13(c)(3) and 1.170A-13(c)(5), respectively, for appraisals prepared for returns or submissions filed on or before August 17, 2006;

(2) Section 3 of Notice 2006-96, 2006-2 CB 902, for appraisals prepared for returns or submissions filed after August 17, 2006, if the donations are made before January 1, 2019; or

(3) Section 1.170A-17(a) and 1.170A-17(b), respectively, for appraisals prepared for returns or submissions for donations made on or after January 1, 2019.

* * * * *

(f) ___

____(1) * * * The provisions of paragraph §1.664-1(a)(7)(i)(b) apply as provided in that paragraph.

* * * * *

Par. 10. §1.6050L-1 is amended by:

1. Revising the first two sentences of paragraph (a)(2)(i).
2. Revising paragraphs (c)(4)(i) introductory text and (d)(2).

- 3. Revising the first sentences of paragraphs (e) and (f)(2)(ii).
- 4. Adding paragraph (h).

The revisions and addition read as follows:

§1.6050L-1. Information return by donees relating to certain dispositions of donated property.

(a) * * *

(2) * * *

(i) In general. Paragraph (a)(1) of this section shall not apply with respect to an item of charitable deduction property disposed of by sale if the Form 8283 appraisal summary (as described in §1.170A-13(c)(4) for contributions made on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and §1.170A-16(d)(3) for contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**), or a successor form, signed by the donee with respect to the item contains, at the time of the donee's signature, a statement signed by the donor that the appraised value of the item does not exceed \$500. In the case of a Form 8283 appraisal summary that describes more than one item, this exception shall apply only with respect to an item clearly identified as having an appraised value of \$500 or less. *

* *

* * * * *

(c) * * *

(4) * * *

(i) Shall provide its name, address, and employer identification number and a copy of the Form 8283 appraisal summary (as described in §1.170A-13(c)(4) for

contributions made on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and §1.170A-16(d)(3) for contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**) relating to the transferred property to the successor donee on or before the 15th day after the latest of -

* * * * *

(d) * * *

(2) Retention of Form 8283 appraisal summary. Every donee shall retain the Form 8283 appraisal summary (as described in §1.170A-13(c)(4) for contributions made on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and §1.170A-16(d)(3) for contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**) in the donee's records for so long as it may be relevant in the administration of any internal revenue law.

* * * * *

(e) Charitable deduction property. For purposes of this section, the term charitable deduction property means any property (other than money and publicly traded securities to which § 1.170A-13(c)(7)(xi)(B) does not apply) contributed after December 31, 1984, with respect to which the donee signs (or is presented with for signature in cases described in § 1.170A-13(c)(4)(iv)(C)(2)) a Form 8283 appraisal summary (as described in §1.170A-13(c)(4) for contributions made on or before **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** and §1.170A-16(d)(3) for contributions made after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**). * * *

* * * * *

(f) * * *

(2) * * *

(ii) Exception. Notwithstanding paragraph (f)(2)(i) of this section, in the case of a donee who, on the date of receipt of the transferred property, had no reason to believe that the substantiation requirements of §1.170A-13(c) or §1.170A-16(d) apply with respect to the property, the donee information return is not required to be filed until the 60th day after the date on which such donee has reason to believe that the substantiation requirements of §1.170A-13(c) or §1.170A-16(d) apply with respect to the property. * * *

* * * * *

(h) Effective/applicability dates. The first two sentences of paragraph (a)(2)(i), paragraphs (c)(4)(i) and (d)(2), and the first sentences of paragraphs (e) and (f)(2)(ii) apply to contributions made after **INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.**

PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 11. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 12. In §602.101, paragraph (b) is amended by adding in numerical order entries for 1.170A-15 through 1.170A-18 to read as follows:

§602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
--	-------------------------

* * * * *

1.170A-15.....	1545-1953
1.170A-16.....	1545-1953
1.170A-17.....	1545-1953
1.170A-18.....	1545-1953

* * * * *

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: April 23, 2018.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

IRS Notice 2017-10: What Land Trusts Need to Know

The Internal Revenue Service is working to halt conservation donations that give investors back more money than they donate. [IRS Notice 2017-10](#) (the “Notice”), published Dec. 23, 2016, identifies and classifies certain highly overvalued conservation easement transactions as “listed transactions.” As a result, investors and “material advisors” must file a report identifying these transactions to the IRS by May 1, 2017. If obligated individuals or entities fail to file this report, they could face severe fines.

So that land trusts can better understand the Notice and its repercussions, the Land Trust Alliance has prepared this document in conjunction with leading legal experts. This general overview will likely answer most questions you have about the Notice. If you have additional questions, contact Land Trust Alliance Conservation Defense Director Leslie Ratley-Beach at lrbeach@lta.org.

What does the Notice mean for land trusts?

For almost all conservation donations, the Notice will not affect donors or land trusts. The Notice specifically exempts land trusts from having to report simply because the land trust accepted an easement or land donation. Moreover, the problematic transactions described in the Notice are rare, and very few Alliance member land trusts have ever seen one of these transactions, let alone participated in one.

So the notice doesn't affect traditional donations?

The Notice narrowly targets investment scheme transactions and is not intended to be a deterrent to traditional conservation donations. Donations made by an individual, family or family partnership that has not sold partnership interests are not subject to the Notice. Donations from other entities, too, are unlikely to be subject to the Notice because the Notice narrowly defines covered transactions to those that feature four specific characteristics (see below).

What transactions does this Notice cover?

With this Notice, the IRS is targeting transactions involving conservation easements and land donations in which very high tax deductions are deliberately and explicitly “promoted” to potential investors. These transactions, which serve to shelter income from tax, generally involve investors who otherwise have little or no interest in the specific property.

Section 2 of the Notice explicitly lists the four elements of a “listed transaction.” To qualify as being subject to the Notice, all four requirements must be present:

- promotional materials, which can be oral or written; **and**
- investors; **and**
- a promised federal tax deduction that is at least 250% of the investor’s investment; **and**
- the contribution and deduction.

A transaction that meets all four requirements is what the IRS wants to review more closely. And rightly so. An investor can only realize this sort of deduction if the value of the property has dramatically

increased in value between the time of their investment and the donation – which in many of these transactions is less than one year.

It should be noted these are the same types of transactions the Alliance warned land trusts to avoid in our advisories published in June 2015 and August 2016. In those advisories, we cautioned that overvalued conservation easement transactions should cause serious concern to land trusts following Standard 10 of *Land Trust Standards and Practices*. Please continue to use the [latest advisory](#) and [other Alliance-issued materials](#) to assist your outside counsel in assessing any questionable transactions.

Does this Notice only apply to 2016 transactions?

No. The Notice requires reporting on transactions entered into on or after January 1, 2010, that meet all the qualifications outlined above.

What's this I see about an exemption for land trusts?

Generally speaking, land trusts (i.e. donees) are not required to report a transaction to the IRS. The Notice expressly states:

For purposes of this notice, a donee described in § 170(c) [of the Internal Revenue Code] shall not be treated as a party to the transaction under § 4965 [of the Internal Revenue Code] or a participant under § 1.6011-4 [of the Treasury Regulations].

As a practical matter, this means no land trust should fear it is required to report under the Notice simply because it worked with a donor to complete and accept a conservation donation. Even if the donation fits the description above of a “listed transaction,” land trusts are still not obligated to report the transaction. The only exception would be where the land trust acted as a “material advisor” in the transaction.

What would make a land trust a “material advisor” to a transaction?

As defined by [26 CFR 301.6111-3](#), a land trust becomes a “material advisor” only when it:

- provides “material aid, assistance, or advice” including a “tax statement” about a listed transaction (see below, but note this does not include any statement by a land trust in its role as donee); **and**
- receives at least \$10,000 for doing so.

Generally speaking, land trusts are not a “material advisor” to a transaction for the purposes of this Notice.

But what about negotiating an easement? Or signing Form 8283? Or any of the many other tasks land trusts complete to facilitate a donation? Does any of that work make a land trust a “material advisor”?

No. Under normal circumstances, the usual and customary tasks associated with conservation easement transactions will not make a land trust a “material advisor” for the purposes of this Notice. These usual and customary tasks include – but are not limited to – discussing land conservation with potential donors, negotiating, signing and accepting a conservation easement, preparing a baseline

documentation report, sending a “contemporaneous written acknowledgement” or “gift letter,” or signing Form 8283.

The IRS isn’t trying to trick land trusts. The Service knows what being a donee involves, and the Service wouldn’t have specifically provided an exclusion for accepting a donation if the donee’s usual and customary tasks would require the donee reporting itself as a “material advisor.” This fact is affirmed by contrasting this Notice with other, similar notices. In these other instances, charities and nonprofits that received donations were specifically included by being made parties to the transaction.

In short, if the IRS wanted information from land trusts, it had the power to demand it. Instead, the Service has excluded land trusts. If, however, you have any questions about a particular transaction or were paid more than \$10,000 for work on a transaction that appears to meet the requirements of the Notice, please consult your land trust tax attorney.

What does the Notice mean when it talks about “substantially similar” transactions?

Donations of land in fee that meet the criteria described in the Notice also are likely to be subject to reporting requirements. When the IRS identifies a “listed transaction,” the listing applies not just to the exact transaction described, but also to transactions that are “substantially similar.” A syndication of deductions from the donation of land in fee, where investors are promised the potential of a deduction more than 2.5 times their investment, is very likely to be seen by the IRS as “substantially similar” to the conservation easement donation described in the Notice.

Just so I know, what are the penalties for not reporting?

For a “material advisor,” the penalty for not reporting is the greater of \$200,000 or 50% of the gross income the advisor received for aiding the transaction. Reporting is required on Form 8918. It is important to remember that the Notice imposes a reporting requirement regardless of whether the transaction is sound and the claimed deduction is fully supportable.

What’s the conclusion to all this?

Everyone involved in land conservation should take the Notice seriously. But outside the realm of easement donation syndications and substantially similar transactions, such as syndicated land donations, this Notice has no effect. Land trusts that comply fully and operate in good faith with *Land Trust Standards and Practices* and the Alliance’s advisory on these matters are safe.

The Land Trust Alliance furnishes materials as tools to help land trusts with the understanding that the Land Trust Alliance is not rendering legal, accounting or other professional counsel. This article is not tax or legal advice. If a land trust requires legal advice or other expert assistance, seek the services of competent professionals. The Land Trust Alliance is solely responsible for this content. (Sources and additional resources available upon request.)

Do you need to use the tax shelter advisory?

Find out if it applies to your transaction. It's easy!





General Appraisal Information for Landowners and their Attorneys and Tax Advisors

Get Acquainted First

Thank you for donating or conserving your land! [Land trusts come in many varieties](#). You may find it helpful for you, your attorney and/or tax advisor to meet with land trust personnel early in the conservation planning process to visit your land, to review your ownership plans and to discuss expectations on donation value. If you plan to seek a tax deduction for your donation, the Internal Revenue Service will require you to file several documents with your tax return. The land trust can help by providing you with general information on substantiating federal income tax donations.

General Information, but Not Advice or Assurances

The Land Trust Alliance offers general information about the federal income tax deduction for gifts of land and conservation easements and general information on avoiding trouble with the IRS. Neither the [Land Trust Alliance](#) nor the land trust can provide legal or tax advice; therefore, you must retain your own independent legal counsel and tax specialist to advise you. Most land trusts will draft documents, prepare baseline documentation reports and discuss conservation options with you, but *you and your advisors are solely responsible for the decisions you make, the actions you take and the results you get*. Real estate transactions are often complex, and tax-driven transactions even more so. Legal assistance is critical for completing due diligence, as well as correcting any problems discovered during the process.

Commonsense Reaction to Value

The Land Trust Alliance publishes the land trust community's collective best practices, called [Land Trust Standards and Practices](#). All Alliance-member land trusts must adopt the Standards. Standard 10, Tax Benefits, requires land trusts "to work diligently to see that every gift of land or easements meets federal and state tax law requirements." Practice 10B asks a land trust to notify landowners that it "will not knowingly participate in projects where it has significant concerns about the tax deduction." This does not mean the land trust must determine or concur with the value of your donation, but it does require land trust personnel to use their general knowledge and common sense to make a *general* assessment about whether the appraised value is credible. Therefore, you should expect that the land trust will ask for a copy of your full appraisal *prior to signing* Form 8283.

Form 8283 and the Appraisal Are the Donor's Responsibility

You as the landowner are *solely responsible* for meeting *all* IRS substantiation and legal requirements. While the land trust's signature on Form 8283 does not represent agreement with your claimed value, land trusts have an ethical responsibility to avoid participating in abuses of the tax policies that have so effectively led to the voluntary protection of millions of acres of land in America. Understanding your history with the land and your value expectations are ways for the land trust to help you, and the land trust, avoid IRS trouble.

Donations Have Been Disallowed in Full for Incomplete Gift Substantiation

The IRS has denied in full dozens of charitable conservation contributions, and the courts have assessed and sustained up to 40 percent penalties, for technical failures in the appraisal and substantiation documents. Don't become a statistic. Be sure you and your legal and tax advisors review and understand the requirements of IRC §170 and the accompanying Treasury Department regulations.

An Appraisal Report Should Be Understandable to You

Appraisals that diverge from local real estate values are a potential warning sign for landowner and land trust alike. Here are some questions the landowner or the land trust might ask:

- a. Is the appraisal generally in line with your and the land trust's sense of local real estate values?
- b. Is the appraisal aggressive in its conclusion of value based on an informed experience of land values in the area? This does not require a detailed appraisal review, merely a general knowledge assessment. You can also obtain a desk review by another appraiser as a precaution to avoid potential problems and penalties.
- c. Is the value conclusion of the appraisal egregiously high, in the top range, in light of *the landowner's and land trust's general knowledge* of local land values; or was no gift made (for example, the easement was granted to satisfy a governmental regulation); or is the gift described in the appraisal different from the gift received?

The following checklist may help you and your tax advisor and attorney identify potential problems with your appraisal.

- The appraisal must reflect the value of the donation *on the date of the conveyance* and must be completed no earlier than 60 days prior to the date of contribution and no later than the due date for the tax return on which the deduction is first claimed.
- The appraisal must include the qualifications of the appraiser and should contain a recitation of the appraiser's experience, specifically as it relates to appraising conservation properties and conservation easements.
- The appraisal must contain the name, address and taxpayer ID of *every* appraiser who participated in the appraisal. If the appraisal states that more than one appraiser reviewed the property or contributed in any way, all must sign the appraisal and Form 8283.
- The appraisal must include a statement that it was prepared for federal income tax purposes and should also include a statement that it was prepared in accordance with USPAP (Uniform Standards of Professional Appraisal Practice). This means, at minimum, that appraisals acquired for grant or other funding purposes must be retitled and dated appropriately.
- The appraisal reflects an accurate assessment of the physical characteristics of the land that reflect its value (for example, wetlands, ledge, road frontage, developable and undevelopable areas, views and other value enhancements, neighborhood location and so forth) and contains a good description of the property, its physical attributes and its location.
- The appraisal analysis reflects an understanding of the local land use regulatory framework.
- The recorded deed or conservation easement is attached to the appraisal (or the final pre-recorded deed, if the appraisal is prepared prior to recording).

- The appraisal demonstrates that the appraiser clearly understood the specific restrictions on use of the property, if any, and took into account the permitted rights.
- For conservation easements, the appraisal uses the before and after methodology where there is no substantial record of sales of comparable conservation easements to document the deduction value. It should also state that no such comparable sales were found.
- For conservation easements, if the donor or a family member owns contiguous property, the appraisal addresses the entire contiguous property.
- For conservation easements, if the donor or a related person owns any property nearby or contiguous, the appraisal addresses the impact of the easement on the value of the other property (enhancement)
- The appraiser identifies each and every assumption with verifiable supporting data and facts.
- The appraisal is prepared, signed and dated by a qualified appraiser, an individual who declares on the appraisal summary that they:
 - Hold themselves out to the public as an appraiser or perform appraisals regularly
 - Are qualified to make appraisals of the type of property being valued because of background, experience, education and membership in professional associations and other qualifications *described in the appraisal*
 - Understand that a substantial or gross valuation misstatement resulting from an appraisal value that the appraiser knows, or reasonably should have known, would be used in connection with a tax return may subject the appraiser to a civil penalty under IRC §6695A
 - Are not an excluded individual, which generally includes the taxpayer or a party to the transaction, someone employed by the foregoing or a related person
 - Understand that an intentionally false overstatement of the value of the property may subject them to the penalty for aiding and abetting an understatement of tax liability

Risk Balancing

Get expert advisers to assist you. Land trusts must look at the entire conservation transaction and exercise their own independent judgment. If the transaction confers more benefit on private individuals than on the public or if it is not easily understood by ordinary people as broadly beneficial, then you may need to restructure the transaction.

RESOURCES

- *Charitable Contributions: Substantiation and Disclosure Requirements*. IRS Publication 1771. www.irs.gov/pub/irs-pdf/p1771.pdf.
- *Land Trust Alliance webpage on [tax shelters](#)*

GENERAL INFORMATION ONLY

The Land Trust Alliance furnishes materials as tools to help land trusts and landowners with the understanding that the Land Trust Alliance is not rendering legal, accounting or other professional counsel. If a land trust or landowner requires legal advice or other expert assistance, seek the services of competent professionals. The Land Trust Alliance is solely responsible for this content.