

Publications

February 23, 2026 • Updates

A Win on Fraud, a Warning on Valuation: Takeaways from North Donald

On February 19, 2026, the U.S. Tax Court issued its opinion in *North Donald LA Property, LLC v. Commissioner* (T.C. Memo. 2026-19), a syndicated conservation easement (SCE) case involving an asserted 75% civil fraud penalty and, alternatively, accuracy-related penalties.

Key Takeaways

- The IRS did not meet its heavy burden to prove civil fraud by clear and convincing evidence and there was thus no fraud penalty (75%).
- The 40% gross valuation misstatement penalty was imposed due to significant overstatement of the value claimed on the return.
- While the 40% penalty was a meaningful improvement on the penalty front, it is still a very high penalty compared to many recent IRS settlement resolutions currently being offered by the SCE space.

The Opinion Broken Down

1. Key takeaway: no fraud penalty (75%)
 1. The most important development for taxpayers is the Court's holding that the IRS did not meet its heavy burden to prove civil fraud by clear and convincing evidence. The Court placed significant weight on the taxpayer's disclosure of the transaction on the return (including the conservation easement reporting and "listed transaction" disclosure), concluding the IRS failed to establish the required intent to evade tax through concealment or misleading conduct.
 2. This should be a positive development for similarly situated cases going forward, particularly where taxpayers fully disclosed the SCE transaction on the return. While each matter will turn on its specific facts, the opinion reinforces that fraud is difficult for the government to sustain where the relevant transaction is plainly disclosed.
2. What remains: 40% penalty exposure (still significant)
 1. Even though the Court rejected the 75% civil fraud penalty, it nonetheless imposed the 40% gross valuation misstatement penalty because the value

Related People

- Lauren P. DeSantis-Then
- William J. Sanders

Related Capabilities

- Tax
- Government Investigations

claimed on the return was found to be wildly overstated compared to the value the Court ultimately determined.

2. In practical terms, this becomes a 40% penalty case rather than a 75% penalty case—a meaningful improvement on the penalty front. However, it is important to underscore that 40% is still very high, particularly compared to the penalty concessions that have been reflected in many of the IRS settlement resolutions currently being offered in the SCE space.
3. Practical implications for taxpayers and ongoing matters
 1. Fraud may be harder for the IRS to prove in cases with robust, timely return disclosure—this opinion provides helpful support for pushing back on 75% penalty assertions in appropriate cases.
 2. The 40% gross valuation misstatement penalty remains a major risk where the IRS (or a court) concludes the reported value is substantially inflated.
 3. Settlement posture may shift: the reduced penalty risk from 75% to 40% can change risk analysis, but the remaining exposure is still substantial and should be weighed against available IRS settlement alternatives.

Next Steps

Polsinelli's government investigations, tax and business attorneys have extensive experience with conservation easements and are prepared to assist with tax compliance or any potential enforcement action by the government.

If you have questions about how this decision may affect your audit, litigation, or settlement strategy, or need help evaluating the penalty posture and identifying practical next steps based on your specific facts and procedural status, please contact Lauren DeSantis-Then and Bill Sanders or another member of Polsinelli's Government Investigations or Tax team.