TaxNewsFlash

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U.S. Tax Court: Charitable donation denied, conservation easement not "protected in perpetuity"

The U.S. Tax Court today found the IRS had properly disallowed the full amount of a charitable contribution deduction related to a conservation easement granted by the taxpayer to a qualified organization.

The court found that the conservation easement did not satisfy the requirements of section 170(h)(5)(A) because the easement was not "protected in perpetuity" and given that under the easement deed, the charitable organization was not entitled to a proportionate share of the proceeds in the event the property was sold following a judicial extinguishment of the easement.

The case is: *Coal Property Holdings, LLC v. Commissioner,* 153 T.C. No. 7 (October 28, 2019). Read the Tax Court's **opinion** [PDF 125 KB]

Summary

The Tax Court summarized the facts in this case as follows:

- The taxpayer in 2013 acquired about 3,700 acres of land in Tennessee that had been surfaced mined during the last century.
- Three weeks later, an entity owned by an investor acquired a 99% interest in the taxpayer for $32.5 million.
- Three days later, the taxpayer donated a conservation easement over the property to a Tennessee land trust (a qualified organization for purposes of section 170(h)(3)).
- The taxpayer, on its federal income tax return for 2013, claimed a charitable contribution deduction of $155.5 million for this donation.
- The IRS disallowed the deduction in full.

- The taxpayer timely petitioned the Tax Court.

- The IRS filed a motion for partial summary judgment asserting that the easement did not meet the requirements for a charitable contribution deduction because the conservation purpose was not "protected in perpetuity."

Under the easement deed, the charitable organization was not entitled to a proportionate share of the proceeds in the event the property was sold following a judicial extinguishment of the easement, and the IRS thus asserted that the easement deed failed to comply with the regulations governing judicial extinguishments—that is, Reg. section 1.170A-14(g)(6)(i) and (ii) providing that in the event the easement is extinguished and the property is sold, the chartable grantee must be entitled to a proportionate share of the proceeds, as defined by formula.

The Tax Court found that the easement did not satisfy Reg. section 1.170A-14(g)(6) because the portion of the proceeds to which the qualified organization would be entitled on judicial extinguishment of the easement would be reduced by amounts paid in satisfaction of prior claims against the taxpayer and by amounts inuring to the taxpayer and attributable to appreciation in the value of improvements existing when the easement was granted plus the fair market value of any improvements subsequently made by the taxpayer to the property.

The Tax Court, thus, concluded that the IRS had properly disallowed the charitable contribution deduction in its entirety because the conservation purpose of the easement was not "protected in perpetuity" as required by statute.