

# The Federal Law Re Donations Of Conservation Easements (and other partial interests)

## 26 US Code 170(h)

### (h) Qualified conservation contribution

#### (1) In general

For purposes of subsection (f)(3)(B)(iii), the term "qualified conservation contribution" means a contribution—

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

#### (2) Qualified real property interest

For purposes of this subsection, the term "qualified real property interest" means any of the following interests in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

#### (3) Qualified organization

For purposes of paragraph (1), the term "qualified organization" means an organization which—

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501 (c)(3) and—
  - (i) meets the requirements of section 509 (a)(2), or
  - (ii) meets the requirements of section 509 (a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

#### (4) Conservation purpose defined

##### (A) In general

For purposes of this subsection, the term "conservation purpose" means—

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is—
  - (I) for the scenic enjoyment of the general public, or
  - (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy,and will yield a significant public benefit, or
- (iv) the preservation of an historically important land area or a certified historic structure.

##### (B) Certified historic structure

For purposes of subparagraph (A)(iv), the term "certified historic structure" means any building, structure, or land area which—

- (i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in section 47 (c)(3)(B)) and is certified by the Secretary of the Interior to the Secretary as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on the due date (including extensions) for filing the transferor's return under this chapter for the taxable year in which the transfer is made.

**(5) Exclusively for conservation purposes**

For purposes of this subsection—

**(A) Conservation purpose must be protected**

A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

**(B) No surface mining permitted**

(i) In general Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

(ii) Special rule With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.

**(6) Qualified mineral interest**

For purposes of this subsection, the term "qualified mineral interest" means—

- (A) subsurface oil, gas, or other minerals, and
- (B) the right to access to such minerals.

**(i) Standard mileage rate for use of passenger automobile**

For purposes of computing the deduction under this section for use of a passenger automobile, the standard mileage rate shall be 14 cents per mile.

**(j) Denial of deduction for certain travel expenses**

No deduction shall be allowed under this section for traveling expenses (including amounts expended for meals and lodging) while away from home, whether paid directly or by reimbursement, unless there is no significant element of personal pleasure, recreation, or vacation in such travel.

**(k) Disallowance of deductions in certain cases**

For disallowance of deductions for contributions to or for the use of communist controlled organizations, see section 11(a) <sup>[2]</sup> of the Internal Security Act of 1950 (50 U.S.C. 790).

**(l) Treatment of certain amounts paid to or for the benefit of institutions of higher education**

**(1) In general**

For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

**(2) Amount described**

For purposes of paragraph (1), an amount is described in this paragraph if—

- (A) the amount is paid by the taxpayer to or for the benefit of an educational organization—
  - (i) which is described in subsection (b)(1)(A)(ii), and

**(ii)** which is an institution of higher education (as defined in section 3304 (f)), and

**(B)** such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection.

**(m) Other cross references**

**(1)** For treatment of certain organizations providing child care, see section 501 (k).

**(2)** For charitable contributions of estates and trusts, see section 642 (c).

**(3)** For nondeductibility of contributions by common trust funds, see section 584.

**(4)** For charitable contributions of partners, see section 702.

**(5)** For charitable contributions of nonresident aliens, see section 873.

**(6)** For treatment of gifts for benefit of or use in connection with the Naval Academy as gifts to or for use of the United States, see section 6973 of title 10, United States Code.

**(7)** For treatment of gifts accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency, as gifts to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

**(8)** For treatment of gifts of money accepted by the Attorney General for credit to the "Commissary Funds Federal Prisons" as gifts to or for the use of the United States, see section 4043 of title 18, United States Code.

**(9)** For charitable contributions to or for the use of Indian tribal governments (or their subdivisions), see section 7871.

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