

Publications

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IRS Opens the Door on Syndicated Easement Settlements: Limited Time Offers Coming

Key Takeaways

- The IRS announced it will soon release settlement terms for certain syndicated conservation and historic preservation easement disputes under Section 170(h). The initiative is expected to provide a limited-time opportunity to resolve pending matters with greater tax certainty.
- The settlement initiative signals a continued IRS enforcement focus on syndicated easement transactions despite offering a potential path to resolution. Recent Tax Court decisions continue to reflect close scrutiny of valuation positions, technical compliance and penalties.
- Partnerships and investors should begin reviewing procedural posture, governance requirements and supporting documentation before settlement offers are issued. Early preparation may be important because the IRS is expected to provide a limited response window.

In a May 6 announcement, the Internal Revenue Service (IRS) stated it will soon release settlement terms and extend settlement offers to eligible partnerships to resolve disputes involving charitable deductions claimed for donated conservation or historic preservation easements under Internal Revenue Code Section 170(h). The IRS described the initiative as a time-limited opportunity intended to provide more certainty regarding the federal tax consequences of these transactions.

In this alert, we examine what the IRS settlement initiative may mean for partnerships and investors and discuss practical considerations that could affect participation and implementation.

What to Expect from the Upcoming Settlement Initiative

Settlement terms have not yet been released; eligibility and the economic terms will drive whether this program is workable for specific partnerships and investors. Once the terms are published, the IRS expects to extend offers to eligible partnerships, creating a defined (and likely compressed) decision window.

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Partnerships should anticipate continued scrutiny of valuation support, transaction structure and required reporting and substantiation.

The IRS is Offering a Path to Resolution — But Not Changing its Enforcement Message

The IRS reiterated its long-standing position that syndicated conservation easement transactions are often abusive tax shelters, frequently involving structured partnership arrangements and inflated property valuations. IRS leadership emphasized that Congress intended the conservation easement deduction to encourage genuine preservation — not tax-driven shelter activity.

Why the IRS Is Expanding Conservation Easement Settlement Efforts in 2026

The announcement follows public comments earlier this year from Treasury tax policy leadership regarding plans to focus on resolving the large inventory of conservation easement disputes that have increased the burden on both the U.S. Tax Court docket and IRS resources.

The IRS has previously launched settlement initiatives aimed at conservation easement matters, including a 2020 initiative focused on cases pending in the U.S. Tax Court and a later program in which the IRS sent letters to individuals and businesses whose Section 170(h) transactions were under examination across multiple IRS divisions.

Recent Tax Court Decisions Show Continued Scrutiny of Conservation Easement Deductions

The IRS also used its updated conservation easement materials to underscore the Tax Court's increasingly critical treatment of weak positions, including references to potential sanctions where meritless arguments are pursued (*Paul-Adams Quarry Trust LLC v. Commissioner*).

The agency highlighted several decisions as examples of the Tax Court's approach to valuation, technical compliance and penalties, including:

- *JL Minerals LLC* (October 2024), where the court substantially reduced a claimed deduction and sharply criticized the valuation posture.
- *Capital Places II Owner* (January 2025), where the Tax Court disallowed a claimed historic preservation easement deduction after finding the building was not a historic structure.
- *Corning Place Ohio LLC* (July 2024), where the court reduced a claimed deduction to approximately \$900,000 and upheld a 40% penalty.

Partnership Voting and Governance Requirements Could Become a Key Settlement Hurdle

Prior settlement initiatives have sometimes been difficult to implement in partnership matters due to governance and voting requirements. Unanimity requirements can be unworkable in many Tax Court partnership cases (including where partners are deceased, bankrupt or unresponsive). Any new initiative that offers a workable opt-in approach — including at the individual partner level — could significantly affect participation.

Steps Partnerships and Investors Should Take Before IRS Settlement Offers Arrive

- Inventory your procedural posture (exam, Appeals, Tax Court, etc.) and gather key filings and dates.
- Collect partnership documents, investor lists, appraisals and valuation support, and disclosure materials.
- Confirm voting and approval requirements under governing documents and assess whether a settlement can realistically be implemented.
- Model settlement economics vs. continued litigation risk, including potential tax, interest and penalty exposure.

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. Should you have questions regarding the information discussed, please reach out to Lauren DeSantis-Then, Bill Sanders or your preferred Polsinelli attorney.