

## Is this easement deduction disallowed pursuant to the Charitable Conservation Easement Program Integrity Act?

The 2022 Charitable Conservation Easement Program Integrity Act effectively shut down tax avoidance schemes that took advantage of the federal conservation easement tax incentive by expressly disallowing the taxpayer’s deduction. (For more details on abusive syndicated conservation easement transactions and the legislative efforts to curtail them, see [the Alliance’s blog](#).) The accompanying [final regulations](#) were published on Nov. 20, 2023.

*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 your land trust in determining if the transaction meets the Integrity Act disallowance rule or its exceptions.

### Q1

#### Is the contribution a donation of a conservation easement?

Yes	No
Go to Q2.	The Integrity Act does not apply to donations of land. However, the IRS’ listed transactions regulations do apply to donations of land. Refer to these decision trees to determine <a href="#">if the donation is a listed transaction</a> and <a href="#">if your land trust is a material advisor to a listed transaction</a> .

### Q2

#### Is the donor a C corporation, or an individual or a group of individuals?

Yes	No
The Integrity Act does not apply.	The donor is a partnership, such as a multi-person LLC, a limited partnership run by a general partner, a trust (other than a <a href="#">grantor trust*</a> ) or an S corp. 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. (Check state law in

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	<p>case joint tenancies or tenancies in common are considered partnerships.) <b>Go to Q3.</b></p> <p><i>*Note that there are special rules depending on the type and make-up of the trust, i.e., it might meet the Q4 exception below.</i></p>
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### Q3

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

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Yes	No
Go to Q4.	The Integrity Act does not apply.

### Q4

Is substantially all of the contributing partnership owned by members of a family?

"Substantially all" is defined as at least 90% of the interests in the contributing partnership or contributing S corporation is held by an individual and members of the family of such individual.

Yes	No
The donation meets the Integrity Act's exception for family entities and the contribution is not disallowed.	The contribution does not meet this exception. <b>Go to Q6.</b>

## Q5

Has the donating entity and each of its members owned the real property for more than three years?

Yes	No
The donation meets the Integrity Act exception for the three-year holding period and is not a disallowed deduction.	The donation does not meet this exception. <b>Go to Q6.</b>

## Q6

Does the donation meet one of the exceptions outlined in Q4 or Q5?

*\* Note that the Integrity Act includes a third exception — conservation easements on historic buildings — the criteria of which is beyond the scope of this resource.*

Yes	No
If the donation meets either exception outlined in Q4 or Q5 then the donation is not a disallowed deduction under the Integrity Act. However, the fact that the transaction does not violate the Integrity Act does not mean that the IRS views it as a valid deduction. Refer to these decision trees to determine <a href="#">if the donation is a listed transaction</a> and <a href="#">if your land trust is a material advisor to a listed transaction</a> .	If the donation does not meet one of the exceptions as outlined in Q4 and Q5 then decline to participate as the donation will be disallowed under the Integrity Act.

*This document is designed to help land trusts determine if an easement deduction will be disallowed under the Charitable Conservation Easement Program Integrity Act. Follow the decision tree and consult your tax attorney for legal advice. The Land Trust Alliance is not engaged in rendering legal, accounting or other professional counsel. As always, do not provide legal advice or make assurances about deductibility to landowners.*

### Related resources:

- [Land Trust Decision Tree #2: Is this donation a listed transaction?](#)
- [Land Trust Decision Tree #3: Is your land trust a material advisor to a listed transaction?](#)
- [IRS Listed Transactions Regulations: Frequently Asked Questions](#)

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