



# Tax Benefits of Working with a Land Trust

Most people who donate land or a conservation easement to a land trust are motivated by love for the land and their wish to see that land preserved for future generations. Some donors also take advantage of tax benefits associated with land conservation gifts.

Here is a short summary of the tax incentives for qualified conservation gifts. Tax laws change frequently, and this information only briefly describes potential benefits. Anyone considering conservation gifts as part of their financial or estate plans should **consult an attorney or tax planner familiar with these conservation tax benefits.**

## Gifts of Money or Other Assets

Outright cash gifts are the simplest way to support a land trust and gain a tax deduction. You can also donate other assets, like securities, stocks or life insurance. The IRS rules governing donations vary according to the type of gift. Such donations are deductible up to the value of the donated item. Taxpayers may deduct up to 50% of their adjusted gross income for cash donations.

## Donation of "Qualified Conservation Contributions"

The value of a gift of either land or a conservation easement, if that gift meets IRS qualifications, can be deducted from the donor's federal income taxes. Under current tax laws, landowners who donate conservation easements or land to land trusts or government bodies may be able to deduct the fair market value of their donation up to 30% of their adjusted gross income in the year they make the gift. Any remaining value can be carried forward as deductions for 5 years. Donations may also be in the form of a bargain sale, in which the landowner sells property or an easement for less than fair market value. The difference between the fair market value and the sale price is the basis for any income tax deduction. *(A more generous, 50% incentive for conservation easement gifts expired in 2009. There is a well-supported effort to have Congress reinstate that increased benefit in 2010).*

## Possible Future Benefits for Farmers

A now-expired 2009 law allowed farmers to deduct up to 100% of the value of a donated conservation easement from their income taxes. Farmers are defined as those who receive more than 50% of their income from "the trade or business of farming," and can be an individual or a corporation. *Conservationists are hopeful that the 100% deduction will be reinstated by congress, but it does not currently apply to easements donated after 12-31-2009.*

## Estate Taxes

Estate tax is levied on a property's value at its "highest and best use," which is usually the amount a developer would pay. The resulting tax burden can be challenging for heirs to valuable properties. Fortunately, the estate tax system includes some generous incentives for conservation gifts. Briefly:

- A conservation easement may reduce estate taxes because the easement may reduce the value of the property.
- An easement donated in a will can reduce the taxable value of an estate.
- In qualifying circumstances, tax law also allows for a 40% reduction in the value of the land protected by a conservation easement. This reduced value is the basis for any estate tax.
- Qualifying easement donors are eligible for an additional exclusion from estate tax of up to \$500,000.

## Important Considerations

Achieving tax savings through a conservation gift is possible; the conservation tax incentives have helped thousands of landowners choose lasting conservation. However, tax savings are neither guaranteed nor expeditious.

Conservation gifts can take several months to close and potential federal tax benefits vary with the particulars of each donation. To qualify for deduction, gifts of land or conservation easements must:

- 1) *Be to a qualified organization* - The easement must be granted to a qualified charitable conservation organization or a public agency charged with overseeing land conservation or historic preservation. The recipient organization "must have the resources to...monitor and enforce" the easement restrictions.
- 2) *Be for conservation purposes* - An easement must be granted exclusively for conservation purposes. The IRS has a broad definition of "conservation purposes" that includes preservation of natural habitats or resource lands, historic sites, scenic landscapes, wildlife corridors, areas for public education or recreation, and open spaces.
- 3) *Be permanent* - donated conservation easements must be granted in perpetuity.
- 4) *Be properly appraised* - The appraisal to determine the easement value must meet strict federal substantiation requirements as specified in federal tax law regarding conservation easements.
- 5) *Be reported using IRS Form 8283* - The easement donor must complete Form 8283 including the value of the donation, and have the recipient organization sign the form to acknowledge receipt of the easement.

## Local Property Taxes

Local property tax assessments are based on a property's full-market value, which takes into consideration the property's reasonable development potential. If a conservation easement reduces or removes this potential, the assessment and, accordingly, the property taxes, may be reduced. Wisconsin Statute §70.32(1g) requires local tax assessors to consider the effects of a conservation easement when assessing property. In practice, there has been wide variation in how easements are considered by assessors across the state.

## For More Information

An experienced land trust is a good source of information about your land conservation options. They can illustrate successful examples of land donations and conservation easements, and outline the steps a landowner should take to examine the available options. Land trusts *cannot* provide legal or financial advice, however, and they cannot guarantee the success of a particular plan or give potential donors a "ball park" estimate of a tax break. Conservation donors should seek qualified, independent counsel from legal and financial experts familiar with the laws pertaining to charitable gifts of land and easements.

Additional information about the conservation tax incentive is available at [www.lta.org/policy/tax-policy](http://www.lta.org/policy/tax-policy).

*Saving Family Lands*, volumes I, II and III by Stephen Small.

These books on conservation tax incentives by the author of the tax laws are available for purchase from Gathering Waters Conservancy.

The IRS rules for qualified conservation gifts are in the tax code in IRC Section 170(h) - that section of the code is linked on LTA's web page and posted several places on-line.

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