

# Notes on New IRS FORM 8283 for Noncash Charitable Contributions

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## Why the changes in Form 8283?

- IRS hates deductions that need to be appraised; CRs particularly hard to appraise
- Heightened scrutiny resulting from *Washington Post* articles in 2004
- IRS has found CRs that are:
  - Covering land not significant for conservation; and/or
  - Have inflated FMV appraisals

## What are the changes?

- More scrutiny of CRs, taxpayers, appraisers *AND* land trusts
  - IRS Commissioner: “Taxpayers who want to game the system and the charities that assist them will be called to account.”
  - “Donees cannot sit idly by while donors poison the charitable environment.”
- New 2004 LTA S& P, Practice10D: Donee Responsibilities
  - “If the LT has significant reservations about the value of the gift,...seek additional substantiation...or disclose reservations to donor.”
  - NOTE: IRS has made no changes to its regulations requiring LTs to police donors and appraisers. But its body language says otherwise.
- Virtually no change to Form 8283 itself, except Section B Part I:
  - added: “Qualified Conservation Contribution” as a category to flag CRs;
  - added: Appraisals for FMV > \$500,000 now must be fully attached
- Added more details and requirements to 8283’s instructions
  - Only new reg is disclosure about being a conservation buyer with a CR
  - Other regs were already in IRC 170(h), but have moved into the instructions
  - Steve Small: “Very unusual for the Service to use the strong phrase ‘cannot be determined’ when referring to use of % in valuing CRs”

## What’s ahead?

- *Proposed* state and federal tax incentives for CRs and land gifts
  - US: Increase CR carry-forward from five years (now) to 15 years (H.R. 4297)
  - US: Increase maximum CR deduction from 30% (now) to 50% of AGI (H.R. 4297)
  - MA: (H.4218) 10-yr. tax credit worth up to \$50,000 in savings
  - LTA concerned that new incentives will cause flood of tax-driven CRs

## Small (Steve’s, that is) suggestions for LTs:

- Tell donors that CRs must protect significant conservation values, not simply limit build-out of a parcel; adopt selection criteria
- Tell donors LT may want to see appraisal and LT must have 8283 from donor 10 days before donor needs it back

## LTA’s suggestions for LTs

- Use new 8283 for 2005 land gifts and CRs if still working on taxes for April 15, 2006
- Inform donors and their appraisers of new forms and instructions for 8283
- Cooperate in identifying conservation interests (from CR Whereas/Purpose clauses)

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<sup>1</sup> With thanks to Atty. Stephen J. Small, Presenter at Mass. Land Conservation Conference, Worcester MA, March 11, 2006