



## Robert W. Wood

THE TAX LAWYER

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### Claim Your Façade Easement Now (Just Not With This Promoter)

The “[Trust for Architectural Easements Inc.](#)” has a nice ring to it and sounds as if it’s doing good works. But a [federal court](#) in Washington, D.C. has barred it from promoting a scheme allegedly encouraging taxpayers to claim unwarranted charitable deductions in connection with historic buildings. Façade easements are a great tax benefit and can put money in your pocket. The law allowing them was set to sunset but it was extended through the end of 2011.

Unlike many easements, [conservation easements](#) are not rights of passage over land. They are legal rights to enforce preservation of the land, restricting property’s future development. Conservation easements may preserve natural habitat or the historical façade of a building. In the latter case, you donate (usually to a historical preservation society) a permanent right preserving the outside of your historic office building or historic residence.

Many technical requirements apply to donee charities, the type of property, and permitted purposes. For façade easements, the building must be certified as historic or be in a certified historic district. The rules are technical enough that you need professional help.

Of course, local zoning and historic preservation laws may already prevent you from altering the historical character of the building. Since you are giving away legal rights to charity, you can claim a tax

deduction. The controversial question is what they're worth, and in fact, that's what got the Trust for Architectural Easements into trouble with the IRS. See [Feds Sue Trust Over Historic Easement Tax Breaks](#).

**Appraisals Are Key!** Appraisals before and after the donation of the easement are critical. The IRS targets inflated appraisals, claiming inflated values for building façades are a [tax scam](#). As it happens, many conservation easement tax deductions seem to hover around 10 percent of the value of the property. That means a façade easement on a \$10 million historic building would yield a \$1 million tax deduction.

But it's important to stress that this 10 percent figure is *not* an IRS policy, and far from it. In fact, the government complained that The Trust for Architectural Easements Inc. actually told donors they could claim 10 to 15 percent of the value of the property and that this reflected an official IRS policy. Nope, said the IRS. Valuation is always case by case.

The numbers here were large. According to the government [complaint](#), the total value of façade easement tax deductions attributable to the defendants' scheme through 2008 exceeded \$1.2 billion. The complaint states that the IRS has repeatedly disallowed charitable deductions claimed by the defendants' customers and estimates that the tax revenue lost through 2006 as a result of the scheme is \$250 million.

The order bars the defendants from promoting the existence of a 10-to-15 percent valuation range and from accepting donations of easements the defendants know or have reason to know lack a conservation purpose as defined by federal tax law. The order also blocks the defendants from participating in the appraisal process for an easement except for referring donors to lists of potential appraisers prepared by neutral third-parties.

For more, see:

[U.S. targets tax break tied to facade easements](#)

[Group Barred From Misleading Taxpayers When Donating Façade](#)

[Conservation Easements, Valuation, and Substantiation](#)

[Conservation Easements: Quid Pro Quo Revisited](#)

[Conservation Easements, the IRS & Charity](#)

[Courts to IRS: Ease up on Conservation Easement Valuations](#)

[Conservation Easements Conserve Taxes and More](#)

[An Updated Look At Conservation Easements](#)

[ABCs of Charitable Conservation Easements](#)

*Robert W. Wood practices law with [Wood LLP](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*