



# TaxNewsFlash

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## Final regulations: Certain syndicated conservation easement transactions identified as listed transactions

The U.S. Treasury Department and IRS today released [final regulations](#) (T.D. 10007) identifying certain syndicated conservation easement transactions and substantially similar transactions as listed transactions, a type of reportable transaction.

Taxpayers use Form 8886, *Reportable Transaction Disclosure Statement*, to disclose information for each reportable transaction in they participate. Material advisors to any reportable transaction file Form 8918, *Material Advisor Disclosure Statement*, to disclose certain information about the reportable transaction.

The final regulations are effective on October 8, 2024.

### Background

The final regulations adopt [proposed regulations](#) published on December 8, 2022, with certain revisions. As noted in [Announcement 2022-28](#), which accompanied the proposed regulations' release, the proposed regulations were issued in response to two court decisions holding that IRS notices identifying particular transactions as listed transactions did not comply with the Administrative Procedure Act (APA) and thus were invalid. Specifically, the announcement referenced the U.S. Tax Court's recent decision in *Green Valley Investors, LLC v. Commissioner*, 159 T.C. No. 5 (2022) (invalidating Notice 2017-10). In addition, the announcement mentioned the decision earlier this year of the U.S. Court of Appeals for the Sixth Circuit in *Mann Construction, Inc. v. United States*, 27 F.4th 1138 (6th Cir. 2022) (invalidating Notice 2007-83). Announcement 2022-38 indicates that the Treasury Department and IRS disagree with these decisions, and that they are continuing to defend the validity of the existing listing notices in circuits other than the Sixth Circuit.

Under the final regulations, Notice 2017-10 is obsolete for transactions occurring after the effective date of the final regulations.

Read the related IRS release—[IR-2024-259](#) (October 7, 2024)

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