

Tax Code Requirements and Appraisals Policy

Utah Open Lands (UOL) works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.

It is the legal responsibility of the landowner, not UOL, to comply with specific requirements regarding federal or state tax deductions for the donation of land or easements. Nevertheless, UOL has responsibility to see that those requirements are met and should take reasonable measures to ensure that landowners understand those requirements and consult their own advisors about meeting them. UOL's role is important in that deductions that are overturned by the IRS may make future potential donors wary, could lead to investigations and, ultimately, can reduce public support for deductions as incentives for land conservation. UOL takes care never to guarantee or appear to guarantee that a deduction will be allowed or what its value will be, but the land trust can help guide the landowner and establish policies to protect the land trust.

UOL notifies, through distribution of a Landowner Guide, and in writing via an engagement letter, all potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. UOL, on its own behalf, reviews each transaction for consistency with the following requirements.

Tax Code and IRS Requirements

Every individual who represents UOL in dealings with potential easement donors should have a basic understanding of the law and regulations pertaining to the tax deductibility of conservation easements. From the first contact, UOL should be sure it is giving out accurate information.

Internal Revenue Code §170(h): is the federal statute governing the requirements a conservation easement and certain other partial interests in land must meet to qualify for a federal income tax deduction. The legal term for these qualifying partial interests is “qualified conservation contributions”. The statute outlines three basic tests a donation must meet to be considered a qualified conservation contribution. It must be:

1. **A qualified real property interest** (which includes *perpetual* conservation easements);
2. **Granted to a qualified organization** (generally a government agency or public charity); and
3. **Granted exclusively for conservation purposes**, of which there are four categories:
 - a. Provides outdoor recreation or educational use for the general public;
 - b. Protects a relatively natural habitat of fish, wildlife, plants, or similar ecosystem;
 - c. Preserves open space (including farmland and forestland) where such preservation:
 - i. Provides for the scenic enjoyment of the general public *or* is pursuant to a clearly delineated federal, state or local governmental conservation policy, *and*
 - ii. Yields a significant public benefit;
 - d. Preserves an historically important land area or a certified historic structure.

UOL informs potential land or easement donors in writing, via an engagement letter and Landowner Guide, of the IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.