

Publications

January 14, 2026 • Updates

IRS Signals Continued Enforcement With New Conservation Easement Settlement Offer

The Internal Revenue Service has announced plans to roll out a new settlement initiative aimed at reducing the significant backlog of conservation easement cases currently pending before the U.S. Tax Court and the examination and appeals levels. According to Treasury officials, the IRS is handling approximately 700 active Tax Court cases, with hundreds more pending at the exam/appeals levels.

The forthcoming settlement offer—anticipated by the end of January or in early February—will not be significantly more generous than prior settlement initiatives for transactions the IRS views as illegitimate. Treasury officials emphasized that providing too “favorable” settlement terms could send the wrong message and encourage future inflated valuations and abusive tax positions, which Congress sought to curb through legislation enacted in 2022 capping conservation easement deductions.

In addition to the settlement initiative, the IRS plans to release a public summary of its Tax Court victories in conservation easement cases. Treasury officials noted concern that some investors may underestimate the risks of continued litigation, signaling that the government remains confident in its enforcement posture and trial outcomes.

These developments underscore that conservation easement transactions—and other tax strategies involving high valuation ratios—remain an active enforcement priority. Taxpayers with pending matters or those considering new transactions should carefully evaluate risk, documentation and valuation support in light of the IRS’s continued focus in this area. For example, although not mentioned by the IRS, it has become widely known that there have been a number of recent syndicated offerings that involve the contribution of a fee simple interest in land (rather than an easement) associated with “inflated” valuations.

Polsinelli represents professionals, professional firms and investors. Individuals, partnerships and corporations who are interested in conservation easements, fee simple donations or any other tax strategy with high ratios should contact legal counsel prior to entering into the transaction. In addition, anyone who receives a grand jury subpoena or civil subpoena should reach out to counsel prior to speaking with a federal agent or

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