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The IRS Is Changing How It Handles Conservation and Historic Preservation Easement Disputes

Key Takeaways

- The IRS's Aug. 19 announcement marks a procedural reset, not an enforcement retreat: The agency is creating a new Office of Conservation Easements while ending automatic settlement offers under the May 13 settlement framework.
- The new process gives partnerships more room to address authorization issues, insurance arrangements, investor exposure and litigation posture, including whether case-specific litigation hazards may support different terms.
- Partnerships and investors should not wait for another automatic offer. Pending matters should be reviewed now to determine whether to request the May 13 terms, address investor-level consequences, or pursue a hazards-based resolution.

On Aug. 19, the IRS announced the creation of a new Office of Conservation Easements and brought its three-month-old uniform settlement initiative to an end. The IRS will no longer automatically send standardized settlement offers with fixed response deadlines. Instead, taxpayers with pending cases may affirmatively request settlement under the May 13 settlement framework (the Framework), and cases may be resolved differently when their particular litigation risks warrant different treatment.

The announcement represents an important procedural reset—but not an IRS retreat from conservation easement enforcement.

Why Did the IRS Change Course?

The IRS acknowledged that standardized, unsolicited offers issued on a rolling basis with fixed response periods were not well suited to the full range of pending conservation easement cases.

Partnership agreements, insurance arrangements, procedural posture, litigation schedules and other circumstances can materially affect whether — and when — a partnership is able to evaluate a settlement. For example, a partnership may need time to determine who has authority to accept the offer, whether insurance or indemnification rights are available, how the liability will be allocated and whether individual investors will ultimately

Related People

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

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be required to pay.

The new approach allows those issues to be addressed on a case-specific basis rather than forcing every partnership into the same response period.

What Changed?

Effective Aug. 19, 2026:

1. The IRS will not issue additional unsolicited, uniform settlement letters under the May 13 program.
2. Acceptance deadlines contained in previously issued settlement offers have been withdrawn.
3. Elections already submitted under the Framework remain effective and will be processed according to their terms.
4. Taxpayers with pending cases may continue to request the settlement under the Framework through their assigned IRS examination or Chief Counsel representative.
5. If the case remains eligible, the IRS may issue a new offer on the same standardized terms.
6. Individual cases may still be settled on different terms when justified by the hazards of litigation.

The IRS expressly cautioned that the transition from unsolicited, uniform settlement letters to a request-based, case-specific settlement process does not signal that a new or more favorable standardized offer is coming. The agency is changing the process for delivering and evaluating settlement offers—not improving the underlying standardized terms.

What Will the New Office Do?

The Office of Conservation Easements will centralize the IRS's technical expertise concerning the tax, valuation, contractual and procedural issues presented by conservation and historic preservation easements.

Its responsibilities will include:

- Coordinating policy, enforcement and case-resolution strategy across the IRS and with the Office of Chief Counsel;
- Supporting engagement with taxpayers, practitioners, conservation organizations, historic preservation groups and other stakeholders;
- Promoting more consistent treatment of easement cases;
- Strengthening valuation integrity; and
- Working with Treasury to evaluate possible administrative and legislative changes affecting conservation and historic preservation easements.

The creation of a dedicated office suggests that the IRS is further institutionalizing — not winding down —its conservation easement enforcement and settlement efforts.

Although the IRS has ended the automatic issuance of settlement letters, it has not withdrawn the Framework itself.

That Framework generally provides that:

1. No charitable contribution deduction will be allowed;
2. The partnership may receive an “other deduction” generally based on its approximate out-of-pocket costs;
3. A reduced gross valuation misstatement penalty will apply under the standardized

terms;
4. Interest will continue to accrue as required by law; and
5. The method for resolving and collecting the resulting liability will depend in part on whether the case is governed by the TEFRA or Bipartisan Budget Act partnership audit rules.

A taxpayer that has not already received or accepted an offer may therefore still ask its assigned IRS or Chief Counsel representative to determine whether the case remains eligible.

Do Withdrawn Acceptance Deadlines Mean Taxpayers Can Wait Indefinitely?

Not necessarily.

The IRS has removed the stated acceptance deadlines from previously issued offers, but the announcement does not guarantee that an offer will remain available indefinitely. It also does not suspend Tax Court deadlines, discovery obligations, trial schedules, partnership audit procedures, the accrual of statutory interest or other case-specific deadlines.

Taxpayers should therefore avoid treating the announcement as an open-ended extension. Instead, they should use the added flexibility to conduct a complete review of the settlement's economic, procedural and litigation consequences.

Opportunities for Case-Specific Settlements

One of the most important parts of the announcement is the IRS's confirmation that individual cases may be resolved on different terms when warranted by the hazards of litigation.

Partnerships with substantial procedural, evidentiary, valuation, penalty-approval, limitations-period or other defenses should consider whether those issues support a case-specific resolution rather than acceptance of the standardized framework.

The availability of a hazards of litigation settlement does not mean that the IRS will agree to better terms in every case. It does, however, create a potential path for taxpayers to explain why the risks presented by their particular case differ from those assumed by the standardized offer.

What Partnerships and Investors Should Do Now

Partnerships with pending conservation easement cases should promptly determine:

1. Whether the partnership previously received a May 13 settlement offer;
2. Whether an election has already been submitted under the Framework and, if so, whether it was properly authorized;
3. Whether the partnership remains eligible to request the standardized terms;
4. Whether case-specific litigation hazards may support different terms;
5. Who has authority under the partnership agreement to make the settlement decision;
6. How the resulting liability would be paid or allocated under the applicable partnership audit rules;
7. Whether insurance, indemnification, advancement or reimbursement rights may be available;
8. Whether settlement could affect claims against promoters, appraisers, accountants, attorneys or other advisers; and

9. Which litigation, procedural and payment deadlines remain in effect despite the withdrawal of the settlement-offer deadline.

Individual investors should also consider obtaining independent advice. The interests of the partnership, its managers, the partnership representative, promoters, insurers and individual partners may not always align. Investors should understand not only the amount of the proposed settlement, but also who controls the decision, how the liability may reach them and whether the settlement could affect their rights against third parties.

What Happens Next?

Until the new office is operational, taxpayers should continue working directly with their assigned IRS examination or Chief Counsel representatives regarding pending cases and settlement requests.

The IRS expects that the Office of Conservation Easements will eventually provide central coordination and a channel for general inquiries. Separate contact information will be announced later.

The Bottom Line

The IRS has abandoned its one-size-fits-all system of automatic offers and fixed deadlines, but it has not abandoned either the Framework or conservation easement enforcement.

For taxpayers, the change provides additional procedural flexibility and a greater opportunity to address case-specific circumstances. It also places more responsibility on partnerships and their advisers to initiate settlement discussions, identify meaningful litigation hazards and evaluate the full consequences of settlement before making a decision.

Partnerships and individual investors with pending conservation or historic preservation easement matters should review their position now rather than waiting for another automatic offer to arrive.

For assistance evaluating a settlement offer, requesting settlement under the May 13 settlement framework, analyzing partnership-level procedures or protecting individual investor rights, please contact Lauren DeSantis-Then or Bill Sanders.

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