Tax Information for Donations or Partial Donations of Conservation Agreements

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TRIANGLE LAND CONSERVANCY

Conservation tax laws and programs are subject to change at any time. For the most up-to-date information, consult your personal tax advisor.

Thank you for considering conservation as an option for the future of your property. Please note that a land trust cannot guarantee approval of any application for tax benefits associated with a conservation donation. Furthermore, land trusts cannot provide legal or financial advice. We encourage you to consult with an attorney or financial planner for details specific to your situation.

Federal Tax Incentives

Federal Income Tax

If a landowner donates a permanent conservation agreement (also known as an **easement**) on his or her land the donor may claim a **federal income tax deduction** for the fair market value of the conservation agreement as determined by a licensed appraiser. This deduction can also be claimed for a charitable sale, or “bargain sale,” in which the agreement is sold for less than market value. However, to prevent a donor from using the deduction to avoid paying any tax, the Internal Revenue Service (IRS) limits the percent of the deduction that can be claimed in the year the donation is made.

Conservation agreement donations are subject to an enhanced tax incentive:

- A landowner can claim a deduction for donating (or making a bargain sale on) a conservation agreement equal to 50 percent of their adjusted gross income.
- A landowner can claim those deductions for up to 15 years after year of donation or until the value of the gift is reached, whichever comes first.
- Qualifying farmers and ranchers (someone who receives 50 percent or more of their gross income from farming or ranching) may deduct up to 100 percent of their adjusted gross income.

For example, a landowner who donates a permanent conservation agreement valued at $1 million and who has an annual adjusted gross income of $100,000 may deduct 50 percent of $100,000 (or $50,000) in each of years 1 - 15 for a total of $750,000 in deductions. The remaining $250,000 may not be carried over or used after year 15.

The conservation agreement donation must meet the requirements of Section 170(h) of the IRS tax code and every deduction must be based on a thorough, honest, realistic, and independent appraisal prepared by a qualified and licensed appraiser.

Federal Estate Tax

Conservation agreements can be ideal for landowners who want to protect their land permanently while reducing its taxable value by giving up certain development rights. This may help prevent the breakup of family farms or estates necessitated by otherwise heavy estate tax liability.

A conservation agreement can reduce estate taxes in three ways:

- It reduces the value of the estate to be taxed. When a landowner places a conservation agreement on his or her land, the “highest and best use” of the land is restricted by the terms of the conservation agreement and estate taxes are assessed according to that measure at the owner’s death. In some cases, a conservation agreement may drop the value of the estate below the threshold for estate taxes altogether ($12.92 million as of 2023).

- Heirs can exclude 40% of the value of land under conservation agreement from estate taxes (exclusion capped at $500,000). The agreement must serve a qualifying conservation purpose, and only members of the original donor’s family can claim this exclusion.

A landowner may also provide for a conservation agreement to be donated to a land trust in his or her will. If the land trust accepts, the the donor’s estate may claim a charitable deduction for the value of the conservation agreement. However, if the easement is donated by will the family forgoes the opportunity for an income tax deduction.

County Property Tax

When a landowner places a conservation agreement on his or her land, the taxable value of the land is reduced by the terms of the conservation agreement. **Reduced taxable value**, as assessed by the county, equates to lower annual property taxes. Valuation of conserved property varies from county to county, so the amount of reduction in assessed value is difficult to determine until it is reassessed by the county. Landowners will need to complete an application for reduction in assessed value due to the agreement. If the property is already enrolled in a Present Use Value tax deferment program the agreement may not impact county property taxes.

Present Use Value (PUV) Program

The **present-use value program** provides preferential tax treatment for land that is actively engaged in the commercial production of agricultural, horticultural, or forestry products. If the property is taken out of PUV, the deferred taxes become due. North Carolina has allowed exceptions when restrictive conservation agreements are placed on PUV properties. The agreement area can stay in PUV and not be required to be in production if:

- The property was in the PUV program at the time the agreement was put into place.
- The landowner donated at least 25 percent of the agreement value.
- Any non-agreement area remains in production consistent with PUV requirements.

In the case that all of these are true, no action is needed for the property to stay in PUV after the conservation easement is in place.

If a conservation easement allows for agriculture and forestry and the landowner decides to stop production, they still qualify for PUV if they meet the provisions above. If they do not meet the provisions above, they can remain in PUV as long as they are in production according to PUV requirements.

1031 Exchange

A **1031 Exchange** can be used to defer capital gains tax on the sale of a real estate property. An investment property can be sold without capital gains tax as long as:

- The proceeds from the sale are used to purchase another property for the same purpose.
- The proceeds from the original sale must be held in escrow by a third party - the landowner cannot receive them even temporarily before purchasing the new property.
- A replacement property is identified and communicated with intermediary within 45 days of sale.
- Replacement property is closed on within 180 days of sale.

If you're interested in a 1031 exchange, TLC recommends discussing it with an attorney to determine if this is the best fit for your property.