
Practice 2C: Tax Exemption

- The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code's (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.
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Federal and most state governments provide an exemption from income tax for qualified nonprofit organizations and allow the deductibility of contributions to them. This subsidy of the nonprofit organization is offered in return for the organization's operation in the public interest. The Internal Revenue Service (IRS) requires that tax-exempt organizations operating as public charities meet certain tests both at the time of application for tax-exempt status and on a continuing basis. These include avoiding private inurement and excess private benefit, a prohibition on political campaign activity, complying with limitations on lobbying, paying tax on unrelated business income, and meeting the public support test.

Benefits of Federal Tax Exemption

Applying for and maintaining federal tax-exempt status under [Section 501\(c\)\(3\)](#) places special operating burdens and filing requirements on a land trust. But the benefits are great. They include

- **Exemption from federal taxes.** Tax-exempt organizations are exempt from paying federal income tax on most types of income, as well as from certain federal excise and unemployment taxes.
- **Assistance with state and local tax exemptions.** Most states and localities mirror the federal statute and also exempt qualifying organizations from income tax and often from state sales tax. Federal tax-exempt status also can help in establishing the organization's charitable intent and operation in applying for local property tax exemption.
- **Deductibility of donations.** Donations of cash, securities or interests in property to tax-exempt organizations are deductible on the donor's federal (and state) income tax returns.
- **Eligibility for grants.** Tax-exempt organizations that are public charities are eligible for grants from private foundations and government agencies.

- **Potential eligibility to receive tax-deductible donations of conservation easements.** In addition to other requirements, an organization must be a tax-exempt organization to qualify as a donee for tax-deductible easements.

Types of Federal Tax-Exempt Status

Land trusts file for tax exemption under Section 501(c)(3) of the Internal Revenue Code, which provides exemption for nonprofit corporations organized and operated exclusively for one or more of several listed purposes, including charitable, religious, educational, and scientific. The IRS has ruled that the purposes of a typical conservation land trust are “charitable.”

A land trust exempt from federal taxes under Section 501(c)(3) is either a private foundation or public charity. A land trust generally wants to avoid classification as a private foundation because private foundations are subject to an elaborate set of restrictions and reporting requirements, there are significant limitations on their ability to offer tax deductions to donors, and they do not qualify to hold conservation easements. The IRS *presumes* a 501(c)(3) organization is a private foundation *unless* it demonstrates that it should be excluded from this definition and is, instead, a public charity.

Almost all land trusts choose to qualify as public charities under one of two basic approaches described below.

Publicly supported organizations

The vast majority of land trusts seek public charity status by qualifying as publicly supported organizations. To qualify for and maintain this status, a land trust must receive a substantial part of its income from the general public, that is, it must meet the so-called public support test. This status offers flexibility in a land trust’s operations and qualifies a land trust to receive tax-deductible donations of conservation easements (as long as it meets certain other IRS requirements).

Publicly supported organizations are described in [Sections 509\(a\)\(1\)](#) and [509\(a\)\(2\)](#) of the Internal Revenue Code. The difference between 509(a)(1) and 509(a)(2) organizations is in the requirements of the public support test. Most land trusts qualify under 509(a)(1).

Supporting organizations

A few land trusts seek public charity status by qualifying as supporting organizations. Supporting organizations are organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations. The advantage to being a supporting organization is that the organization *does not* have to receive a substantial part of its income from the general public, that is, it does not have to meet the public support test. Certain types of supporting organizations (those that meet the IRS test of being “controlled by” one other organization) also qualify to receive tax-deductible donations of conservation easements if they meet other IRS requirements. A possible disadvantage is that it must be operated, supervised or

controlled by the supported agency or organization. The Nature Conservancy and the Open Space Institute in New York have in the past helped facilitate the start-up and operation of land trusts by making them their supporting organizations. This is also a mechanism for establishing a land trust “arm” of a more advocacy-oriented conservation organization. (See more later in this practice on calculating public support.)

Applying for Federal Tax Exemption

The basic steps in applying for federal tax exemption are listed here. This is a brief summary discussion only. Land trusts should consult [IRS Publication 557, *Tax-Exempt Status for Your Organization*](#), and their attorney for further information and more specific details.

- 1. File within 15 months of formation.** A land trust must file for federal tax exemption within 15 months of its formation for the IRS to grant tax-exempt status retroactively to the organization’s beginning. If the organization files more than 15 months after its formation, tax-exempt status will extend from the date of application, but not from the date of organization.
- 2. Obtain IRS Publication 557, *Tax-Exempt Status for Your Organization*.** This publication details both the initial application procedures and the continuing filing requirements for charitable organizations.
- 3. Be sure the land trust’s corporate charter and bylaws meet IRS requirements.** See IRS Publication 557 for required provisions and suggested language. This includes a clause in the charter that ensures the land trust’s assets will be distributed for tax-exempt purposes if the land trust dissolves.
- 4. Obtain and complete [IRS Package 1023, *Application for Recognition of Exemption under Section 501\(c\)\(3\) of the Internal Revenue Code*](#).** Revised by the IRS in October 2004, this package contains the necessary forms and instructions for applying for tax-exempt status. The recent revision was designed to accelerate the application process and obtain information about potentially abusive transactions.
- 5. Consider applying for an advance ruling.** Organizations applying as publicly supported organizations need to provide income and expense information to show that the land trust normally receives a substantial part of its support from the general public. However, rather than meeting the public support test immediately, most land trusts apply for an advance ruling, which gives the organization a five-year period over which it can prove it meets the public support test. During the advance ruling period, the land trust can offer the maximum tax deduction to donors, and, except in certain limited circumstances, the tax deductions remain valid even if the land trust is determined to be a private foundation after the expiration of the advance ruling period. Within 90 days of the end of the advance-ruling period, the land trust must submit information to the Internal Revenue Service demonstrating that it is a publicly

supported organization.

6. **File other required forms.** Three other forms may be filed with [Form 1023](#).
- [Form SS-4, “Application for Employer Identification Number”](#). This form must be filed if the land trust does not already have an employer identification number and has not already applied for one.
 - [Form 2848, “Power of Attorney and Declaration of Representative”](#). This form must be filed if the land trust is represented by someone who is not a director, officer or trustee of the land trust.
 - [Form 8718, “User Fee for Exempt Organization Determination Letter Request”](#). This form must be filed with the required application fee.
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State and Local Tax Exemptions

A land trust should take advantage of tax exemption opportunities at the state and local level, including (if available) income tax and sales tax. Land trusts in some areas may also be eligible for property tax exemption, although land trusts don’t always seek this exemption even if it is available (see standard 12 for further discussion). Land trusts should investigate the opportunities and restrictions in their own locales.

Retaining Tax-Exempt Status

The IRS requires that public charities meet certain operating tests both at the time of application for public charity status and on a continuing basis. They include:

- **Avoiding private inurement.** Among the key conditions of tax-exempt status is that the land trust be “organized and operated exclusively for [charitable] purposes...no part of the net earnings of which inures to the benefit of any private shareholder or individual.” What is key here is the proscription against private inurement.
- **Prohibition on political campaign activity.** The land trust may not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office. See practice 2E.
- **Complying with limitations on lobbying.** Lobbying may constitute only an “insubstantial part” of a land trust’s activities. This can be as much as 20 percent of annual exempt purpose expenditures if the land trust has elected to have the provisions of [Section 501\(h\)](#) apply to it. See practice 2E.

- **Paying tax on unrelated business income.** The land trust must report and pay unrelated business income tax on any unrelated business taxable income in excess of \$1,000.
- **Meeting the public support test.** The land trust must continue to show that it meets the public support test if it intends to qualify for public charity status as a publicly supported organization.

Avoiding Private Inurement/Private Benefit

The statutory ban on inurement is a considerable threat to the tax-exempt status of any charitable organization, like a land trust, that is engaged in financial transactions with individuals and/or for-profit entities. Taken at its most obvious meaning, the statute bars participation in profits by any officer, board member or member of the organization—not often a serious temptation with regard to land trusts. But it also *generally* prohibits the following:

- The payment of excessive compensation.
- The disposition or rental of property, other than to another nonprofit or government entity, at less than fair market value.
- The provision of services by the land trust to individuals and nonexempt organizations without a fair return.

Situations that a land trust is likely to run into that could raise the issue of private inurement or private benefit include the following:

- Allowing the free use of its office space or staff support for a nonexempt lobbying organization.
- Paying excessive fees for professional services.
- Giving away equipment the land trust no longer needs to individuals.
- Selling land or renting a house on a property the land trust owns at less than fair market value.

Some private benefit may be tolerated where it is incidental to the accomplishment of the land trust's charitable purposes and insiders to the organization are not involved. The amount of private benefit that the courts have allowed has depended on the *magnitude* of the private benefit in relation to the public benefit derived from the organization's activities, and whether the private benefit is necessary in order to effectuate the organization's exempt purpose. For example, a land trust may be able to lease property to a farmer at less than what a summer resident might pay if one of the trust's exempt

purposes is to protect agricultural land. Or it may be able to provide conservation services free of charge or at below market price in the course of a land protection project, such as developing a land-use plan for a property on which the owner is donating a conservation easement.

Private inurement can result in fines on the members of the board or senior staff that allowed it to happen and may even cause the organization to lose its tax-exempt status. Land trusts should be very wary of any situation that might involve private inurement or excess private benefit and seek the advice of counsel. (Most court findings of inurement have been limited to transactions involving insiders such as board members, officers or members. See standard 4 on conflict of interest for further discussion.)

Unrelated Business Income Tax

A land trust must be careful about any business activities in which it engages. To qualify as an exempt organization under Section 501(c)(3), a land trust must be organized and operated exclusively for exempt purposes. Any business activities it operates that are not primarily in furtherance of its exempt purpose must not be a substantial part of its operations. In addition, it must pay tax, at standard corporate income tax rates, on any net income after the first \$1,000 from unrelated business activities. The tax is intended to eliminate unfair competition with taxable businesses.

Unrelated business income is reported on [Form 990-T, "Exempt Organization Business Income Tax Return"](#). [Internal Revenue Service Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#), details the regulations regarding unrelated business income.

What is unrelated business income?

There are three criteria for determining an unrelated trade or business.

1. The activity must be a trade or business.
2. The activity must be conducted on a regular basis.
3. It must not be substantially related to the purpose of the tax-exempt organization.

Some trade and business activities are excluded from the unrelated business income tax. These include:

- Businesses that are conducted by volunteers who work without compensation;
- Thrift shops in which merchandise is received by the organization as a gift;
- Qualified trade shows;
- Qualified public entertainment;
- Bingo games; and
- Income from the distribution of certain low-cost items.

Some examples of activities land trusts might undertake that might yield unrelated

business income include rental of their mailing lists to commercial retailers and sale of advertising in the land trust's magazine. Activities that probably would not be considered as yielding unrelated business income include resale of a restricted property or consulting on land use plans for conservation easements. There are extensive rules governing what qualifies as unrelated business income. If a land trust is uncertain whether an activity might fall in this category, and the activity will generate more than \$1,000 annually, it should consult an attorney familiar with nonprofit law. The land trust also should keep in mind that a large amount of unrelated business income might indicate to the IRS that the trust is engaging in nonexempt activities to a substantial degree and thus jeopardize the land trust's tax-exempt status.

Meeting the Public Support Test

A land trust that qualifies for public charity status as a publicly supported organization under Section 509(a)(1) or 509(a)(2) of the Internal Revenue Code—which includes most land trusts—must show that a certain proportion of its receipts comes from the general public. This includes grants from government agencies and other public charities, and contributions from individuals and nonexempt organizations. This requirement is often called the “public support test”.

Land trusts must pay close attention to meeting this test. Failing to meet the public support test can cause a land trust to lose its public charity status. If that happens, the land trust will become a private foundation, which can effectively eliminate its ability to carry out its land protection mission. It is vital that someone associated with the land trust (a board member, staff person or outside financial advisor) be assigned the responsibility for understanding the public support test, monitoring the land trust's performance against it and alerting the land trust if it appears to be running the risk of falling short of its requirements. This allows the land trust time to fundraise to meet the test's requirements.

The following discussion, adapted from an article in *The Back Forty* by William T. Hutton, gives a detailed overview of how the public support test works. The test is somewhat difficult and complex, and has a number of special provisions for specific situations. Land trusts should consult their accountant and IRS Publication 557, *Tax-Exempt Status for Your Organization*, for a more thorough and specific discussion. (The following discussion applies to 509(a)(1) organizations, which includes most land trusts. The rules for what counts as support are slightly different for 509(a)(2) organizations.)

What period is the public support test based on?

A new land trust must show that it meets the test over its first five years of operation, i.e., the advance-ruling period. Subsequently, the test is applied in four-year “moving average” increments; e.g., 2000 through 2003, 2004 through 2007, etc. Satisfaction of the test for any such four-year period ensures continuation as a public charity for the succeeding two years. Thus a land trust that satisfied the public support test for the years 2000 through 2003 would be deemed to be a public charity for 2004 and 2005, even if it

did not meet the test for the 2001 through 2004 period.

How much public support is required?

Generally an organization meets the public support test if it:

- 1. Normally receives at least one-third of its total support** from government agencies and the general public (“favorable” support); **or**
- 2. Receives at least 10 percent of its support** from these sources and meets an “attraction of public support” requirement. This is often called the facts and circumstances test.

Facts and circumstances test

If the land trust fails to meet the one-third support test, it may still qualify under the more flexible facts and circumstances test. To qualify under this test, the land trust *must meet* the following two requirements:

- 1. Ten percent of support.** The organization must receive *at least* 10 percent of its support from government agencies and the general public. Favorable support is calculated in the same way as it is for the one-third test; however, the lower percentage of public support required makes meeting the standard easier. If the organization’s favorable support is less than 10 percent, it will not qualify.
- 2. Attraction of public support.** To meet this requirement, the land trust must show that it has a continuous and bona fide program of solicitation of funds from the public, government or other charitable organizations. A land trust seeking to meet this test may find it especially advantageous to have a large and broad membership.

In addition to these two primary requirements, the IRS will consider the following secondary factors as indications of public support. Not all of these factors need to be met, but weakness in one factor means the land trust must be stronger in the others.

- **The percent of public support.** Obviously this figure will lie somewhere between 10 percent (the non-qualifying level) and 33 1/3 percent (the level sufficient by itself for public charity status). The lower the percentage, the stronger the combination of remaining factors must be. If a large portion of income derives from endowment interest (which is not considered public support), the origin of the endowment will be considered.
- **Sources of support.** Broad support, a variety of potential donors and significant governmental contributions work in the land trust’s favor.
- **Representative governing body.** A governing body (e.g., a land trust board) that includes a cross section of interests such as public officials, experts and community leaders weighs in the land trust’s favor.

- **Public facilities or services.** Benefiting the public directly through programs or services is considered evidence of public support.
- **Miscellaneous factors.** Breadth of solicitation, restrictiveness of dues and broad appeal of activities are also considered.

Calculating public support

To calculate the percentage of public support, the IRS instructs the organization to set up a mathematical equation with public support in the numerator and total support in the denominator. To do this, the land trust must understand what types of income, and how much of each, are to be included in each category. See Figures 4.1 and 4.2.

- 1. Total support: the denominator.** Total support includes most of the land trust's income but *does not include* the following:
 - Exempt income—Income from a function or activity that advances the trust's exempt purposes (e.g., fees for land planning or consulting, sales of conservation publications, income from seminars).
 - Capital gains.
 - Private donations of services—The general rule of thumb is that only those in-kind forms of support that are tax deductible to the donor should be considered in the land trust's total support calculation.
 - Unusual grants—Unusual grants from disinterested parties may be excluded from the support calculation under certain conditions (see discussion below).
- 2. General public (“favorable”) support: the numerator.** Public support can be broken down into two categories.
 - One hundred percent. Government grants, government donations of services or facilities, and grants from public charities count 100 percent toward public support.

FIGURE 4.1

What Counts as Support		
	Total Support	"Favorable" Support
Government grants	yes	yes
Public charity grants	yes	yes
Gov't donation of services/ facilities	yes	yes
Land (fair market value)	yes	2% limit
Easements*	yes	2% limit
Private donations (cash, goods)	yes	2% limit
Unrelated income	yes	no
Investment income	yes	no
Capital gains	no	no
Exempt-function income (including fees from govt. agencies for services provided)	no	no
Unusual grants	no	no
Private donations of services	no	no

*Some land trusts value easements at zero and therefore do not include them in the support calculation at all.

- Two percent limit. Grants from private individuals, private foundations and other organizations count toward public support also, but not more than an amount equal to *2 percent of total support* may count as public support from any single source. For this purpose, all contributions made by a donor and any related person or persons are aggregated.

Note that investment income (such as interest from an endowment or revolving fund) is included in total support, but does not count toward public support.

Unusual grants: dealing with large gifts

Large gifts from private sources, such as donations of valuable land, easements or a large bequest, can make it difficult for a land trust to meet the public support test. Such gifts count 100 percent toward total support, but are limited in their application toward public support to 2 percent of total support.

However, such grants may be completely eliminated from the support calculations if they meet certain requirements. Under IRS regulations, "unusual grants" from "disinterested parties" may be excluded from the support calculation if they (1) are attracted by reason of the publicly supported nature of the land trust; (2) are unusual or unexpected with respect to the amount of the contribution; and (3) would, if required to be included, adversely affect the status of the land trust. Generally speaking, "all pertinent facts and circumstances" are taken into consideration in determining whether the exclusionary circumstances are present.

The IRS has published guidance ([Revenue Procedure 81-7, 1981-1 C.B. 621](#)) listing six factors that taken together qualify a grant as “unusual.”

1. A person other than a creator of the organization or a person who had attained “substantial contributor” status prior to the contribution makes the contribution. (A “substantial contributor” is a person who, as of the end of any year, has made total [historical] contributions in excess of \$5,000 and whose total contributions exceed 2 percent of the land trust’s total [historical] support to that date.) Persons related to creators and substantial contributors, within the meaning of certain detailed attribution rules, are also disqualified.

Because a land trust may wish to exclude donations of land or easements from the support calculation by classifying them as unusual grants, it may wish to discourage such potential donors from participating in the land trust’s creation and from making other substantial contributions prior to protecting their land.

2. The contribution is not made by a manager of the nonprofit (e.g., a board member or officer) or by anyone who otherwise is able to exercise control over the organization, nor by a person who attains such a position of authority on account of the contribution itself. The same related-party proscription mentioned in paragraph 1 applies here.
3. The contribution is in the form of cash, readily marketable securities or assets that directly further the exempt purposes of the organization. (The IRS has ruled privately that a conservation easement donation to a land trust satisfies this factor.)

FIGURE 4.2

Hypothetical Support Calculation			
	Income	Total Support	Public Support
Board of directors gifts			
Steve Zeisel	\$5,400	\$5,400	\$5,400
Rick Maurer	3,000	3,000	3,000
Sally Johnstone	1,500	1,500	1,500
Steve Tilson	10,000	10,000	5,500 **
Kate Bryer	6,500	6,500	5,500 **
	26,400	26,400	20,900
Other cash donations (none over \$500)			
	24,300	24,300	24,300
Cash bequest			
Estate of Edwin Maurer	30,000	30,000	2,500 ***
Foundation grants			
Kate Bryer Family Fund	10,000	10,000	5,500 ****
Sondheim Foundation	5,000	5,000	5,000
	15,000	15,000	10,500
Government grant			
	20,000	20,000	20,000
Investment income			
Savings account interest	2,300	2,300	0
Capital gains	18,000	0	0
	20,300	2,300	0
Exempt-function revenues			
Seminar fees	2,800	0	0
Camping permits	5,600	0	0
	8,400	0	0
Donations of land			
Carp Pond (from Dorothy Jenkins by outright gift)	42,000	42,000	5,500 **
Antelope Ridge (from Kate Bryer, bargain purchase for \$35,000; fair market value \$60,000)	25,000	25,000	0 ***
	67,000	67,000	5,500
Donations of easements			
Rick and Kathy Maurer	80,000	80,000	0 ***
Susan Barton	415,000	0 *	0
Marlene Arnese	150,000	0 *	0
Bill O'Neil	225,000	0 *	0
Alan Dickman	270,000	0 *	0
	1,140,000	80,000	0
Use of office space (donated by town of Arlington)			
	10,000	10,000	10,000
Totals	\$1,361,400	\$275,000	\$93,700
\$93,700/275,000 = 34 percent			
Public support test met under one-third test.			

*Excluded as unusual grant. **Favorable support from a single source is limited to 2 percent of total support (\$275,000 x .02 = \$5,500). ***Portion counted toward public support limited or zeroed out because related person's contribution has already been counted. Two percent limit applies to gifts from single source or related persons. ****This foundation is not considered to be related to Kate Bryer, and the contribution counts as favorable support up to the 2 percent limit.

4. The land trust has received either an advance or final ruling classifying it as a public charity and, once beyond its advance-ruling period, is “actively engaged” in a program of activities in pursuit of its exempt purposes.
5. No material restrictions or conditions have been imposed by the contributor upon the land trust in connection with the grant or contribution. (The attributes of ownership retained by the donor of a conservation easement are not deemed to be restrictions or conditions on the easement gift.)
6. If the contribution is intended to underwrite operating expenses, as opposed to financing capital expenditures, the contribution covers no more than one year’s operations.

Zero valuation of easements

Many easements can be excluded from the support calculation under the provisions for unusual gifts. But some land trusts exclude all easements from the public support calculation by valuing their easements at zero. They reason that the transfer of a conservation easement cannot reasonably be said to demonstrate any disinterested generosity towards the land trust, nor to increase its true support. In fact, the typical easement provides the land trust no affirmative rights except to monitor and enforce the easement, and thus constitutes a *liability*. Apparently certain IRS examiners have accepted the zero-value approach in audit situations, but there is no published IRS guidance or ruling on this issue.

Fundraising to meet the support test

A land trust may be able to fundraise to meet the test without too much trouble, as long as it plans ahead. For example, a land trust with total support of \$200,000 over four years could raise \$2,000 each (which is below the 2 percent limit) from 34 people over that period and automatically meet the test ($\$68,000/\$200,000 = 34$ percent).

State Tax-Exemption Requirements

A land trust that is tax exempt under state law must be sure to understand and comply with the requirements of that law. Land trusts should consult with appropriate advisors on the tax law that governs their state.

Links to Other LTA Resources

- [“Easements as Public Support: The ‘Zero-Value’ Approach”, by William T. Hutton. Chapter 12 of *The Conservation Easement Handbook*, 1988. Published by the Land Trust Alliance.](#)
- [“Law Update: Staying Within the Bounds of the Income Tax Code and Public](#)

[Perception: Private Inurement and Private Benefit](#)’, *Exchange*, Spring 1999 (Vol. 18 No. 2)

Other Helpful LTA Publications

- For a detailed description of public charity status, see [Starting a Land Trust](#), 1990. Published by the Land Trust Alliance.

Links to Other Helpful Resources

- [The Public Support Test: What a Grant Seeker Should Know](#) – memorandum prepared by LaVerne Woods, Esq.

Links to Helpful IRS Resources

- [Form 990-T](#) – Exempt Organization Business Income Tax Return
- [Form 2848](#) – Power of Attorney and Declaration of Representative
- [Form 8718](#) – User Fee for Exempt Organization Determination Letter Request
- [Form SS-4](#) – Employer Identification Number
- [Section 501\(c\)\(3\)](#)
- [Section 501\(h\)](#)
- [Section 509\(a\)\(1\)](#)
- [Section 509\(a\)\(2\)](#)
- [Package 1023](#) – *Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code*
- [Publication 557](#) – *Tax-Exempt Status for Your Organization*
- [Publication 598](#) – *Tax on Unrelated Business Income of Exempt Organizations*
- [Revenue Procedure 81-7, 1981-1 C.B. 621](#)

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◦ This example can be used as a starting point to create a policy or other document for your own land trust, but should be altered as necessary to reflect your organization’s unique circumstances using guidance found in the *Land Trust Standards and Practices Guidebook* text and corresponding Standards and Practices Curriculum. This material is designed to provide accurate, authoritative information in regard to the subject matter covered. It is provided with the understanding that the Land Trust Alliance is not engaged in rendering legal, accounting, or other professional counsel. If legal advice or other expert assistance is required, the services of competent professionals should be sought.