

Form 8283 Changes

In December 2020, the IRS released a new version of its Form 8283, replacing an earlier version dated November 2019. The new form and instructions can be found [here](#) on the IRS website. Although it is up to landowners and their advisors to follow the rules for claiming charitable deductions, land trusts can be helpful in pointing out the existence of the new version of the form.

There are no major changes for the typical land or conservation easement donation. That said, there are a couple new details worth mentioning:

Section B, Part I of the Form, for gifts valued at over \$5,000, has moved from page two to page one. This is the substantive section typically required to be completed for a land or easement gift, while Section A and Section B, Part II are left blank. (In the rare event of a claimed conservation easement deduction of \$5,000 or less, the donor would fill out Section A and also attach the separate statement as set forth in the instructions.)

In Line 5(g) of Section B, Part I, some sort of “separate statement” is now required to be attached for bargain sales, although the instructions do not shed any light on what this statement might include. I have an inquiry into the IRS on this point, and will report back on the MLTN list serve if I hear anything useful. Anyone who has any insight, please email me.

In addition, here are some general tips on completing the Form 8283, in light of changes over recent years and the IRS’ scrutinizing these forms for errors in the hopes of denying deductions:

There is often confusion over which box to check in Section B, Part I. The “Qualified Conservation Contribution” box should be checked only for conservation easements. For outright land donations, the “Other Real Estate” box should be checked.

The donor must be sure to fill out every applicable part of Section B, Part I, Lines 3(a)-(i). The IRS has been very persnickety about missing items and has denied deductions in their entirety for minor foot faults on the form.

Donors and their advisors also must remember to attach to the Form 8283 a separate statement for any conservation easement donation. Details of what is required on this statement are included in the Instructions. A template for this statement can be found [here](#) on the MLTN website.

For any claimed deduction over \$500,000, the entire appraisal must be included with the tax return. This rule has been in place for many years now, but is still occasionally overlooked by donors and accountants.

A representative of the land trust signs the "Donee Acknowledgment" section at the bottom of page 2 of the Form, but should do so only if the substantive part of the form has been completed and after conducting a basic accuracy review of the appraisal to ensure there is no error in the property description or that no gift has been made (e.g., because the easement was granted in connection with some sort of governmental approval). All of these practices should be spelled out in a detailed disclosure letter sent to the donor early in the project discussions, to avoid any surprises See *Land Trust Standards and Practices* 10.A and 10.B for details.

The land trust's signatory must be either the person authorized to sign the organization's tax returns (typically any Board officer, but not the Executive Director, unless the E.D. is also an officer under the Bylaws) or else someone who has been "specifically designated" to sign the Form 8283. To meet this latter qualification, I would suggest that the Board's authorizing resolution expressly empower whoever is executing the closing documents to also sign the Form 8283.

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