



TAX BENEFITS *of conservation giving*

Tax incentives help many landowners take advantage of conservation opportunities. This sheet reviews tax savings that may result from donations of land or conservation easements (also called “conservation restrictions” in Massachusetts). The following discussions reflect federal tax law as of 2013. Because individual circumstances vary and tax law is subject to change, *you should consult with your own tax advisors* when considering charitable contributions.

INCOME TAX DEDUCTIONS

Charitable Contributions

To qualify for state and federal income tax deductions on your income tax returns, your donation must be considered “charitable” by the IRS. Generally speaking, such a donation can only be made to an IRS-qualified, tax-exempt organization (such as Sudbury Valley Trustees), though charitable contributions to municipalities are also tax-deductible if made for a public purpose. It must be considered a true gift motivated by charitable intent and *not* granted as a requirement for getting something in return (for example, a conservation easement donated by a developer, in exchange for government approval of a subdivision, is not considered a gift).

A gift must also be complete and irrevocable, without strings or contingencies (for example, if a donor specifies that land will revert to the family if mismanaged, that donation is not deductible). Generally, the IRS requires that donors give their entire interest in the property, except in cases of qualified conservation easements, remainder interests, and undivided interests, for which there are special exemptions (see “Conveying Ownership” handout for definitions).

For tax deductions on gifts worth more than \$5,000 (other than cash and publicly traded securities), landowners must obtain a “qualified appraisal” by a “qualified appraiser,” and file the appropriate form with their tax returns (these terms are defined by the IRS; check with your tax advisor for details).

You should consult with a professional appraiser who has direct experience with charitable gifts or easements. SVT

can refer you to appraisers with experience in this field, but cannot provide the appraisal.

The appraisal expense is necessary if you want to pursue a charitable deduction. However, the cost of the appraisal, as well as the other costs incurred in making a charitable contribution (such as legal fees), are often themselves deductible. These fees can generally be deducted (as a business expense, not as a charitable donation) if – in combination with other miscellaneous deductions – they exceed 2% of your adjusted gross income.

Cash or securities given to facilitate the acquisition and provide for long-term stewardship of a conserved property are also considered charitable contributions.

The 30% Limitation

The tax law limits the maximum annual charitable deduction a donor can take. Generally, for a gift of appreciated property (which includes most gifts of land and conservation easements), the amount you can deduct in one year is limited to 30 percent of your adjusted gross income. If the value of your gift exceeds that level, you may carry forward the excess for up to five years, applying the 30 percent limit each year. Any remaining portion of the deduction, after the sixth year, cannot be used.

The 50% Election

As an alternative, a taxpayer may claim as a deduction only the property’s *basis* (usually the original purchase price or its value when inherited, rather than the current fair market value as determined by a current appraisal). An annual deduction of up to 50 percent of adjusted gross income is

Other incentives for the donation of land or conservation restrictions

Federal tax incentives

Renewed in 2013 is a federal incentive that enhances the tax benefits of protecting your land by donating a voluntary conservation restriction (CR). The incentive:

- Raises the maximum deduction you can take for donating a voluntary conservation restriction from **30%** of your adjusted gross income (AGI) to **50%**;
- Allows you to deduct up to **100%** of your AGI if you qualify as a farmer or rancher; and
- Increases the number of years over which you can take deductions from 6 years to **16 years**.

The program expired at the end of 2011 but has been renewed and made retroactive.

State tax incentives

Starting in 2011, landowners in Massachusetts who donate an interest in land for conservation purposes may be eligible for a tax credit of up to \$75,000 on state taxes in the year of the donation. If the amount of the credit, which is based on the value of the gift, is larger than a landowner's tax liability, the Department of Revenue will issue a check for the balance.

For more information see:

<http://www.mass.gov/eea/state-parks-beaches/land-use-and-management/land-conservation/massachusetts-conservation-tax-credit-program.html>

allowed, with any excess basis deduction at 50 percent carried forward for five additional years.

Where property has appreciated in value, the 30 percent option may be more advantageous. The 50 percent election is most appropriate for taxpayers whose property has appreciated little, who anticipate a large drop in income, who recently purchased or inherited land, or who do not expect to live to take advantage of the full five-year carry-forward period.

ESTATE TAXES

At the time of a person's death, all of their assets (including land, houses, other property, stocks and bonds, cash, securities, life insurance, and other personal property) become part of their "estate." The value of the estate is determined by an assessment of the current fair market value of these combined assets. Although you can bequeath an unlimited estate to your spouse tax-free, an estate may be taxable when left to other heirs.

Since 1981, Congress has been taking steps to reduce the tax liability for most estates by increasing the amount of assets that can be transferred tax-free. The estate tax was repealed in 2010, and in 2011 jumps to a \$5 million per person exemption with a top rate beyond that of 35%.

Although these changes eliminate the estate tax burden for most people, high real estate values can quickly add up and surprise some families with tax liability they weren't prepared for. The high rates levied on taxable estates can force some heirs into tough financial decisions, such as developing a portion of family land to pay estate taxes. Professional estate planning services can be invaluable if you think your estate may be subject to estate tax.

Gifting property and assets can reduce the value of your estate and thereby reduce or eliminate estate tax liability. Although you can only transfer a limited amount of assets to any individual without incurring gift taxes (\$13,000 per year, or \$26,000 if spouses give jointly), gifts to charitable organizations are unlimited. Donations of cash, land, and conservation easements to conservation organizations can greatly reduce the value of your estate, preserve family land, and relieve your heirs of substantial tax liability.

PROPERTY TAXES

A gift of land or conservation easements may result in property tax reductions. Obviously, if you donate land outright to a charitable organization you will no longer have to pay property taxes on that property. Assuming that the recipient organization allows passive recreation on the property, you may, in effect, continue to enjoy the property without having to pay property taxes.

If a conservation easement is conveyed to a qualified organization with proper state and local approvals, the landowner may ask the local assessor to revalue the property to take into account the effect of the restrictions. If the restriction substantially reduces the overall development potential of the property (hence its fair market value), the landowner may make the case for a reduction in the property's assessment to the municipality's Assessor's Office. However, this adjustment is at the discretion of the individual assessor, and such reductions can vary widely from town to town and property to property.

**Consult your attorney and accountant
when considering charitable
contributions.**