



BLOG

National Taxpayer Advocate Recommends Stronger Safeguards for Conservation Deduction

by Mattie Duppler | February 03, 2020

The passage of last year's Taxpayer First Act represented a rare bipartisan accomplishment in Washington. The bill made significant steps forward in commonsense reforms to the IRS, including strengthening taxpayers' right to appeal and modernization efforts that are long past due.

It also reflected a nonpartisan consensus that the IRS should do a better job fulfilling its mission, to: "provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all."

As the nation's oldest taxpayer group, NTU has documented when the IRS has fallen short of these goals. Recently, the agency's harassment of taxpayers claiming the conservation easement charitable deduction [has all the tell-tale signs](#) of an overtly abusive campaign. In its 2019 report [released last month](#), the IRS's own National Taxpayer Advocate cited the IRS's treatment of these taxpayers as one that potentially

impacted three core taxpayers' rights as delineated in the Taxpayer Bill of Rights: the right to pay no more than the correct amount of tax, the right to appeal an IRS decision and the right to a fair and just tax system.

The Taxpayer Advocate included a discussion of conservation easement contributions under its statutorily-required list of 'Most Litigated' cases for the year. In it, the NTA provides suggestions to reduce the number of conflicts before the IRS. Citing the ambiguous nature of IRS enforcement of the deduction, the NTA suggested the IRS provide more explicit guidance either by implementing safe harbors or by providing precise language that would give taxpayers a template for safely claiming the deduction.

The conclusion from the NTA [mirrors recommendations](#) NTU has made that would satisfy the important IRS goals of preventing abuse and administering the code in a fair manner. It also reflects a concern we have long documented: that the IRS's enforcement of the charitable contribution deduction for conservation easements is capricious at best. In fact, the IRS's practice of litigating without clarification on how taxpayers can claim the deduction has the [obvious effect](#) of discouraging its use, in conflict with Congressional intent. On the heels of bipartisan Congressional acknowledgment through passage of the Taxpayer First Act that the IRS must do a better job fulfilling its mission, the agency would be wise to put the suggestions of the National Taxpayer Advocate to immediate use.

