

FEDERAL AND STATE (NC) TAX INFORMATION
FOR DONATIONS OR PARTIAL DONATIONS OF CONSERVATION LANDS OR
CONSERVATION EASEMENTS

As of June 2014

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

FEDERAL TAX INCENTIVES

Federal Income Tax

If a landowner donates a permanent conservation easement on his or her land, or donates the land itself for conservation purposes, the donor may claim a federal income tax deduction for the fair market value of the conservation easement as determined by a licensed appraiser. This deduction can also be claimed for a charitable sale, or “bargain sale,” in which the property 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 deduction that can be claimed in the year the donation is made.

The existing deductions are:

- A landowner can claim a deduction for donating (or making a bargain sale on) a conservation easement or property equal to 30 percent of their adjusted gross income.
- A landowner can claim those deductions for up to six years or until the deductible amount is reached, whichever comes first.

The conservation easement 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.

For a number of years, a set of enhanced tax deductions was in place, but Congress allowed those incentives to expire on December 31, 2013. These incentives:

- Raised the deduction a landowner could take for donating a conservation easement from the current 30 percent of their adjusted gross income in any year to 50 percent,
- Allowed qualifying farmers and ranchers to deduct up to 100 percent of their adjusted gross income, and
- Increased the number of years over which a conservation easement donor could take those deductions from six years to 16 years (or until the eligible deduction had been used up).

For years, local land trusts across the country have urged Congress to extend or make permanent the enhanced deductions, but the legislation has not been passed despite widespread bipartisan support. The issue is currently under consideration in this Congress, and a bill to make the expanded deductions permanent has passed the House Ways and Means Committee for the first time ever. Congress could extend the incentives for one or two years, make them permanent, or allow them to continue to lapse.

Federal Estate Tax

Conservation easements 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.

When a landowner places a conservation easement on his land, the “highest and best use” of the land is restricted by the terms of the conservation easement and estate taxes are assessed according to that measure at the owner’s death.

A landowner may also provide for a conservation easement to be donated to a land trust in his or her will. If the land trust accepts, then the donor’s estate may claim a charitable deduction for the value of the conservation easement. In some situations, up to 40 percent of the land’s residual (or restricted) value may also be deducted from the donor’s estate.

Visit the website of the Land Trust Alliance (www.landtrustalliance.org/policy) for the most recent information about federal income and estate tax incentives.

NORTH CAROLINA TAX INCENTIVES

State Income Tax

In 1983, North Carolina became the first state to enact a state income tax credit for landowners who donate a conservation easement or conservation property. Qualified landowners who donated land or conservation easements in perpetuity to a qualified organization like a land trust could claim an income tax credit (as opposed to a tax deduction) equal to 25 percent of the fair market value of donated property or easement (up to a maximum credit of \$250,000 for individuals and \$500,000 for corporations and partnerships). Any unused portion of the credit could be carried forward for five years.

However, in July 2013, the NC General Assembly, as part of a broader tax reform measure, repealed the NC Conservation Tax Credit, effective January 1, 2014. Therefore, landowners may no longer claim this state income tax credit. During its existence, the tax credit helped conserve approximately 250,000 acres of natural areas and farms throughout the state.

Local land trusts in the coming years will encourage the state legislature to reinstate this successful program, which provided tremendous public benefits (protection of clean air and water, wildlife habitat, working farms, and scenic vistas) and incredible value to all North Carolinians.

County Property Tax

When a landowner places a conservation easement on his or her land, the taxable value of the land is reduced by the terms of the conservation easement. 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 easement.

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 county, state or federal 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.

North Carolina
LAND TRUSTS
Saving the Places You Love