



PIEDMONT ENVIRONMENTAL COUNCIL
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Tax Benefits From A Conservation Easement Donation

Financial Incentives for Land Protection:

The primary reason landowners donate conservation easements is to preserve the natural, open space, habitat, and agricultural value of their property forever. In addition, a conservation easement donation may qualify a landowner for significant estate tax, property tax, and income tax deductions and credits.

I. Federal Income Tax Deduction:

Donation of a qualified conservation easement constitutes a charitable gift that may be deductible by the landowner for federal and state income tax purposes. The value of the easement donation, as determined by a qualified real estate appraiser, equals the difference between the fair market value of the property before and after the easement takes effect.

To qualify for this income tax deduction, the easement must be: a) perpetual; b) held by a qualified governmental or non-profit organization; and, c) serve a valid "conservation purpose," meaning the property must have a significant natural, scenic, historic, scientific, recreational, or open space value.

For calendar years 2008 and 2009, when a landowner donates an easement meeting IRS rules,

they may deduct the value of the donation at the rate of 50% of their adjusted gross income per year. Any amount of the gift remaining after the first year can be carried forward for fifteen additional years (allowing sixteen years total), or until the amount of the deduction has been used up, whichever comes first. Landowners with 50% or more of their income from agriculture can use the donation at the rate of 100% of their AGI.

II. State Income Tax Credit:

The donation of a conservation easement in Virginia generates a Virginia income tax credit. The value of the income tax credit is equal to 40% of the value of the donated easement. The easement donor can use this credit to offset taxes owed in Virginia during the year of the donation and carry forward excess credits for up to 10 additional years (subject to a \$100,000 annual use limit). In

addition, easement donors can sell any remaining credit they have to other Virginia taxpayers.

Here are some of the particulars of the Land Preservation Tax Credit program:

- The State imposes a fee on credit sales that is the lesser of 2% of the value of the donated interest or \$10,000;

- The program is capped at \$100,000,000 of registered credits per year. Credits registered after the cap is reached are carried to the next year; and

- Donations generating Tax Credits over \$1,000,000 must be verified by the Department of Conservation and Recreation.

Continued on Back

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Rappahannock
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III. Estate and Inheritance Tax:

For landowners who will leave sizable estates upon their death, the most important financial impact of a conservation easement may be a significant reduction in estate taxes. Estate taxes often make it difficult for heirs to keep land intact and in the family because of high estate tax rates (45% in 2008) and high development value of land. It may be necessary to subdivide or sell land for development in order to pay these taxes. This may not be the desire of the landowner or their heirs. A conservation easement can often provide significant help with this problem in three important ways:

1. Reduction in Value of Estate

The deceased's estate will be reduced by the value of the donated conservation easement. As a result, taxes will be lower because heirs will not be required to pay taxes on the extinguished development rights. In other words, heirs will only have to pay estate taxes on preserved farmland values, and not full development values.

2. Estate Exclusion

Federal law provides further estate tax incentives for properties subject to a donated conservation easement. When property has a conservation easement placed upon it, up to an

additional 40% of the value of land (capped at \$500,000) may be excluded from the estate. This exclusion is in addition to the reduction in land value attributable to the easement itself as described above.

3. After Death Easement

Heirs may also receive these benefits by electing to donate a conservation easement after the landowner's death and prior to filing the estate return.

Easements can be an effective way to protect heirs from estate taxes, insure that the family can continue to own and enjoy the land, and protect the land from future unwanted development.

IV. Reduced Property Taxes:

In counties where "Land Use Assessment" is in place, land subject to an easement is automatically entitled to taxation at use value rates. In counties that have not adopted the land use valuation program, land under easement is assessed at its restricted value.

The explanation of complex tax and land planning issues provided in this fact sheet has been greatly simplified. For more detailed information and to ensure that a conservation easement donation will qualify for the described tax deductions in your particular situation, you are encouraged to seek professional counsel. Piedmont Environmental Council staff cannot assure the deductibility of an easement donation.

Protected Open Space Within The Piedmont

