

## Blue Ridge Land Conservancy Practices

### **Standard 10: Tax Benefits**

*Land trust work diligently to see that every charitable gift of land or conservation easements meets federal and state tax law requirements, to avoid fraudulent or abusive transactions and to uphold public confidence in land conservation.*

#### **Practice 10A: Landowner Notification**

1. *Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that:*
  - a. *The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements*
  - b. *The donor is responsible for any determination of the value of the donation*
  - c. *The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000*
  - d. *Prior to making the decision to sign IRS Form 8283, the land trust will request a copy of the completed appraisal*
  - e. *The land trust is not providing individualized legal or tax advice<sup>2</sup>. When selling or transferring conservation land or conservation easements to another tax-exempt organization or public agency, consider whether the new holder can fulfill the long-term stewardship and enforcement responsibilities*
2. *Do not make assurances as to:*
  - a. *Whether a particular land or conservation easement donation will be deductible*
  - b. *What monetary value of the gift the IRS and/or state will accept*
  - c. *What the resulting tax benefits of the deduction or credit will be, if any*

**Practice 10A1:** Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that:

- a. The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements
- b. The donor is responsible for any determination of the value of the donation
- c. The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000
- d. Prior to making the decision to sign IRS Form 8283, the land trust will request a copy of the completed appraisal
- e. The land trust is not providing individualized legal or tax advice<sup>2</sup>. When selling or transferring conservation land or conservation easements to another tax-exempt organization or public agency, consider whether the new holder can fulfill the long-term stewardship and enforcement responsibilities

**Practice 10A2:** Do not make assurances as to:

- a. Whether a particular land or conservation easement donation will be deductible
- b. What monetary value of the gift the IRS and/or state will accept
- c. What the resulting tax benefits of the deduction or credit will be, if any

## **Blue Ridge Land Conservancy Practices**

It is the policy of the Blue Ridge Land Conservancy that it shall inform potential land or conservation easement donors who may claim a federal or state income tax deduction, or state tax credit, in its conservation easement application and conservation easement guide that:

- The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements
- The donor is responsible for any determination of the value of the donation
- The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000
- Prior to making the decision to sign IRS Form 8283, the Conservancy will request a copy of the completed appraisal, and
- The Conservancy is not providing individualized legal or tax advice.

The Conservancy shall not make assurances as to:

- Whether a particular land or conservation easement donation will be deductible
- What monetary value of the gift the IRS and/or state will accept, and
- What the resulting tax benefits of the deduction or credit will be, if any.

Adopted 12/2/2009, 09/2/2015; revised 04/4/2018

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### **Standard 10: Tax Benefits and Appraisals**

*Land trust work diligently to see that every charitable gift of land or conservation easements meets federal and state tax law requirements, to avoid fraudulent or abusive transactions and to uphold public confidence in land conservation.*

#### **Practice 10B: Legal Requirements: Land Trust Responsibilities**

*1. If the land trust holds federally tax-deductible conservation easements, it meets the requirements for a qualified organization under IRC §170(h)*

*2. Sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift. Refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described*

*3. File IRS Form 8282 when conveying a donated real property interest within three years of the date the land trust received the property*

*It is the policy of the Blue Ridge Land Conservancy that it shall:*

- meet the requirements for a qualified organization under IRC §170(h);*
- sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift;*
- refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described*
- file IRS Form 8282 when conveying a donated real property interest within three years of the date the land trust received the property*

**Practice 10B1:** If the land trust holds federally tax-deductible conservation easements, it meets the requirements for a qualified organization under IRC §170(h)

**Practice 10B2:** Sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift. Refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described

**Practice 10B3:** File IRS Form 8282 when conveying a donated real property interest within three years of the date the land trust received the property

It is the policy of the Blue Ridge Land Conservancy that it shall:

- meet the requirements for a qualified organization under IRC §170(h);
- sign the Form 8283 only if the information in Section B, Part I, "Information on Donated Property," is complete and is an accurate representation of the gift;
- refuse to sign the Form 8283 if the land trust believes no gift has been made or the property has not been accurately described
- file IRS Form 8282 when conveying a donated real property interest within three years of the date the land trust received the property

Adopted 12/2/2009, 09/2/2015; revised 04/4/2018

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### **Standard 10: Tax Benefits and Appraisals**

*Land trust work diligently to see that every charitable gift of land or conservation easements meets federal and state tax law requirements, to avoid fraudulent or abusive transactions and to uphold public confidence in land conservation.*

#### **Practice 10C: Avoiding fraudulent or abusive transactions**

- 1. Review, on the land trust's own behalf, each transaction for consistency with federal and state income tax deduction or credit requirements*
- 2. Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal*
- 3. Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as:*
  - a. Documenting that the land trust has shared those concerns with the donor*
  - b. Seeking additional substantiation of value*
  - c. Withdrawing from the transaction prior to closing*
  - d. Or refusing to sign the Form 8283*
- 4. When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS,*
  - a. Require a copy of the appraisal prior to closing*
  - b. Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory*

**Practice 10C1:** Review, on the land trust's own behalf, each transaction for consistency with federal and state income tax deduction or credit requirements

**Practice 10C2:** Evaluate the Form 8283 and any appraisal to determine whether the land trust has substantial concerns about the appraised value or the appraisal

**Practice 10C3:** Discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as:

- a. Documenting that the land trust has shared those concerns with the donor
- b. Seeking additional substantiation of value
- c. Withdrawing from the transaction prior to closing
- d. Or refusing to sign the Form 8283

**Practice 10C4:** When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS,

- a. Require a copy of the appraisal prior to closing
- b. Decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's

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acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory

It is the policy of the Blue Ridge Land Conservancy that it shall:

- review, on the Conservancy's own behalf, each transaction for consistency with federal and state income tax deduction or credit requirements
- evaluate the Form 8283 and any appraisal to determine whether the Conservancy has substantial concerns about the appraised value or the appraisal
- discuss substantial concerns about the appraisal, the appraised value or other terms of the transaction with legal counsel and take appropriate action, such as:
  - documenting that the Conservancy has shared those concerns with the donor
  - seeking additional substantiation of value
  - withdrawing from the transaction prior to closing
  - or refusing to sign the Form 8283

When engaging in transactions with pass-through entities of unrelated parties, particularly those offered or assembled by a third party or described as a syndication by the IRS, the Conservancy shall:

- require a copy of the appraisal prior to closing
- decline to participate in the transaction if the appraisal indicates an increase in value of more than 2.5 times the basis in the property within 36 months of the pass-through entity's acquisition of the property, the value of the donation is \$1 million or greater and the terms of the transaction do not satisfy the Land Trust Alliance Tax Shelter Advisory

Adopted 12/2/2009, 09/2/2015; revised 04/4/2018