

2024 LAND TRUST ALLIANCE

Advocacy Days

APRIL 15-18 | WASHINGTON D.C.

Topic: The Need to Clarify Internal Revenue Code 170(h)

Donating a conservation easement has always been difficult because the tax law's requirements for such a gift are complicated. But over the past few years, as the IRS has litigated cases against a slew of abusive syndicated conservation easement tax shelters, it has generated novel interpretations of the law.

Before the Charitable Conservation Easement Program Integrity Act was enacted in December 2022, the IRS had to use whatever tools it could to crack down on these abuses. Unfortunately, the new interpretations of the law have had the unintended effect of confusing and discouraging well-intended donors. The confusion about how the IRS interprets the law is unlikely to be resolved soon, as its litigation against past syndicated conservation easements will continue for some time. Going forward, however, the Land Trust Alliance wants to provide more certainty and stability for well-intended donors and to see the program implemented as Congress intended.

Now that the Charitable Conservation Easement Program Integrity Act¹ — enacted with the strong support of the Alliance and its approximately 950 land trust members (the recipients of conservation easement gifts) — is law and taking tax deductions for abusive syndicated conservation easement syndications is illegal, long legal battles will not be needed to stop any future abuse. However, as the next step in improving our tax laws related to donations of conservation easements, it is important that Congress clarify IRC 170(h) to provide more certainty and stability for well-intended donors and to see the program implemented as Congress intended.

Please contact the Land Trust Alliance at policy@lta.org for additional details about our tax policy proposals

¹ Sec. 605 of Title VI (The Secure Act of 2022) of Division T of H.R. 2617.