



September 14, 2021

The Honorable Nancy Pelosi  
 Speaker  
 U.S. House of Representatives  
 1236 Longworth House Office Building  
 Washington, DC 20515

The Honorable Kevin McCarthy  
 Republican Leader  
 U.S. House of Representatives  
 2468 Rayburn House Office Building  
 Washington, DC 20515

The Honorable Charles E. Schumer  
 Majority Leader  
 United States Senate  
 322 Hart Senate Office Building  
 Washington, DC 20510

The Honorable Mitch McConnell  
 Republican Leader  
 United States Senate  
 317 Russell Senate Office Building  
 Washington, DC 20510

Dear Leaders:

As national representatives for the land conservation, appraisal and historic preservation communities, we write to applaud inclusion of the bipartisan *Charitable Conservation Easement Program Integrity Act* (H.R. 4164 and S. 2256) in the reconciliation package.

Abusive syndicated conservation easement transactions continue to cost taxpayers billions of dollars – and threaten one of our nation’s most important voluntary private land conservation tools. Abuse of this very successful charitable program will continue unless Congress acts to pass legislation that outlaws these egregious tax shelters. The *Charitable Conservation Easement Program Integrity Act* is consistent with Congress’ ongoing efforts to preserve the integrity of our tax laws and to “close the tax gap.” The fact that a few bad actors engage in this unlawful profiteering under the guise of philanthropy exemplifies the tax gap and must be stopped.

Despite the Internal Revenue Service designating these abusive easement syndications as “listed transactions” in Notice 2017-10 published at the end of 2016, aggressive marketing of these transactions persists. According to the most recent publicly available IRS data, investors claimed nearly \$36 billion in unwarranted deductions between 2010 and 2018. This includes \$6 billion in 2016, \$6.8 billion in 2017 and \$9.2 billion in 2018. ***This means \$22 billion in unwarranted tax deductions were claimed in the three years after the IRS put these bad actors on notice.*** While data for tax years 2019

and 2020 have not yet been released, it is expected to confirm a continuing problem. By including the *Charitable Conservation Easement Program Integrity Act* in the reconciliation package, we are one step closer to halting further abuse.

Last year, the Senate Finance Committee issued a bipartisan and authoritative report on this abuse. The report concluded that people engaging in these abusive transactions were not driven by a desire to conserve land or pursue other legitimate business ventures. Indeed, the committee reviewed emails between promoters and investors that showed “no interest in a wide variety of land-investment possibilities; they just wanted to buy tax deductions.” The report likens the abuse to an automated dollar machine, where each investor who puts in one dollar gets back two. The report also made it clear that Congress must act to end the abuse.

The bad actors defending these abusive transactions claim that passing the *Charitable Conservation Easement Program Integrity Act* would hinder land conservation. This is false. Each year, approximately 2,000 to 2,500 conservation donations are made by private landowners not involved in syndications for truly charitable purposes. In aggregate, these truly charitable donations total about \$1 billion in claimed deductions per year. That stands in sharp contrast with the \$9.2 billion claimed by syndicators for 296 entities in 2018. Passing legislation that includes the *Charitable Conservation Easement Program Integrity Act* will safeguard the taxpaying public while ensuring that the federal tax incentive for land conservation and historic preservation remains available for genuine philanthropists.

Additionally, those defending the abusive transactions claim the effective date of the bill is retroactive. But that’s a disingenuous argument. The effective date of the legislation mirrors the date the IRS placed these bad actors on notice and warned them to halt their abusive transactions. Maintaining the effective date in the legislation will ensure that funds improperly taken from taxpayers will be recovered. Moreover, maintaining the effective date saves taxpayers potentially tens of millions of dollars in unnecessary IRS enforcement costs and expensive litigation. ***Fair and repeated warnings to the bad actors negates any argument about retroactivity. Changes to the effective date would only serve to protect the massive profiteering enjoyed by the bad actors.***

Some have argued that this issue is best resolved not by Congress, but by other entities. Unfortunately, despite forceful actions by the IRS and the U.S. Department of Justice, these abuses continue. In December 2020, the Department of Justice announced its first criminal case; two people pleaded guilty to conspiring with others to develop, market, promote and sell investments in fraudulent syndicated conservation easement transactions. And more recently, in June of this year, a federal grand jury returned an indictment charging a certified public accountant with promoting a syndicated conservation easement tax scheme involving fraudulent charitable deductions. While we applaud these efforts, the piecemeal nature of these enforcement actions and their lack of deterrent effect make clear the need for Congress to pass the *Charitable Conservation Easement Program Integrity Act* which will shut down these types of transactions for good.

The *Charitable Conservation Easement Program Integrity Act* is the most effective and efficient way to halt this egregious and ongoing abuse. The legislation has the support of our respective organizations and the full backing of all those who work tirelessly and ethically to conserve our country’s irreplaceable farmlands, forests, ranches, wetlands and historic sites. We respectfully ask you to stand with us – and all in our community – by taking immediate action to curb abuse and restore the integrity of this cherished and worthy conservation program.

It's time to pass legislation that includes the *Charitable Conservation Easement Program Integrity Act*.

Sincerely,

*American Society of Farm  
Managers and Rural  
Appraisers*

*American Society of  
Appraisers*

*Appalachian Trail Conservancy*

*Appraisal Institute*

*Ducks Unlimited*

*Land Trust Alliance*

*National Trust for Historic  
Preservation*

*Partnership of Rangeland  
Trusts*

*Pheasants Forever Quail  
Forever*

*The Conservation Fund*

*The Nature Conservancy*

*Theodore Roosevelt  
Conservation Partnership*

*The Trust for Public Land*

CC:

The Honorable Richard Neal  
The Honorable Kevin Brady  
The Honorable Ron Wyden  
The Honorable Mike Crapo  
The Honorable Mike Thompson  
The Honorable Mike Kelly  
The Honorable Steve Daines  
The Honorable Debbie Stabenow  
The Honorable Chuck Grassley  
The Honorable Janet Yellen  
The Honorable Charles Rettig  
The Honorable Merrick Garland

**For further information, feel free to contact:**

Stephen Frerichs, American Society of Farm Managers and Rural Appraisers, [sfrerichs8@comcast.net](mailto:sfrerichs8@comcast.net)

John Russell, American Society of Appraisers, [jrussell@appraisers.org](mailto:jrussell@appraisers.org)

Brendan Mysliwec, Appalachian Trail Conservancy, [bmysliwec@appalachiantrail.org](mailto:bmysliwec@appalachiantrail.org)

Bill Garber, Appraisal Institute, [bgarber@appraisalinstitute.org](mailto:bgarber@appraisalinstitute.org)

Kellis Moss, Ducks Unlimited, [kmoss@ducks.org](mailto:kmoss@ducks.org)

Lori Faeth, Land Trust Alliance, [lfaeth@lta.org](mailto:lfaeth@lta.org)

Shaw Sprague, National Trust for Historic Preservation, [ssprague@savingplaces.org](mailto:ssprague@savingplaces.org)

Erik Glenn, Partnership of Rangeland Trusts, [eglenn@ccalt.org](mailto:eglenn@ccalt.org)

Bethany Erb, Pheasants Forever & Quail Forever, [berb@pheasantsforever.org](mailto:berb@pheasantsforever.org)

Kelly Reed, The Conservation Fund, [kreed@conservationfund.org](mailto:kreed@conservationfund.org)

Kameran Onley, The Nature Conservancy, [konley@tnc.org](mailto:konley@tnc.org)

Steve Kline, Theodore Roosevelt Conservation Partnership, [skline@trcp.org](mailto:skline@trcp.org)

Myke Bybee, The Trust for Public Land, [myke.bybee@tpl.org](mailto:myke.bybee@tpl.org)