

119TH CONGRESS  
2D SESSION

# H. R. 9398

To provide an election to resolve certain open partnership controversies involving donations of conservation easements.

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IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2026

Mr. CAREY introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To provide an election to resolve certain open partnership controversies involving donations of conservation easements.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Historic Preservation  
5 and Land Conservation Certainty Act”.

6 **SEC. 2. ELECTION TO RESOLVE CERTAIN OPEN PARTNER-**  
7 **SHIP CONTROVERSIES INVOLVING DONA-**  
8 **TIONS OF CONSERVATION EASEMENTS.**

9 (a) DEFINITIONS.—For purposes of this section—

1           (1) ELIGIBLE CONTRIBUTION.—The term “eli-  
2           gible contribution” means any qualified conservation  
3           contribution (as defined in section 170(h)(1) of the  
4           Internal Revenue Code of 1986) made by a partner-  
5           ship in a taxable year ending on or before December  
6           31, 2024, with respect to which a deduction was  
7           claimed under section 170 of such Code on the part-  
8           nership return for such year. For purposes of this  
9           section, such contribution shall be treated as made  
10          by the partnership that was the donor of the con-  
11          tributed property for purposes of section 170 of such  
12          Code, determined without regard to any agency or  
13          nominee arrangement.

14          (2) CLAIMED DEDUCTION.—The term “claimed  
15          deduction” means the aggregate amount of the de-  
16          duction with respect to an eligible contribution that  
17          was allocable to the ultimate taxpayer partners, as  
18          reported on Schedule K–1 or similar statements fur-  
19          nished (directly or indirectly through 1 or more  
20          pass-through entities) to such partners for the tax-  
21          able year in which such deduction is taken into ac-  
22          count under section 706(a), section 1366(a), or  
23          other applicable provision of the Internal Revenue  
24          Code of 1986, including any amendments filed on or  
25          before the date the election statement is filed. In de-

1       termining the claimed deduction, the electing part-  
2       nership may rely on reported amounts (as amended)  
3       unless it has actual knowledge that a different  
4       amount was allocable to ultimate taxpayer partners,  
5       and may rely on written representations from upper-  
6       tier pass-through entities. Any discrepancy between  
7       the amount used in the election statement and the  
8       actual aggregate amount shall be subject to adjust-  
9       ment under subsection (h), but shall not by itself in-  
10      validate the election.

11           (3) OPEN MATTER.—The term “open matter”  
12      means, with respect to any eligible contribution, a  
13      contribution with respect to which—

14           (A) as of the date the election statement is  
15      filed, the period for assessment of any tax im-  
16      posed by chapter 1 of the Internal Revenue  
17      Code of 1986 that is attributable to such con-  
18      tribution has not expired (determined after the  
19      application of section 6501 of such Code (in-  
20      cluding any extension under section 6501(c)(4)  
21      of such Code and any suspension under section  
22      6503 of such Code) and, to the extent applica-  
23      ble, section 6229 of such Code (as in effect for  
24      partnership taxable years beginning before Jan-

1 uary 1, 2018) and section 6235 of such Code);  
2 or

3 (B) the Secretary has issued to the part-  
4 nership, the applicable partnership representa-  
5 tive, or any person authorized to act for the  
6 partnership, a written notice or request identi-  
7 fying the partnership, the taxable year, and the  
8 contribution (or the conservation easement  
9 transaction of which such contribution is a  
10 part), indicating review, examination, or pro-  
11 posed adjustment of the Federal income tax  
12 treatment thereof, or an administrative appeal  
13 or judicial proceeding is pending with respect  
14 thereto.

15 (4) ELECTION PERIOD.—The term “election pe-  
16 riod” means the 180-day period beginning on the  
17 date of enactment of this Act.

18 (5) COMMON MARKETING GROUP.—

19 (A) IN GENERAL.—The term “common  
20 marketing group” means all partnerships with  
21 eligible contributions with respect to which the  
22 same principal organizer or manager (as de-  
23 fined in subparagraph (B)), even if acting in  
24 conjunction with 1 or more other persons, was  
25 principally responsible for organizing or man-

1           aging the plan or arrangement pursuant to  
2           which such eligible contributions were solicited,  
3           structured, or facilitated, and includes all part-  
4           nerships with eligible contributions with respect  
5           to which any person related (within the mean-  
6           ing of section 267(b) or section 707(b)(1) of the  
7           Internal Revenue Code of 1986) to such prin-  
8           cipal organizer or manager was so principally  
9           responsible.

10           (B) PRINCIPAL ORGANIZER OR MAN-  
11           AGER.—For purposes of subparagraph (A), a  
12           person shall be treated as a principal organizer  
13           or manager with respect to an eligible contribu-  
14           tion if such person (or any person related to  
15           such person within the meaning of section  
16           267(b) or section 707(b)(1) of the Internal Rev-  
17           enue Code of 1986) satisfies any of the fol-  
18           lowing conditions:

19                   (i) Such person is identified as an or-  
20                   ganizer, manager, sponsor, promoter, ar-  
21                   ranger, or similar role in any written offer-  
22                   ing material, subscription agreement, mar-  
23                   keting presentation, partnership agree-  
24                   ment, management agreement, side letter,  
25                   or other written communication provided

1 to any partner or prospective partner in  
2 connection with the partnership making  
3 the eligible contribution.

4 (ii) Such person received, directly or  
5 indirectly, or was entitled to receive, any  
6 fee, commission, compensation, profit in-  
7 terest, or other economic benefit (other  
8 than reimbursement of reasonable out-of-  
9 pocket expenses) in connection with orga-  
10 nizing, managing, marketing, structuring,  
11 facilitating, or arranging financing for the  
12 eligible contribution, or for the acquisition,  
13 holding, or donation of the property with  
14 respect to which the eligible contribution  
15 was made.

16 (iii) Such person served, directly or  
17 indirectly, as a general partner, managing  
18 member, manager, trustee, investment  
19 manager, or similar controlling person with  
20 authority (under governing documents or  
21 contract) over the partnership's acquisi-  
22 tion, holding, management, disposition, or  
23 donation of the property, or over the deci-  
24 sion to make the eligible contribution.

1           (C) OVERLAPPING GROUPS.—If a partner-  
2           ship would be treated as a member of more  
3           than 1 common marketing group under this  
4           paragraph, all such groups shall be treated as  
5           a single common marketing group for purposes  
6           of this section.

7           (6) DESIGNATED PARTNERSHIP.—The term  
8           “designated partnership” means the partnership  
9           designated under subsection (d)(3).

10          (7) ELECTING PARTNERSHIP.—The term  
11          “electing partnership” means the designated part-  
12          nership (in the case of a common marketing group)  
13          or the partnership that made the eligible contribu-  
14          tion (in all other cases).

15          (8) NON-CONTRIBUTING PARTNER.—The term  
16          “non-contributing partner” means any ultimate tax-  
17          payer partner identified under subsection  
18          (f)(1)(A)(ii).

19          (9) ELECTION STATEMENT.—The term “elec-  
20          tion statement” means the written statement filed  
21          under subsection (b)(2) that includes the informa-  
22          tion required under subsection (b)(3).

23          (10) APPLICABLE PARTNERSHIP REPRESENTA-  
24          TIVE.—The term “applicable partnership representa-  
25          tive” means the partnership representative des-

1       ignated under section 6223(a) of the Internal Rev-  
2       enue Code of 1986 (for partnership taxable years be-  
3       ginning after December 31, 2017) or the tax mat-  
4       ters partner designated under section 6231(a)(7) of  
5       such Code (as in effect for partnership taxable years  
6       beginning before January 1, 2018).

7               (11) PASS-THROUGH ENTITY.—The term “pass-  
8       through entity” means any partnership, S corpora-  
9       tion, estate, or trust.

10              (12) ULTIMATE TAXPAYER PARTNER.—The  
11       term “ultimate taxpayer partner” means, with re-  
12       spect to any portion of a deduction attributable to  
13       an eligible contribution, the person that, after taking  
14       into account allocations of such portion through one  
15       or more pass-through entities, actually takes such  
16       portion into account in determining the tax imposed  
17       by chapter 1 and receives the Federal income tax  
18       benefit of such portion, whether as a partner, share-  
19       holder, beneficiary, owner, or otherwise. Except as  
20       provided in the preceding sentence, a pass-through  
21       entity shall not be treated as an ultimate taxpayer  
22       partner. A pass-through entity shall be treated as an  
23       ultimate taxpayer partner to the extent such entity  
24       is itself subject to tax under chapter 1 and claims  
25       the benefit of such portion.

1           (13) SECRETARY.—The term “Secretary”  
2 means the Secretary of the Treasury or the Sec-  
3 retary’s delegate.

4           (b) ELECTION; MAKING ELECTION; EFFECT.—

5           (1) IN GENERAL.—Notwithstanding any other  
6 provision of this title, in the case of any eligible con-  
7 tribution with an open matter, the electing partner-  
8 ship may elect to have this section apply. An election  
9 under this section may include only eligible contribu-  
10 tions that have an open matter as of the date the  
11 election statement is filed.

12           (2) MAKING THE ELECTION.—An election  
13 under this section shall be made by filing, not later  
14 than the last day of the election period, an election  
15 statement with the Secretary at the place prescribed  
16 under section 6091 of the Internal Revenue Code of  
17 1986 for filing the partnership return of the electing  
18 partnership, accompanied by the remittance required  
19 under subsection (e)(2). Such remittance shall be in  
20 the form of a cashier’s check, certified check, money  
21 order, or other check payable to the “United States  
22 Treasury”, and shall identify the electing partner-  
23 ship and state that it relates to an election under  
24 this section.

1           (3) REQUIRED CONTENTS OF ELECTION STATE-  
2           MENT.—The election statement shall set forth, with  
3           respect to the eligible contribution—

4                   (A) the name, address, and employer iden-  
5                   tification number of the electing partnership  
6                   and, in the case of a common marketing group,  
7                   the name and employer identification number of  
8                   each partnership whose eligible contributions  
9                   are included in the election;

10                   (B) the taxable year or years of the con-  
11                   tributions encompassed by the election;

12                   (C) identification of each donee and the  
13                   property, including the date of each eligible con-  
14                   tribution;

15                   (D) the claimed deduction;

16                   (E) the settlement limitation amount de-  
17                   termined under subsection (e);

18                   (F) the tax component determined under  
19                   subsection (e)(1)(B);

20                   (G) the penalty component determined  
21                   under subsection (e)(1)(C);

22                   (H) the settlement amount determined  
23                   under subsection (e)(1)(A); and

1 (I) in the case of an electing partnership  
2 with a non-contributing partner, the schedule  
3 described in subsection (f)(1).

4 (4) EFFECT; WAIVER.—If an election under this  
5 section becomes effective under paragraph (6)—

6 (A) the deduction otherwise allowable  
7 under section 170 of the Internal Revenue Code  
8 of 1986 for the eligible contribution shall not  
9 exceed the settlement limitation amount;

10 (B) the settlement amount shall be due  
11 and payable as provided in subsection (e);

12 (C) except as provided in subsection (f),  
13 payment of the settlement amount shall resolve  
14 all Federal income tax liability (including pen-  
15 alties and interest) attributable to the excess of  
16 the claimed deduction over the settlement limi-  
17 tation amount; and

18 (D) the electing partnership, each partner  
19 thereof, each pass-through entity through which  
20 any portion of the claimed deduction is allo-  
21 cable, and each ultimate taxpayer partner to  
22 which any portion of the claimed deduction is  
23 allocable waive any right to contest the amounts  
24 described in subparagraphs (E), (F), (G), or

1 (H) of paragraph (3), administratively or judi-  
2 cially.

3 (5) COURTESY NOTICE.—Within 10 days of fil-  
4 ing an election statement, the electing partnership  
5 shall provide a copy thereof to any revenue agent,  
6 appeals officer, or chief counsel attorney assigned to  
7 the partnership that made the eligible contribution,  
8 and to the Clerk of the Tax Court, any United  
9 States District Court, or any Court of Appeals in  
10 which proceedings involving the eligible contribution  
11 are pending. Copies provided to courts shall exclude  
12 any schedule described in subsection (f)(1) and shall  
13 redact taxpayer identification numbers and street  
14 addresses. Failure to provide such notice shall not  
15 affect the validity of the election.

16 (6) DATE ELECTION BECOMES EFFECTIVE.—An  
17 election that satisfies the requirements of this sub-  
18 section and is accompanied by the required remit-  
19 tance under subsection (e)(2) shall be effective upon  
20 filing. No acceptance, acknowledgment, determina-  
21 tion, form, regulation, or other administrative action  
22 by the Secretary shall be required for the election to  
23 be effective. No requirement or procedural step other  
24 than those expressly set forth in this section may be

1 imposed as a condition to making or giving effect to  
2 an election.

3 (7) **TIMELY MAILING.**—For purposes of this  
4 section, section 7502 of the Internal Revenue Code  
5 of 1986 (determined without regard to subsection (f)  
6 thereof) shall apply to the election statement, any  
7 required schedule or authorization, and any accom-  
8 panying remittance.

9 (8) **SUSPENSION OF LIMITATIONS.**—The run-  
10 ning of any period of limitation on assessment with  
11 respect to any tax attributable to an eligible con-  
12 tribution for which an election becomes effective  
13 under paragraph (6) shall be suspended from the  
14 date of filing of the election statement until the ear-  
15 lier of 2 years after the date such election becomes  
16 effective or the date the election becomes void under  
17 subsection (h)(4), and for 90 days thereafter.

18 (9) **SIGNATURE; FINALITY.**—The election state-  
19 ment shall be signed by the applicable partnership  
20 representative. An effective election shall be irrev-  
21 ocable and binding on the electing partnership, each  
22 partner thereof, each partnership in a common mar-  
23 keting group whose authorization is included under  
24 subsection (d)(3), each pass-through entity through  
25 which any portion of the claimed deduction is allo-

1 cable, and each ultimate taxpayer partner to which  
2 any portion of the claimed deduction is allocable.  
3 Except as expressly provided in subsection (f)(6)  
4 and (h)(4), such election shall not be subject to judi-  
5 cial review. Such election shall be treated as a clos-  
6 ing agreement under section 7121 with respect to  
7 the matters resolved under paragraph (4)(C), and  
8 shall be deemed approved by the Secretary under  
9 section 7121(b) as of the date the election becomes  
10 effective.

11 (c) SETTLEMENT LIMITATION AMOUNT.—For pur-  
12 poses of this section—

13 (1) GENERAL RULE.—Except as provided in  
14 paragraph (2), the term “settlement limitation  
15 amount” means an amount equal to 2.5 times the  
16 sum of the relevant basis (as defined in section  
17 170(h)(7)(B) of the Internal Revenue Code of 1986)  
18 of all partners with respect to the eligible contribu-  
19 tion.

20 (2) EXCEPTED CONTRIBUTIONS.—In the case  
21 of an eligible contribution meeting the requirements  
22 of subparagraph (C), (D), or (E) of paragraph (7)  
23 of the Internal Revenue Code of 1986, the term  
24 “settlement limitation amount” means an amount  
25 equal to 3.2 times the aggregate amount of capital

1 contributed, directly or indirectly, by the ultimate  
2 taxpayer partners, excluding any amount derived  
3 from a loan, insurance arrangement, or other financ-  
4 ing provided by the principal organizer or manager,  
5 or by any person related (within the meaning of sec-  
6 tion 267(b) or section 707(b)(1) of such Code) to  
7 such principal organizer or manager.

8 (d) AGGREGATION FOR COMMON MARKETING  
9 GROUPS.—

10 (1) SINGLE CONTRIBUTION TREATMENT.—All  
11 eligible contributions of partnerships in a common  
12 marketing group that are described in the election  
13 statement and that each has an open matter as of  
14 the date the election statement is filed shall be treat-  
15 ed as a single eligible contribution for purposes of  
16 this section.

17 (2) COMPUTATION ON COMBINED BASIS.—In  
18 the case of a common marketing group, the claimed  
19 deduction, settlement limitation amount, and settle-  
20 ment amount shall be computed by aggregating  
21 across all partnerships and all taxable years in the  
22 group with respect to the eligible contributions de-  
23 scribed in the election statement.

24 (3) DESIGNATION AND AUTHORIZATIONS.—A  
25 common marketing group shall act through a des-

1        designated partnership. The designated partnership  
2        shall be identified by name and employer identifica-  
3        tion number in a written authorization executed by  
4        the applicable partnership representative of each  
5        partnership in the group. Each authorization shall  
6        grant filing and remittance authority and acknowl-  
7        edge that the executing partnership is jointly and  
8        severally liable for the settlement amount until paid  
9        in full.

10            (4) VALIDITY CONDITION.—Except as provided  
11        in paragraph (5), an election by a designated part-  
12        nership shall not be effective unless the election  
13        statement includes authorizations from each partner-  
14        ship in the common marketing group.

15            (5) EFFECT OF FINAL DECISIONS.—If 1 or  
16        more partnerships in a common marketing group are  
17        precluded from electing under subsection (g)(3), the  
18        remaining partnerships may make a group election  
19        if all partnerships to which subsection (g)(3) does  
20        not apply provide authorizations under this para-  
21        graph. In any case in which this paragraph applies,  
22        paragraph (2) shall be applied by excluding any  
23        partnership precluded under subsection (g)(3).

24            (6) JOINT AND SEVERAL LIABILITY.—Each  
25        partnership in a common marketing group shall be

1 jointly and severally liable for the settlement amount  
2 until paid in full.

3 (e) PAYMENT OF SETTLEMENT AMOUNT.—

4 (1) SETTLEMENT AMOUNT.—For purposes of  
5 this section—

6 (A) IN GENERAL.—The term “settlement  
7 amount” means the sum of—

8 (i) the tax component; and

9 (ii) the penalty component.

10 (B) TAX COMPONENT.—The tax compo-  
11 nent is equal to the product of—

12 (i) the excess of the claimed deduction  
13 (the claimed deduction is the combined  
14 total amount deducted by all the ultimate  
15 taxpayer partners) over the settlement lim-  
16 itation amount; and

17 (ii) the highest rate of tax in effect  
18 under section 1 of the Internal Revenue  
19 Code of 1986 for any taxable year encom-  
20 passed by the election.

21 (C) PENALTY COMPONENT.—The penalty  
22 component is equal to the amount that would  
23 be determined under section 6662 of the Inter-  
24 nal Revenue Code of 1986 by applying the ap-  
25 plicable penalty rate under paragraph (3) to an

1           underpayment equal to the tax component and  
2           by treating the settlement limitation amount as  
3           the correct amount of the deduction.

4           (2) PAYMENT.—An election partnership shall  
5           pay the settlement amount not later than the last  
6           day of the election period. Except as provided in  
7           subsection (f), an election shall not be effective un-  
8           less the electing partnership remits the full settle-  
9           ment amount with the election statement.

10           (3) APPLICABLE PENALTY RATE.—The applica-  
11           ble penalty rate shall be—

12                   (A) the rate applicable under section  
13                   6662(h) of the Internal Revenue Code of 1986  
14                   in any case in which the claimed deduction ex-  
15                   ceeded 200 percent of the settlement limitation  
16                   amount; and

17                   (B) the rate applicable under section  
18                   6662(a) of such Code in any other case the ap-  
19                   plication of the rate under the preceding sen-  
20                   tence shall be determined without regard to sec-  
21                   tion 6664(c) of the Internal Revenue Code of  
22                   1986.

23           (4) INTEREST WAIVER.—In the case of any por-  
24           tion of the settlement amount remitted by the elect-  
25           ing partnership not later than the last day of the

1 election period, any interest under section 6601 of  
2 the Internal Revenue Code of 1986 with respect to  
3 such portion for periods ending before the date of  
4 remittance is waived. Interest shall accrue in full on  
5 any amount not so remitted.

6 (5) ASSESSMENT AND COLLECTION.—Any set-  
7 tlement amount (and any amount assessed under  
8 subsection (f)) shall be assessed and collected in the  
9 same manner as tax imposed by chapter 1 of the In-  
10 ternal Revenue Code of 1986. The Secretary shall  
11 accept and apply any remittance as a payment of  
12 the settlement amount without any receipt, notice,  
13 or administrative action affecting the effectiveness of  
14 the election.

15 (f) NON-CONTRIBUTING PARTNERS.—

16 (1) IDENTIFICATION OF NON-CONTRIBUTING  
17 PARTNERS.—

18 (A) IN GENERAL.—If the electing partner-  
19 ship does not remit the full settlement amount  
20 solely because one or more ultimate taxpayer  
21 partners fail to provide their respective allocable  
22 amounts, the election statement shall include a  
23 schedule identifying—

1 (i) each ultimate taxpayer partner  
2 who has contributed such partner's allo-  
3 cable amount;

4 (ii) each ultimate taxpayer partner  
5 who has not contributed such partner's al-  
6 locable amount; and

7 (iii) the following information for each  
8 partner described in clauses (i) and (ii):

9 (I) The name, current address,  
10 taxpayer identification number of such  
11 partner.

12 (II) The amount described in  
13 subparagraph (B)(i) with respect to  
14 such partner.

15 (III) The allocable amount for  
16 such partner.

17 (B) ALLOCABLE AMOUNT.—For purposes  
18 of this subsection, a partner's allocable amount  
19 is equal to the product of the settlement  
20 amount and a fraction—

21 (i) the numerator of which is such  
22 partner's share of the deduction (as re-  
23 ported on the Schedule K-1 or similar  
24 statement, including amendments filed be-

1                   fore the date the election statement is  
2                   filed); and

3                   (ii) the denominator of which is the  
4                   total claimed deduction.

5                   (2) REDUCED REMITTANCE.—In the case of an  
6                   election statement including a schedule under para-  
7                   graph (1), the amount of the remittance required  
8                   under subsection (e)(2) shall be reduced by the ag-  
9                   gregate allocable amounts of non-contributing part-  
10                  ners.

11                  (3) ASSESSMENT AGAINST NON-CONTRIBUTING  
12                  PARTNERS.—The Secretary shall assess against each  
13                  non-contributing partner an amount equal to the  
14                  sum of—

15                         (A) such partner's allocable amount, and  
16                         (B) an amount equal to 25 percent of the  
17                         product of the tax component determined under  
18                         subsection (e)(1)(B) and the fraction described  
19                         in paragraph (1)(B).

20                  Such amount shall be payable upon notice and de-  
21                  mand.

22                  (4) INTEREST.—Interest under section 6601 of  
23                  the Internal Revenue Code of 1986 shall accrue on  
24                  any amount assessed under this subsection begin-

1       ning on the day after the last day of the election pe-  
2       riod.

3               (5) PERIOD OF LIMITATIONS.—For purposes of  
4       section 6501 of the Internal Revenue Code of 1986,  
5       the period for assessment of any amount under this  
6       subsection shall not expire before 3 years after the  
7       last day of the election period.

8               (6) ASSESSMENT PROCEDURES; JUDICIAL RE-  
9       VIEW.—Amounts assessed under paragraph (3) shall  
10      be immediately assessable, and the restrictions under  
11      section 6213(a) of the Internal Revenue Code of  
12      1986 on assessment and collection shall not apply.  
13      A non-contributing partner may contest the com-  
14      putation of such partner’s allocable amount only by  
15      paying the amount assessed and filing a claim for  
16      refund under section 6511 of such Code. Nothing in  
17      this subsection shall limit a non-contributing part-  
18      ner’s right to bring suit under section 7422 of such  
19      Code following disallowance of such claim.

20              (g) COORDINATION WITH PRIOR PROCEEDINGS.—

21              (1) PRIOR SETTLEMENTS.—If a partnership  
22      has entered into a closing agreement under section  
23      7121 of the Internal Revenue Code of 1986 or a  
24      compromise under section 7122 of such Code with  
25      respect to an eligible contribution, the partnership

1 shall exclude from the election any matters resolved  
2 thereby.

3 (2) PENDING STIPULATED DECISIONS.—A part-  
4 nership with respect to which a stipulated decision  
5 has been lodged with the Tax Court but not yet en-  
6 tered may withdraw such stipulation and make an  
7 election, provided that such withdrawal occurs before  
8 the last day of the election period.

9 (3) FINAL DECISIONS.—No election may be  
10 made with respect to an eligible contribution if a de-  
11 cision of the Tax Court has become final within the  
12 meaning of section 7481 of the Internal Revenue  
13 Code of 1986, or if a judgment of any other court  
14 has become final and is no longer subject to review  
15 (including by petition for writ of certiorari).

16 (4) SECTION 6226 ELECTIONS.—If a partnership  
17 has made an election under section 6226 of the In-  
18 ternal Revenue Code of 1986 with respect to an im-  
19 puted underpayment attributable to an eligible con-  
20 tribution, an election under this section may be  
21 made only if such election under section 6226 of  
22 such Code is revoked. Notwithstanding section 6226  
23 of such Code and any regulations thereunder, such  
24 revocation shall be made by a written statement  
25 signed by the applicable partnership representative

1 and included with the election statement, and shall  
2 be effective solely with respect to the eligible con-  
3 tribution and items attributable thereto.

4 (h) EXAMINATION FOR COMPUTATIONAL ACCU-  
5 RACY.—

6 (1) AUTHORITY.—Notwithstanding subsection  
7 (b)(4), the Secretary may examine any election sole-  
8 ly to verify the correctness of computational ele-  
9 ments, including the claimed deduction, relevant  
10 basis or capital contributions, settlement limitation  
11 amount, tax component, and penalty component.  
12 Such examination shall not extend to any determina-  
13 tion of fair market value or any other substantive  
14 issue resolved by the election.

15 (2) ADJUSTMENT FOR DISCREPANCY.—If the  
16 Secretary determines that the settlement amount  
17 was incorrectly computed, the Secretary shall notify  
18 the electing partnership of such discrepancy and the  
19 corrected amount by mailing notice to the last  
20 known address of such partnership. Except as pro-  
21 vided in subsection (h)(3) and (h)(4), any additional  
22 amount due shall be payable within 90 days of such  
23 notification.

24 (3) ADMINISTRATIVE REVIEW.—If, within the  
25 90-day period described in subsection (h)(2) the

1 electing partnership files a written protest or request  
2 for administrative review of all or any portion of the  
3 additional amount, the Secretary shall provide ad-  
4 ministrative review, including review by the Inde-  
5 pendent Office of Appeals if otherwise available. As-  
6 sessment and collection of the disputed portion shall  
7 be suspended while such administrative review is  
8 pending. Upon conclusion of such review, the Sec-  
9 retary shall mail to the electing partnership a notice  
10 of final administrative determination setting forth  
11 the amount, if any, finally determined by the Sec-  
12 retary.

13 (4) JUDICIAL REVIEW.—The electing partner-  
14 ship may contest the computation of any additional  
15 amount determined under this subparagraph by fil-  
16 ing a petition with the Tax Court without prior pay-  
17 ment or, after payment, by filing a claim for refund  
18 under section 6511. Any petition to the Tax Court  
19 shall be filed within 90 days after the Secretary  
20 mails the notice described in clause (ii), or, if admin-  
21 istrative review is timely requested under clause (iii),  
22 within 90 days after the Secretary mails the notice  
23 of final administrative determination. The Tax  
24 Court shall have jurisdiction over any timely petition  
25 filed under this clause, notwithstanding that the

1 electing partnership is not otherwise liable for tax  
2 under this title, and may redetermine the correct  
3 amount of the disputed additional amount, but only  
4 with respect to the computational elements described  
5 in clause (i). No assessment, levy, or proceeding in  
6 court for collection of the disputed portion shall be  
7 made, begun, or prosecuted until the expiration of  
8 the applicable 90-day period, or, if a petition is time-  
9 ly filed, until the decision of the Tax Court has be-  
10 come final under section 7481. Nothing in this para-  
11 graph shall be construed to limit the electing part-  
12 nership's right to bring suit under section 7422 fol-  
13 lowing disallowance of such claim.

14 (5) EFFECT ON ELECTION.—No election shall  
15 be void or otherwise impaired solely because the  
16 electing partnership exercises its rights under (h)(3)  
17 or (h)(4). The election shall remain in effect pending  
18 any administrative review, Tax Court proceeding, or  
19 refund claim or suit. If any additional amount fi-  
20 nally determined under this subparagraph is paid  
21 within 90 days after the close of the applicable 90-  
22 day period described (h)(4) if no petition is filed, or  
23 within 90 days after the decision of the Tax Court  
24 becomes final, the election shall remain in effect at  
25 the corrected settlement amount, and no further li-

1 ability (other than interest under section 6601 on  
2 the additional amount from the last day of the elec-  
3 tion period) shall arise from such adjustment.

4 (6) ELECTION VOID.—The election shall be void  
5 from the beginning only if—

6 (A) the additional amount is not paid with-  
7 in the 90-day period; and

8 (B) the electing partnership does not con-  
9 test the Secretary's determination administra-  
10 tively or judicially under (h)(4) or (h)(5).

11 (7) EFFECT OF VOIDED ELECTION.—If an elec-  
12 tion becomes void under paragraph (6), any amounts  
13 previously remitted shall be treated as a payment of  
14 tax and applied against any liability subsequently  
15 determined with respect to the eligible contribution.

16 (8) TIME LIMIT.—The Secretary may not pro-  
17 vide notification under paragraph (2) after the date  
18 that is 2 years after the date the election becomes  
19 effective under subsection (b)(6).

20 (i) NO INFERENCE; PRESERVATION OF OTHER REM-  
21 EDIES.—Nothing in this section shall be construed to cre-  
22 ate any inference regarding the proper tax treatment or  
23 fair market value of any eligible contribution for which  
24 an election is not made under this section. Nothing in this  
25 section shall limit or affect any penalty under section

1 6694, 6695, 6700, 6701, or any other provision of the In-  
2 ternal Revenue Code of 1986 applicable to any person  
3 other than the electing partnership or its partners.

4 **SEC. 3. CONTRIBUTING-BUILDING STANDARD FOR CER-**  
5 **TAIN QUALIFIED CONSERVATION CONTRIBU-**  
6 **TIONS AND CERTIFIED HISTORIC STRUC-**  
7 **TURES.**

8 (a) AMENDMENT TO SECTION 170(H)(4)(C).—Sec-  
9 tion 170(h)(4)(C) is amended—

10 (1) in clause (ii), by striking “and is certified  
11 by the Secretary of the Interior to the Secretary as  
12 being of historic significance to the district” and in-  
13 serting “and is a contributing building”; and

14 (2) by inserting after clause (ii) the following  
15 flush language: “For purposes of clause (ii), the  
16 term ‘contributing building’ means any building  
17 that—”

18 “(I) is identified as contributing in the Na-  
19 tional Register nomination for the district, any  
20 amendment thereto, or the official map, inven-  
21 tory, or other district documentation on file  
22 with, or approved or accepted by, the Secretary  
23 of the Interior, or”.

24 (b) CONFORMING AMENDMENT TO SECTION  
25 47(c)(3)(A).—Section 47(c)(3)(A) is amended—



1           (1) SECTION 170 AMENDMENT.—The amend-  
2           ments made by subsection (a) shall apply to con-  
3           tributions made in taxable years ending before, on,  
4           or after the date of enactment, but only with respect  
5           to—

6                   (A) any taxable year for which the period  
7                   for assessment under section 6501 has not ex-  
8                   pired as of such date;

9                   (B) any taxable year for which a claim for  
10                  credit or refund may be filed under section  
11                  6511 as of such date;

12                  (C) any taxable year to which a deduction  
13                  attributable to such contribution is carried  
14                  under section 170(d) and for which the period  
15                  described in subparagraph (A) or (B) remains  
16                  open; or

17                  (D) any administrative or judicial pro-  
18                  ceeding with respect to such contribution that is  
19                  pending and not final as of such date.

20           (2) SECTION 47 CONFORMING AMENDMENTS.—  
21           The amendments made by subsections (b) and (c)  
22           shall apply to taxable years beginning after the date  
23           of enactment.

1           (3) NO INFERENCE.—No inference shall be  
2 drawn with respect to any taxable year or proceeding  
3 closed by operation of law.

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