to resolve certain docketed cases involving syndicated conservation easement transactions.

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The Internal Revenue Service has completed the first settlement under its initiative to resolve certain docketed cases involving syndicated conservation easement transactions.

On June 25, 2020, the IRS Office of Chief Counsel announced that it would offer to settle certain cases involving abusive syndicated conservation easement transactions. Since then, Chief Counsel has sent letters to dozens of partnerships involved in these transactions whose cases are pending before the U.S. Tax Court.

“We are seeing movement on these settlements,” said IRS Chief Counsel Mike

participants seek the advice of competent, independent advisors in considering the potential resolution of their matter.

The settlement requires a concession of the tax benefits claimed by the taxpayers and imposes penalties:

- All partners in an electing partnership must agree to settle to receive these terms, and the partnership must make a lump-sum payment representing the aggregate tax, penalties and interest for all of the partners before settlement is accepted by the IRS.
- Chief Counsel will allow investors to deduct the cost of acquiring their partnership interests but it will require a penalty of at least 10 percent.
- Partners who are promoters of conservation easement schemes are not allowed any deductions and must pay the maximum penalty asserted by IRS (typically 40 percent).
- If less than all the partners agree to settle, the IRS may settle with those partners but will normally impose less favorable terms on the settling partners.

This week, the first settlement under the terms of the initiative was finalized. Coal Property Holdings, LLC and its partners agreed to a disallowance of the entire $155 million charitable contribution deduction claimed for an easement placed on a 3,700- acre tract of land in Tennessee. On October 28, 2019, the Tax Court issued its Opinion (153 T.C. 126) granting the government’s motion for partial summary judgment holding that the “judicial extinguishment” provisions of the easement deed did not satisfy the requirements of section 1.170A-14(g)(6), Income Tax Regs.

Under the terms of the settlement, the investor partners were permitted to deduct their cost of investing in the conservation easement transactions and paid a 10 percent penalty, whereas the promoter partner was denied any deduction and paid a 40% penalty. The taxpayers also fully paid all tax, penalties, and interest in conjunction with the settlement. The settlement will be reflected in a stipulated

Coal Property was represented by Christopher S. Rizek and Scott D. Michel of the Washington, D.C. law firm Caplin & Drysdale. "In light of the significance of the Court's ruling on the perpetuity issue, our client decided to take advantage of an assured penalty reduction in the IRS initiative and settle this matter under the IRS's terms, and it is pleased that this case is resolved," Rizek said.

Benefits