Income Tax - Gross Conservation Easement

Are there special limits to the gross conservation easement income tax credit when a pass through entity such as a partnership or S Corporation makes the donation?

Yes, the sum total of credits that all members of a pass-through entity, which makes a donation, can claim for each donation is $260,000 ($100,000 for tax year 2002 and earlier). Therefore, the taxpayers receiving the credits from the entity will generally be restricted to how much credit they claim each year.

In a year that the gross conservation easement credit is refundable (such as 2005), there are two methods that the partners/shareholders of a pass through entity can use to claim the credit.

1) If any partner/shareholder claims a refundable credit (in excess of their tax liability), then the total credit claimed by all partners/shareholders must be $50,000 or less.
2) If no partner/shareholder claims a refundable credit, then each partner/shareholder can claim the credit up to the amount of their individual tax liability (to the extent they have been allocated that much credit).

In a year that the gross conservation easement is not refundable, partners/shareholders will be eligible to claim their credit up to the amount of their individual tax liability.

A pass-through entity may not purchase a credit. A pass-through entity can directly transfer a credit if:

- Each partner, shareholder, or member consents to the transfer, and
- Each partner, shareholder, or member could, under the restrictions of the law, have claimed and transferred their pro rata share of the credit directly.