

The IRS Introduces a Conservation Easement Office — Is Everything Old New Again?

by Kimberly Tyson and Karin Gross

Reprinted from *Tax Notes Federal*, September 7, 2026, p. 1857

The IRS Introduces a Conservation Easement Office — Is Everything Old New Again?

by Kimberly Tyson and Karin Gross



Kimberly Tyson



Karin Gross

Kimberly Tyson and Karin Gross are tax attorneys at K. Tyson Law PLLC in Charlotte, North Carolina.

In this article, Tyson and Gross examine the IRS's recently announced Office of Conservation Easements and consider how it could work to resolve pending cases and improve tax administration.

The IRS recently announced that it will establish a new Office of Conservation Easements (OCE).¹

One rationale for the new office, according to the release announcing it, is the IRS's recognition that standardized, unsolicited settlement letters issued to taxpayers on a rolling basis were poorly suited "for the full range" of conservation easement cases. The release noted that taxpayers evaluate settlement offers differently based on factors such as whether the partnerships obtained

tax insurance, the terms in the partnership agreements, and the procedural posture of the cases.

The release explains that the OCE intends to "centralize technical expertise and coordinate policy, enforcement, and case-resolution strategy across the IRS and with the Office of Chief Counsel." It also said that the IRS would "support engagement" with taxpayers, practitioners, conservation and historic preservation organizations, and other stakeholders, as well as work with Treasury to evaluate administrative and legislative options that advance Congress's conservation and historic preservation objectives, promote consistent tax administration, and strengthen valuation integrity.

Through this announcement, the IRS ended the settlement initiative that was announced in January by Treasury Assistant Secretary for Tax Policy Kenneth Kies and implemented in May — although accepted settlement offers remain in effect and will be processed in accordance with their terms.²

The release also stated that a taxpayer with a pending case may initiate a request for the offer under the May 13 settlement framework and, if the case remains eligible, the IRS will issue a new offer based on those earlier terms. The

¹ IR-2026-95 (Aug. 19, 2026). *Tax Notes* has covered the new office in prior articles. See Kristen A. Parillo, "Uncertainty Abounds Following IRS's Shift in Easement Strategy," *Tax Notes Federal*, Aug. 31, 2026, p. 1693; Parillo, "IRS Pivots on Conservation Easements, Ditches Uniform Settlements," *Tax Notes Federal*, Aug. 24, 2026, p. 1528.

² See Parillo, "New IRS Easement Settlement Offer Eliminates Up-Front Payment," *Tax Notes Federal*, May 18, 2026, p. 1181; Trevor Sikes, "More IRS Action Aimed at Tax Controversies Coming, Kies Says," *Tax Notes Federal*, May 18, 2026, p. 1189; Parillo, "IRS Touts Conservation Easement Wins and Coming Settlement Offer," *Tax Notes Federal*, May 11, 2026, p. 1002; Ben Valdez, "IRS to Make Final Conservation Easement Settlement Offer," *Tax Notes Federal*, Jan. 12, 2026, p. 361. See also Letter from Senate Finance Committee members Chuck Grassley, R-Iowa, and Steve Daines, R-Mont., to Treasury Secretary Scott Bessent (June 2, 2026). For practitioner commentary on the previous settlement offers, see Hale E. Sheppard, "Fifth (and Final?) IRS Settlement Offer for Conservation Easement Disputes," *Tax Notes Federal*, June 1, 2026, p. 1503; William A. Stone III, "Old Offer, New Packaging: The IRS's Latest Conservation Easement Initiative," *Tax Notes Federal*, June 29, 2026, p. 2273.

announcement clarified that this change “does not signal a new or more favorable standardized offer” — it only ends the issuance of uniform offer letters.

What Will the OCE Do to Resolve Cases?

Some speculate that this move was prompted by an insufficient number of partnerships accepting the last (fourth) settlement offer.

Whether the OCE can facilitate resolution of cases depends on who is in charge and how much authority they are given. As to coordination within the IRS, that was never the problem — easement cases have been very well coordinated for at least a decade.

When setting the OCE’s objectives, policymakers and critics should be mindful that the status of the conservation easement project in 2026 is different than it was a decade ago, and the office’s objectives and approach should reflect that metamorphosis. The IRS now often prevails in court decisions rejecting appraisals that lack reliable supporting data, leaving landowners with strict liability penalties.

Add to those judicial victories the syndication ban on open-space easements enacted at the end of 2022,³ which substantially reduced the volume of new syndicated conservation easement transactions. Should these advancements signal the end of scorched-earth tactics? Are the IRS’s enforcement objectives still unmet? Those are questions for IRS leadership to direct through the OCE.

The answers to them require an understanding of the following points:

1. Investors are now dealing with about 10 years of underpayment interest, and many investors’ hands have been tied because they lack control of the partnerships they invested in.
2. The IRS needs to resolve inefficiencies in collection processes and consider how the existing processes will accommodate any wide-scale resolution.
3. The IRS announcement recognizes that a uniform approach isn’t working with standardized settlement offers. The

decision for the OCE will be which criteria dictate the differences between cases. Presumably, as part of that process, the IRS will take — or is perhaps already taking — a fresh look at litigation hazards in light of the Tax Court’s recent memorandum opinion in *Malibu Valley Land LLC*.⁴ In that case, the court applied the same menu of valuation rules and standards available to all cases (including the valuation opinions issued in the past few years from the Tax Court) but reached a very different conclusion based on the reliability of the underlying data.

What About Not Negotiating Against Yourself?

An old adage says not to negotiate against yourself, meaning that one party shouldn’t continue to make lower offers in the hopes of obtaining an agreement. Right now, acceptance rates are low after four settlement initiatives. Should the IRS disregard that adage? The larger policy concern for the IRS may be that if it offers something better to taxpayers, future settlement initiatives in other cases and for other issues won’t be taken seriously in the hope of a later, better offer. Is that concern significant?

The IRS’s Mission and the Associated Risk and Reward

The mission of the IRS is to provide America’s taxpayers top-quality service by helping them understand and meet all their tax responsibilities and to enforce tax laws with integrity and fairness to all.⁵

As a tax administration agency that serves and is funded by the American taxpayer, continuing to pursue the large inventory of remaining cases will be costly. Those costs will come in the form of staff hours devoted to examinations, consideration by the Independent Office of Appeals, trial and appellate litigation, external contractors for audits, expert witnesses for litigation, and collections. To the extent the resources of the Tax Court, appellate courts, and Justice Department

³ Section 170(h)(7).

⁴ *Malibu Valley Land LLC v. Commissioner*, T.C. Memo. 2026-68.

⁵ IRS, “The Agency, Its Mission and Statutory Authority” (last updated Mar. 18, 2026).

are involved in conservation easement work, the costs of operating those offices will also add up. Add to all that the opportunity costs of the cases that “get away” and the IRS’s ability to provide improved service.

The IRS used to provide outreach to the easement community. The extent of that outreach has varied based on leadership and funding, but anecdotally, appraisers and land trusts have badly needed feedback from the IRS about how to “get it right.” New outreach and education initiatives would support the IRS’s goal that the OCE “advance Congress’s conservation and historic preservation objectives.” This outreach should be external (to land trust and preservation organizations, as well as appraiser groups) and internal (including Appeals) and, given that the U.S. tax system is a voluntary reporting system, should be a cornerstone of the OCE’s mission.

The creation of this new office is a chance to start anew. The OCE’s seriousness (or lack thereof) will be conveyed by the individual selected to lead it and the resources they are given to lead, as well as the office’s stated mission.

To whomever leads the OCE: Your role is important. Thank you for your commitment to public service on behalf of the American taxpayer and for improving tax administration. ■

taxnotes®

Education | Debate | Fairness | Transparency



We’re on a mission.

Creating a marketplace of ideas and an atmosphere that fosters public debate, where exchanges are open, all sides of the aisle are represented, and all ideas are welcome.

We publish world-class news and analysis, host and provide speakers for conferences on topics that matter, provide material for free on our site, and pursue the release of important public information through the Freedom of Information Act.

Find out more at
taxnotes.com/free-resources.