

Is this donation a listed transaction?

Requirements for land trusts working on donations by pass-through entities

On Oct. 8, 2024, the U.S. Treasury published final, immediately effective (and retroactive to 2018), [listed transactions regulations](#) that have important implications for land trusts working on land and conservation easement donations by pass-through entities. The regulations require reporting for donations determined to be “listed transactions.” It is the IRS’s chosen way to identify *potentially* fraudulent donations. These regulatory requirements specifically cover those donations exempted by the Charitable Conservation Easement Program Integrity Act as explained in Land Trust Decision Tree #1, [Is this easement deduction disallowed pursuant to the Charitable Conservation Easement Program Integrity Act?](#)

Please consult an attorney to understand the full compliance issues as the information provided here is not, nor should be construed as legal advice.

The following decision tree can assist a land trust in determining if the donation meets the criteria of a listed transaction, thus requiring the donors and other participants to report the donation. Pursuant to the listed transaction regulations, land trusts are not defined as *participants* in a listed syndicated conservation easement – those who are required to report on Form 8886 - but, importantly, depending on their conduct, land trusts may be considered *material advisors* who have their own reporting requirements. Please see Land Trust Decision Tree #3, [Is your land trust a material advisor to a listed transaction?](#) Failure to report can trigger severe financial penalties. Ideally, go through the decision trees at the beginning of every project with a pass-through entity.

(Be aware that these listed transactions regulations do apply to already completed donations since 2018. Land trust staff can tackle the following questions in whatever order works best, given the number of transactions they have to look at and the ease with which their records allow them to access the required information.)

DISCLAIMER: The Land Trust Alliance designed this material to provide accurate, authoritative information about the subject matter covered with the understanding that the Alliance is not engaged in rendering legal, accounting or other professional counsel. If a land trust or individual requires legal advice or other expert assistance, they should seek the services of competent professionals. The Alliance is solely responsible for the content of this series.

Q1

Is this a conservation easement donation, bargain sale or a donation of land?

Yes	No
Go to Q2.	Stop. Verify with your tax attorney that the regulations are not applicable to this transaction.

Q2

Is the donor a partnership, such as a multi-person LLC, S corporation, a limited partnership run by a general partner, an S corporation, or a trust (other than a grantor trust)?

Yes	No
The regulations apply to donors who are a partnership, such as a multi-person LLC, a limited partnership run by a general partner, an S corporation, or a trust (other than a grantor trust). These are pass-through entities that are required to file a tax return but pay no federal tax themselves — their tax liabilities are distributed to their members. Note that, unlike the Integrity Act, the listed transactions regulations apply to certain family partnerships. Go to Q3.	Stop. C Corporations and individuals are not considered pass-through entities, so the regulations do not apply. Verify with your tax attorney that the regulations are not applicable to this transaction.

Q3

Was the deduction claimed [reported in Form 8283, Section B, Part 1, Number 3, column (i)] greater than 2.5 times its basis [reported on the Form 8283, Section B, Part 1, Number 3, column (f) or (h)]?

(f) Donor's cost or adjusted basis	(g) For bargain sales, enter amount received	(h) Qualified conservation contribution relevant basis (see instructions)	(i) Amount claimed as a deduction (see instructions)

Yes	No
Go to Q4.	Stop. Verify with your tax attorney that the regulations are not applicable to this transaction.

Q4

Did the investors in the partnership receive information (aka “promotional materials”)* either in written or oral form that offers the possibility of a tax deduction equal or greater to 2.5 times the part of their investment that was tied to the land or easement to be acquired?

*Promotional materials are defined as written or oral communication regarding the transaction provided to investors, such as marketing materials, appraisals (including preliminary appraisals, draft appraisals, and the appraisal that is attached to the taxpayer’s return), websites, transactional documents such as deeds of conveyance, private placement memoranda, tax opinions, operating agreements, subscription agreements, statements of the anticipated value of the conservation easement, and statements of the anticipated amount of the charitable contribution deduction.

Again, the figures in columns (f), (h) and (i) on Form 8283 should indicate the basis/deduction issue.

Yes	No
Yes, the investors received promotional materials. Go to Q5.	Stop. Verify with your tax attorney that the regulations are not applicable to this transaction. Be sure to document any analysis and conclusions and retain in your files.

Unsure
It may be perfectly understandable that, as a land trust, you have had no contact with investors nor have any knowledge of the internal dealings about tax deductions or allocations. However, just because you don’t acquire this information in your normal course of business does not mean the IRS will let you off the hook. Without express guidance from the law, the safest course for your land trust is to consult your attorney and make reasonable and good faith efforts to determine if promotional materials were provided.

Q5

Did your land trust answer yes to Q1-4?

Yes	No
This is a listed transaction. It may be legal, but the IRS requires investors as participants to report these transactions on Form 8886 attached to their federal income tax return, including amended returns, for each tax year in which the taxpayer participated in a listed transaction. A copy of an initial Form 8886 must also be filed with the Office of Tax Shelter Analysis. Failure to file can trigger severe financial penalties. (If this is a listed transaction, go to Land Trust Decision Tree #3: Is your land trust a material advisor to a listed transaction?)	Stop. Verify with your tax attorney that the regulations are not applicable to this transaction. Be sure to document any analysis and conclusions and retain in your files.

The Land Trust Alliance designed this material to help your land trust identify the donation is a listed transaction, according to the 2024 Treasury regulations on listed transactions. This is a complex area of the law, so you should consult your attorney. The Land Trust Alliance is not engaged in rendering legal, accounting or other professional counsel.

Related resources:

- [Land Trust Decision Tree #1: Is this easement deduction disallowed pursuant to the Charitable Conservation Easement Program Integrity Act?](#)
- [Land Trust Decision Tree #3: Is your land trust a material advisor to a listed transaction?](#)
- [IRS Listed Transactions Regulations: Frequently Asked Questions](#)
- [Pass-Through Entity Donor Due Diligence Checklist](#)

Contact us:

- Leslie Ratley-Beach (802) 262-6051 | lrbeach@lta.org
- Diana Norris (202) 800-2219 | dnorris@lta.org

Date last revised: Oct. 16, 2025