



SUDBURY  
VALLEY  
TRUSTEES

*Protecting your property while*  
**CONVEYING OWNERSHIP**

*Donations of land & other options*

**DONATING LAND FOR CONSERVATION**

The most straightforward means of permanently conserving land is through outright donation to a nonprofit conservation organization or government entity. Donation means permanently conveying ownership of land to such an organization or entity, which is then responsible for the long-term care and management of the property.

With a gift of land, the owner is relieved of the expenses of ownership and management, including property taxes. A land donation provides maximum income tax and estate tax benefits and avoids the capital gains tax. In general, the full fair market value of the donated property interest is tax-deductible as a charitable contribution. While certain rights can be reserved in making a gift of land, these will generally reduce the value of the donation for tax purposes. For more information on tax issues, see SVT's information sheet, *The Tax Advantages of Conservation Giving*.

Though restrictions placed on the use of the land by the donor may reduce tax savings, there are other ways to ensure that specific management concerns are addressed. The donor can donate a conservation restriction to one entity, and the fee interest in the land to another. While this adds a layer of complexity to the process, it also adds a layer of protection to the land. Often the tax advantages of such an arrangement can equal those of an outright donation.

When they receive a gift of conservation land, most land trusts will seek funding for a stewardship endowment for the property. Often the land donor will make an endowment gift to ensure the long term

care of the property; in other cases the land trust must look to the greater community for support.

**DONATING UNDIVIDED INTERESTS**

Gifts of land may be spread out over time through the donation of partial interests. These are not separate parcels, but shares of the whole piece of land. This allows the landowner to adapt the size and number of charitable deductions to his or her need in a given year. Keep in mind that a formal appraisal to IRS standards is required for each gift of over \$5,000.



*Several of the parcels that make up SVT's Framingham Fields were donated by generous landowners over a number of years.*

Because a land trust can more effectively manage land that it owns in full, often an organization will request a pledge that commits the landowner to donating all

interest in the land by a certain date or at the landowner's death.

### BARGAIN SALE

It is not always financially possible for families to gift land, but they may be able to realize some income as well as a charitable deduction through a bargain sale to a land trust.

A bargain sale is a sale to a charitable organization or government entity for less than fair market value. The difference between the appraised value and the sale price of the property is considered a charitable donation, so while the net proceeds to the seller are less in such a transaction, this may be offset by tax savings.

### OPTION TO PURCHASE

If a landowner is interested in selling land to a conservation organization, but has no immediate need, he or she may choose to grant that organization an Option to purchase. In this transaction, buyer and seller agree to terms of sale, including a sale price. The buyer is given a specified period of time in which they may fulfill the obligations of the Option and complete the purchase. During this time, the seller typically cannot entertain other buyers, thus allowing the organization time to raise the necessary funds for the purchase.



*In 2001, Shirley Pollitt generously donated the back acreage of her property in Wayland, which abuts SVT's Upper Mill Brook Reservation*

### RIGHT OF FIRST REFUSAL

A landowner may also grant a Right of First Refusal to an organization that wishes to purchase property sometime in the future. When a landowner is ready to sell, and receives a *bona fide* offer from another interested party, the organization has a specified amount of time in which to match that offer.

In a Right of First Refusal situation, as with an Option to purchase, the conservation organization is not obligated to purchase the property.

### REMAINDER INTERESTS

#### ***CHARITABLE REMAINDER TRUSTS***

Charitable remainder trusts involving cash or securities are often used in planned giving and estate planning. But this technique, when combined with conservation restriction, can be used to protect land, and provide significant immediate and long-term tax benefits. Charitable remainder trusts also provide long term support for conservation organization, enhancing their work long after the donor's lifetime.

Charitable remainder trusts are established by a donor, who, with the help of an attorney, donates a conservation restriction on a piece of property to a qualified organization. The restricted property is then given to the charitable remainder trust. The trust sells the property, and the proceeds are invested to provide income to the charitable remainder trust's beneficiaries. This is usually done for a fixed period of time or for the beneficiary's lifetime. After this, any remaining funds in the trust are released by the trustee and given to the designated conservation organization.

Charitable remainder trusts can be complicated, and an initial gift must generally be at least \$500,000 to justify the associated legal and administrative expenses.

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