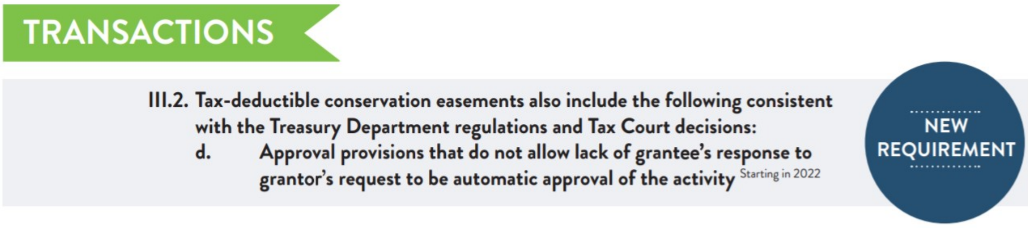
In spring of 2021, the Commission released an updated version of the *Requirements Manual* and a document outlining the changes. Some of the changes begin to take effect in 2022. Each month we will be highlighting a change, why we made it and why it is important. This month we're looking at a new transaction requirement.


TRANSACTIONS

III.2. Tax-deductible conservation easements also include the following consistent with the Treasury Department regulations and Tax Court decisions:

d. Approval provisions that do not allow lack of grantee's response to grantor's request to be automatic approval of the activity Starting in 2022

NEW REQUIREMENT

Why is it important?

Land trusts have a responsibility to review, on their own behalf, each potentially tax-deductible conservation easement for consistency with the Treasury Department regulations. Part of this review includes considering whether the easement document contains elements that would place a landowner at risk of being denied a deduction, which could impact the reputation of the land trust and the larger land trust community.

How will it be implemented?

To give land trusts time to implement this change, this requirement will be phased in and start in 2022. Accreditation reviewers will look that tax-deductible conservation easements completed in 2022 and later meet the requirement. Corrective action will not be required for older conservation easements.

Why add this requirement?

- In 2018 the Tax Court disallowed a deduction because a conservation easement included a clause that failure of the grantee to respond to a request for approval within a specified timeframe constituted default approval. A default approval could inadvertently allow for inconsistent uses and could fail to protect the conservation values in perpetuity.
- Because default approval clauses have potential conservation risk and reputational risk, the Land Trust Alliance advises land trusts to not include them in tax-deductible conservation easements.
- For more information, see the Land Trust Alliance's Practical Pointers on Drafting Approval Standards.

If you have questions about any of the changes, please contact us at info@landtrustaccreditation.org

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Click here to see the entire Summary of Changes and to download the Requirements Manual.