Comment on the Savannah Shoals case;

The US Tax Court, in a recent case (attached) Savannah Shoals LLC, made a significant ruling concerning several matters of interest. First, the court tended to bypass certain procedural non-compliance issues raised by IRS, (ie. Such as "easement donation date" or "acquisition date" and the form 8382 form was not signed) to initially disallow the deduction in favor of a more reasonable interpretation of IRS requirements,[1] rather than a strict construction of the law. IRS historically had preferred this "got you" type of audit since the burden of debating appraisals with experts is avoided—which as we all know can vary considerably.

This court went straight to the valuations-logic of the assumptions by appraisers, etc. The taxpayers insisted that the highest and best use was as a gravel quarry and asserted this higher valuation, which the court shot down as being unrealistic and speculative under all facts and circumstances. The court deferred to the "comparable sales" approach to valuation in lieu of speculative "income capitalization" of future earnings as being the right standard in this case and denied the taxpayer the higher valuation deduction. This, perhaps first of its kind "mineral valuation" was interesting and shows the burden required to support these huge valuation increases—especially for non-operating businesses using projected future income with *no operating history.* The court relied upon "willing buyer and seller" under IRS regulations and not speculative income valuations and since the claimed deduction exceeded the actual valuation by 200%, a 40% penalty was sustained.

[1] The court noted that errors were made in good faith and the IRS had enough information to be reasonably informed of the valuation deduction issue by the appraisers, rather than hiding the issue and hoping that the LLC could not get audited.