Star Prairie Land Preservation Trust

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. Additionally, the tax benefits associated with land conservation gifts can be substantial.

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. Such donations are deductible up to the value of the donated item. Taxpayers cannot eliminate all taxable income by making charitable donations. The IRS allows taxpayers to 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, may be deducted from the donor's federal income taxes. Under current tax laws, landowners who donate conservation easements to land trusts or government bodies may be able to deduct the fair market value of their donation up to 50% of their adjusted gross income in the year they make the gift. Any remaining value can be carried forward as deductions for 15 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. These benefits are available for donations made January 2006 through December 31, 2009.

Special Benefits for Farmers

The current law allows 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. This deduction also has a 15 year carry-forward. Eligible conservation easements must allow the land to remain "available for agriculture."

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.
- Per the Taxpayer Relief Act of 1997, and as amended in 2001, an easement donor is eligible for an additional exclusion from estate tax of up to $500,000, beyond the exclusion of the value of the easement itself.

Important Considerations

Achieving tax savings through a conservation gift is possible; the conservation tax incentives have helped thousands of landowners chose 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) *<u>Be to a qualified organization</u>* - 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) *<u>Be for conservation purposes</u>* - 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) *<u>Be permanent</u>* – donated conservation easements must be granted in perpetuity.

4) *<u>Be properly appraised</u>* - The appraisal to determine the easement value must meet strict federal substantiation requirements as specified in federal tax law regarding conservation easements.

5) *<u>Be reported using IRS Form 8283</u>* – 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. Land trusts will not sign an incomplete or blank Form 8283, and will ask to see the landowner's appraisal before signing the form.

Local Property Taxes

Local property tax assessments are based on a property's fair-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 financial and legal experts familiar with the charitable gifts of land and easements.

<u>Looking for more information?</u>

Additional information about the conservation tax incentive is available at **www.lta.org/policy/tax-policy**.

Saving Family Lands, volumes I, II and III by Stephen Small: books on conservation tax incentives by the author of the tax laws.

The IRS rules for qualified conservation gifts are in the tax code in IRC Section 170(h) – that section of the code is posted several places on-line.

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