



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

DEPUTY COMMISSIONER

May 20, 2011

The Honorable Michael R. Turner
U.S. House of Representatives
Washington, DC 20515

Attention: Al Garesché

Dear Mr. Turner:

Thank you for the letter from you and Representative Carnahan dated April 8, 2011, on audits of charitable contributions of conservation easements on certified historic structures. We recognize that donations of conservation easements play an important role in preserving land and historic property.

In administering the tax law provisions related to easements, our goal is to maintain a balanced program that facilitates the delivery of these important economic incentives while ensuring that we only allow the benefits to taxpayers legitimately entitled to them. Audits of these returns require a comprehensive assessment of the taxpayer's compliance with the Internal Revenue Code and Treasury Regulations. We audit only a fraction of the returns claiming a charitable contribution of a conservation easement.

Verifying compliance with the requirements outlined in the tax law is complex and extremely fact-intensive. As with any provision in the tax law that depends on valuation, it is also frequently subject to controversy between the government and the taxpayer. To determine whether the taxpayer has properly valued the easement under the Treasury Regulations, we rely on the expertise of both internal and external valuation experts. When a taxpayer has met statutory requirements and properly valued the easement, he or she can claim an income tax deduction for the charitable contribution.

The Internal Revenue Service Advisory Council (IRSAC) provides valuable external perspective on tax policies and programs that we administer. Our dialog with the IRSAC is robust and covers a number of significant and sometimes controversial issues. In many cases, we accept the IRSAC's recommendations. In other cases, we do not agree with their recommendations. On the recommendations that you reference, we did not accept them for legal, policy, and practical reasons that we would be happy to discuss further.

I appreciate your comments and recognize the importance of charitable contribution deductions for conservation easements. We would be happy to meet with you or your staff to explain our program in more detail. We will continue to administer Internal Revenue Code section 170(h) in a fair and impartial manner so that taxpayers who meet the statutory requirements can deduct their conservation contributions. I am sending a similar letter to Representative Carnahan. If you have any questions, please contact me or have your staff call Floyd Williams, Director, Legislative Affairs, at (202) 622-4725.

Sincerely,

A handwritten signature in black ink, appearing to read "S. T. Miller". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Steven T. Miller