

**Maine Coast Heritage Trust**  
*Land Conservation Assistance and  
Land and Conservation Easement Gift Acceptance Policy*

**APPROVED BY THE BOARD ON NOVEMBER 20, 2020**  
*Revised KM 03192024*

***MCHT's role:***

Maine Coast Heritage Trust provides its land conservation advisory services to landowners, other conservation organizations and governmental agencies who are interested in conserving Maine lands that provide important public benefits. Our staff is available to help facilitate a range of voluntary conservation real estate transactions, including the gift, or bargain sale of land or conservation easements to MCHT or other organizations with whom we work, such as federal or state government, other statewide or regional land trusts or local land trusts. This policy applies to gifts or bargain sales of land and conservation easements to MCHT.

***Need for Landowner's Independent Counsel:***

Although our staff is able to share information and transaction assistance gained from many years experience working as a Maine land trust, we do not provide legal or financial advice to landowners, land trusts or their advisors. We always encourage landowners to hire their own professional, independent advisors (which may include an attorney, appraiser, and accountant), to represent the landowners' interest in any conservation transaction.

***MCHT Criteria and Acceptance Procedures:***

Maine Coast Heritage Trust is a non-profit, tax-exempt 501c(3) organization, and is a publicly supported charity with a commitment to land conservation, and thus a "qualified holder" of conservation easements as required by the Internal Revenue Code. Offers of lands or easements must meet MCHT's criteria for land protection and demonstrate clear public benefit, and all projects offered to MCHT require review and approval by the Trust's Board of Directors. MCHT criteria for land protection are described in more detail in a separate document available from MCHT upon request.

***Tax Deductibility of Gifts:***

Landowners seeking state or federal income tax deduction or estate tax benefits as a result of a charitable land transaction with MCHT must consult with their legal advisors to ensure that their gift meets all federal and state requirements. Even for fully deductible gifts to conservation, the tax consequences of a conservation gift depend on many factors specific to the taxpayer, and not just MCHT's non-profit status and its conservation commitment. MCHT makes no representation or warranty whatsoever regarding the tax treatment of any transaction.

***Appraisal of Gifts:***

In accordance with IRS regulations, donors who claim a charitable deduction for a gift or bargain sale of land or a conservation easement valued at more than \$5,000, will need to substantiate the value of the gift with an independent "qualified appraisal" following the

Uniform Standards of Professional Appraisal Practice and applicable IRS regulations. The appraisal cannot be completed earlier than 60 days before the date of the gift and must state the fair market value of the gift as of the date of contribution. MCHT may not provide this service to donors, since the appraisal must be independent of the donee.

***IRS Form 8283:***

Donors wishing to claim a charitable gift or bargain sale deduction for land or easements will have to attach IRS Form 8283, to their tax return for the year of the gift. This form summarizes the type and value of the donor's "non-cash charitable contributions," and is available from your tax advisor (or by visiting <http://www.irs.gov/pub/irs-pdf/f8283.pdf> and <http://www.irs.gov/pub/irs-pdf/i8283.pdf> ).

***IRS Form 8283 Requirements:***

As noted in the 8283 form instructions most recently revised (December 2023) donors of conservation easements must attach a supplemental statement to Form 8283 to identify the conservation purposes of the gift; the method of valuation; detailed before and after valuation information provided by the qualified appraisal; whether the gift was required by a contract; whether the donor made the gift in order to receive a permit or other approval from a local or other governing body; and whether the donor or a related party has any interest in other nearby land. The conservation easement should be filed with the return, and, if the appraised value of the gift is greater than \$500,000, the entire appraisal must be sent to IRS with Form 8283. MCHT can provide a sample supplemental statement that includes our understanding of the conservation purposes, to assist your advisors with this statement. There are special rules for partnerships (and LLCs) and for carryover claims.

In the case of a gift or bargain sale of either a conservation easement or land, the donor's appraiser must sign Form 8283, confirming that they appraised the donation, disclosing the method of valuation, and attesting to their qualifications as an independent appraiser and the value of the gift. MCHT, as a charitable donee of a gift, must be asked by the donor to sign IRS Form 8283 to certify that we have received the claimed gift. Please see below regarding our appraisal review policy.

***MCHT Request for Landowner's Appraisal:***

MCHT asks easement and fee donors to provide us with a copy of their completed gift appraisal so that we may review it in advance of being asked to sign Form 8283. While MCHT is not responsible to IRS for the accuracy of the appraiser's work, MCHT has an ethical responsibility to review the reported valuation for gifts it accepts, and to avoid acknowledging gifts that are inaccurately described. MCHT will also not acknowledge as a gift, a transaction that is required by contract or regulatory exaction. MCHT makes no representation or warranty whatsoever regarding the tax treatment of any transaction.

In order to meet this commitment to excellence in our conservation transaction practices, MCHT would appreciate receiving the appraisal copy as early as possible – ideally at or before the time of the project closing. Our staff is glad to discuss this policy with landowners or their advisors in order to help answer questions.

## LTA Practical Pointer (excerpts on filing 8283) March 2024

**DISCLAIMER:** The Land Trust Alliance designed this material to provide accurate, authoritative information about the subject matter covered with the understanding that the Alliance is not engaged in rendering legal, accounting or other professional counsel. If a land trust or individual requires legal advice or other expert assistance, they should seek the services of competent professionals. The Alliance is solely responsible for the content of this series.

### Form 8283 and Appraisal Review

IRS Form 8283 (rev. Dec. 2023) is required for all noncash contributions valued at greater than \$5,000. Completion of the Form is the responsibility of the donor including obtaining the donee land trust and the appraiser(s)'s signatures. The land trust's signature on Form 8283 does not represent agreement with the claimed value, but the IRS has asked that land trusts use common sense, despite no legal obligation to do so, in questioning appraisals that seem inflated.

#### Attachments to Form 8283

The IRS recommends, and in some cases requires, that landowners attach the following *complete and accurate* substantiation documents to *all* Form 8283 filings:

#### Required

1. For conservation easement donations, a full supplemental statement (see [instructions](#); must include a full description of the protected property and conservation purposes meaning a copy of the recorded deed or easement or a full and detailed description including the acreage of the easement or land donated; a property address is not adequate)
2. Full qualified appraisal (required for values of \$500,000 and greater for the year of the gift *and* for any carryover years in which the deduction will be claimed)
3. For carryover contributions, (see instructions) a copy of the original Form 8283 from the previous year must be submitted with the completed Form 8283 for the current year as well as a copy of the appraisal.
4. Donations made by a partnership must include not only a copy of the partnership's 8283 (and appraisal, if appropriate), but a new Form 8283 for the taxpayer's share of the donation. The taxpayer's form does not require the signatures of the donee or the appraiser. Carryover donations by a partner must include not only a copy of the prior year's Form 8283 for the partnership, but also a copy of the prior year's Form 8283 addressing the partner's share of the donation.

#### Strongly Suggested

5. Accurate and complete baseline documentation report
6. Contemporaneous written acknowledgment (CWA gift letter). Form 8283's instructions remind the donor to ask the donee to provide a CWA when asking the donee to sign Form 8283. The instructions now clarify that the date for which the donee received the donated property is the date of documented delivery of the easement to the recorder.
7. Executed mortgage subordination

Remember, failure to attach the required documentation or correctly complete all documents has been *the basis for a full denial of the entire deduction*. By including all documents on the IRS checklist, the IRS

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agent may limit inquiry. Donors are legally solely responsible for substantiating donations, but land trusts can help.

#### **Additional Details as Indicated by Case Law and Treasury Regulations**

1. Form 8283 must be signed by the individual appraiser or appraisers if more than one appraiser worked on the appraisal, not just the appraiser's firm (but see *Mill Road 36 Henry, LLC v. Commissioner*, T.C. Memo. 2023-129, stating that the regulation does not require the signatures of employees who assisted the qualified appraiser in the appraisal).
2. Form 8283 must be signed by the donee organization or all donees if more than one.
3. For jointly-owned property (not pass through entities), the individual donor must complete their own Form 8283 and enter the portion of the fair market value that is allocable to that individual's share of the property.
4. A sufficiently detailed "supplemental statement" helps revenue agents who may never have seen a conservation easement. The instructions list the required information to be included.
5. Due to recent Tax Court decisions, Form 8283 now requires that where a number can be entered into any box on Form 8283 (Sections A or B), the number must be entered in the box. Form 8283 will not be considered complete unless the number is included directly on the line. A supplemental statement may be attached explaining why a number cannot be inserted or a number can be inserted in the appropriate box and include an attached statement explaining any additional information regarding the number. Because the instructions are unclear, land trusts may see forms with N/A and forms with blanks because the information is not required.
6. Form 8283 will not serve as a contemporaneous written acknowledgment (CWA) letter. The CWA letter must be separate and contemporaneous and have the appropriate goods and services language.

#### **Requirements for Donations by Entities**

Form 8283 was revised in Dec. 2023 to reflect the statutory requirements of the Charitable Conservation Easement Program Integrity Act. The Form's instructions insert text to flag the Integrity Act's elements for disqualification, exceptions (family pass-through entity, three-year holding period) and added requirements for information concerning donor entities. Land trusts will now field a greater number of Forms 8283 because entities and their individual partners, members or shareholders must not only include Form 8283 for the entity, but also the individuals must fill out their own separate Form 8283 showing their individual share of the ownership and deduction.