

Internal Revenue Code, Section 170(h)

QUALIFIED CONSERVATION CONTRIBUTIONS, AS AMENDED

This Act became law on December 17, 1980 (Public Law 96-541, 26 U.S.C. 170(h) and has been amended three times.

Qualified conservation contribution

26 U.S.C. 170(h)(1),
In general

Section 170(h)

(1) For purposes of subsection (f)(3)(B)(iii), the term **“qualified conservation contribution”** means a contribution—

- (A) of a qualified real property interest,
- (B) to a qualified organization,
- (C) exclusively for conservation purposes.

26 U.S.C. 170(h)(2),
Qualified real property interest

(2) For purposes of this subsection, the term **“qualified real property interest”** means any of the following interests in real property:

- (A) the entire interest of the donor other than a qualified mineral interest,
- (B) a remainder interest, and
- (C) a restriction (granted in perpetuity) on the use which may be made of the real property.

26 U.S.C. 170(h)(3),
Qualified organization

(3) For the purposes of paragraph (1), the term **“qualified organization”** means an organization which—

- (A) is described in clause (v) or (vi) of subsection (b)(1)(A), or
- (B) is described in section 501(c)(3) and—

- (i) meets the requirements of section 509(a)(2), or
- (ii) meets the requirements of section 509(a)(3) and is controlled by an organization described in subparagraph (A) or in clause (i) of this subparagraph.

26 U.S.C. 170(h)(4),
Conservation purpose defined, in general

(4)(A) For purposes of this subsection, the term **“conservation purposes”** means—

- (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- (iii) the preservation of open space (including farmland and forest land) where such preservation is—
 - (I) for the scenic enjoyment of the general public, or

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(II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or

(iv) the preservation of a historically important land area or a certified historic structure.

Certified historic structure

(B) For purposes of subparagraph (A)(iv), the term “**certified historic structure**” means any building, structure, or land area which—

(i) is listed in the National Register, or

(ii) is located in a registered historic district (as defined in Section 47(c)(3)(B)) and is certified by the Secretary of the Interior to the Secretary [of the Treasury] as being of historic significance to the district.

A building, structure, or land area satisfies the preceding sentence if it satisfies such sentence either at the time of the transfer or on due date (including extensions) for filing the transferor’s return under this chapter for the taxable year in which the transfer is made.

26 U.S.C. 170(h)(5),
Exclusively for conservation purposes

(5) For purposes of this subsection—

(A) A contribution shall not be treated as exclusively for conservation purposes unless the conservation purpose is protected in perpetuity.

Conservation purpose must be protected

(B)(i) Except as provided in clause (ii), in the case of a contribution of any interest where there is a retention of a qualified mineral interest, subparagraph (A) shall not be treated as met if at any time there may be extraction or removal of minerals by any surface mining method.

No surface mining permitted

(ii) With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible.

Special rule

(6) For purposes of this subsection, the term “**qualified mineral interest**” means—

26 U.S.C. 170(h)(6),
Qualified mineral interest

(A) subsurface oil, gas, or other minerals, and

(B) the right to access to such minerals.