CENTRAL SAVANNAH RIVER LAND TRUST
PO Box 148 | Augusta, GA 30903
706-312-LAND | www.csrlt.org

Applying for Federal or State Tax Incentives
Associated with Conservation Easements

Conservation Easements are powerful tools for the savvy landowner. They help protect our region's precious farms, forests, and wetlands, and wide open spaces. They contribute to cleaner air and water while preserving our community's natural aesthetic and character, and ensuring that future generations will have the opportunity to experience the beauty of the natural world. For many landowners and their heirs, conservation easements can also provide significant tax savings and help them keep their land in the family.

Applying for these tax savings is relatively straightforward, but does require some preparation. **The Land Trust recommends that landowners work closely with an attorney or tax professional who can give independent, professional advice. The Land Trust's Board and Staff are not qualified to provide specific information on how a tax deduction or credit program applies to a specific property, the monetary value of a particular easement, or whether a landowner's application for tax benefits will be accepted.**

We can, however, point you in the right direction. The next few pages provide a few basic guidelines that we hope will make the process as simple as possible.

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Federal and State Tax Incentives

Requirements and Responsibilities

Tax Code Requirements – Any claim of tax benefits must first meet the requirements of the appropriate tax code:

Federal - For a Federal Income-Tax Deduction, we refer you to IRC §170 and the accompanying Treasury Department regulations.

Georgia – For Tax Credits in the state of Georgia, we refer you to HB 1107 (2006) and HB 386 (2012). You may also contact the GA Department of Natural Resources' Land Conservation Partnership through their website at http://glcp.georgia.gov.

South Carolina – For Tax Credits in the state of South Carolina, please reference the SC Code of Laws Title 12-6-3515 (2007) or visit www.openspaceprotection.org/tax_sc.htm.

The Landowner's Responsibility – In order to claim a Federal Tax Deduction greater than $5,000, a landowner must provide the IRS with a qualified appraisal, prepared by a qualified or certified appraiser no more than 60 days prior to the date of donation, along with his/her tax return. The Land Trust can help recommend appraisers that have proven experience with conservation easement appraisals, but the landowner remains responsible for hiring an appraiser of his/her choosing. The Land Trust reserves the right to not accept an easement if it has significant concerns about the appraisal value, deduction, or tax credit being claimed.

The Land Trust's Responsibility – Once a landowner has prepared an application for a Federal Tax Deduction, the Land Trust must sign the accompanying IRS Form 8283 before the landowner files their taxes for that year. IRS Form 8283 is the tax form that the landowner files with his/her tax return that claims a deduction for the donation of a conservation easement.

It is the Land Trust Board of Directors' responsibility to review all information provided, including an appraisal, survey, baseline report, conservation easement, and any other documents before signing the Form 8283. If the Board finds inaccuracies in the description of the property or project, or if it feels that the application may impact the Trust's credibility, it reserves the right to seek additional substantiation of value and/or not sign the form. A landowner may submit a Form 8283 without the Land Trust's signature if s/he provides a written statement explaining the reason the form is unsigned.

Conservation Easements, when done properly, leave a lasting impression of beauty and permanence on their landscape. They also continue providing benefits to their owners for years to come. They are a valuable addition to any landowner's toolbox, and are worth doing right the first time. We hope this information helps you understand the steps necessary to achieve your conservation and financial planning goals for your land.

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The Federal Conservation Tax Incentive
For Bargain Sale Conservation Easements

The (Monetary) Value of Conservation Easements:
When landowners preserve their land with a conservation easement, they limit the land's future use with a list of restrictions. These restrictions almost always have monetary value. This value can be easily determined by a qualified appraiser. Simply put, the value of a conservation easement is the difference between a property's full market value without any restrictions, and its value with the restrictions.

> ***Example:*** *Let's say that a piece of land was worth $400,000 before a landowner preserved it, and afterwards the appraiser determines that it is now worth $125,000. In this example, the conservation easement would be worth $275,000.*

Land Value (before)	*$400,000*
Land Value (after)	*- $125,000*
Easement Value	***= $275,000***

The Difference Between Donations, Purchases, and Bargain Sales:
Usually, a landowner will simply **donate** a conservation easement on their land, meaning that they preserve their land without receiving any compensation from the Land Trust. In this case, the landowner can qualify for a Federal Conservation Tax Incentive equal to the value of the conservation easement they donated ($275,000 in the example). This allows the landowner to deduct up to this amount on their federal income tax return, with some limitations.

In certain cases, the Land Trust might have funding available to pay the landowner for their conservation easement. If the Trust were to pay the landowner the full value of their conservation easement (this is rare), then the landowner would not qualify for a Federal Conservation Tax Incentive. This is considered a **purchase** of a conservation easement.

However, if the Trust were to pay the landowner any amount less than the full value of their conservation easement, then the landowner could still qualify for a Federal Conservation Tax Incentive equal to the difference between the full value of their easement and the amount they received from the Land Trust. This difference is considered their donation amount, and the transaction is considered a **bargain sale**.

> ***Example:*** *If the Land Trust were to pay the landowner $75,000 for the conservation easement in our example, then the landowner could still qualify for up to a $200,000 deduction on their federal income tax return.*

Easement Value	*$275,000*
Cash Paid to Landowner	*- $ 75,000*
Bargain Sale Deduction	***= $200,000***

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How the Conservation Tax Incentive Works:
For conservation easements donated to a qualified conservation organization, landowners may claim an **income tax deduction for the appraised value of their donation** (see the previous page for explanation of how this is determined). They may do this by deducting up to 50% of their AGI (adjusted gross income) on the year of the gift, and for the following 15 years (for a total of 16 years) until the full value of the donation has been deducted. If the landowner qualifies as a farmer or rancher (50% or more of their income comes from agriculture), they may deduct 100% of their AGI for the same length of time (year of the gift + 15 years).

> ***Example:*** *Assume the landowner in our example has an adjusted gross income (AGI) of $50,000 per year and is not a farmer or rancher. In this case, they would be eligible to deduct up to $25,000 per year on their federal income taxes (50% of the AGI) until the full value of the donation is deducted.*
>
> *If this landowner **donated** the full value of their easement, they could deduct up to $25,000/year for a total of 11 years ($25K x11 =$275,000, the easement's full value).*
>
> *If the landowner was, instead, paid a **bargain sale** price of $75,000 for their easement, then they could deduct $25,000 for a total of 8 years ($25K x8 = $200,000, the easement's value minus the amount the landowner was paid by the Land Trust). Alternatively, they could deduct a lower amount per year if they would rather spread the total value of the donation ($200,000) over the full sixteen year period.*

Benefits to Bargain Sales
One of the benefits of a bargain sale of a conservation easement is that it allows the landowner a cash payment up front *and* a potential tax deduction. A cash payment for a conservation easement is considered income, and is taxed by federal and state authorities accordingly. However, the donation portion of the bargain sale allows the landowner to off-set some, if not all, of the tax owed on the cash payment income with an income tax deduction.*

**Please consult with your CPA or attorney to calculate how this would affect your particular situation. All figures mentioned in this pamphlet are examples and do not represent the Land Trust's opinion of the value of a particular property.*

Important Notes:
- Changes to a landowner's AGI will raise/lower the amount that can be deducted each year.
- Any value that has not been deducted by the end of the 16 year time frame is forfeited.
- A landowner cannot deduct more than the value of the easement from their taxes.
- The amount of deduction claimed yearly does not have to remain constant. A landowner may choose to claim a smaller deduction one year and a larger the next, provided they stay within the AGI limit and do not cumulatively deduct more than the full easement value.
- Certain restrictions do apply. For more information, we refer you to the Land Trust Alliance: www.landtrustalliance.org/topics/taxes/income-tax-incentives-land-conservation

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The GA State Tax Credit

How it Works:

For conservation easements donated to a qualified conservation organization (defined more specifically on GA DNR's website), landowners may claim a **credit against their state income tax of up to 25% of the appraised value of the easement, with a limit of $250,000 for individuals, and $500,000 for corporations and partnerships**. **Beginning in 2012, landowners may also sell unused tax credits earned from the donation of a conservation easement.** Certain restrictions and fees do apply including:

- The conservation easement donation must meet at least two of the State's identified conservation purposes
- Beginning in 2014, the conservation easement must have been donated to a nationally-accredited land trust (the CSRLT is nationally-accredited)
- The conservation easement must contain certain minimum restrictions on activities and uses deemed incompatible with conservation purposes (see HB 386 for a complete list)
- Limitations on subdivisions of the property and phased easements, and
- An application fee of $5,000 and review of the full application, which includes a qualified appraisal, by the State Properties Commission is required prior to claiming the credit.

We refer you to HB 386 for more information. A great summary of the bill can also be found here: www.taxtransferga.com/lawtaxinfo.htm

Important Notes:

- The amount of the credit used in any one year may not exceed the amount the landowner owes in state income tax. The landowner may carry forward any unused portion of the credit for ten succeeding years (for a total of 11 years), until the full value of the credit has been used or the appropriate credit limit has been reached.
- Certain language, allowing the GA Department of Natural Resources the right to comment on any future proposed amendments to the easement, must be included in any easement for which the landowner wishes to apply for a tax credit.
- The final value of the donation, and therefore the final value of the tax credit, will be determined by the State Properties Commission
- Tax credits can only be sold or transferred one time. However, a transfer or sale may involve multiple individuals/entities.
- Taxpayers must add back to their GA Taxable Income all deductions for conservation easement donations claimed on their Federal income tax return for which they wish to claim a GA State Tax Credit.

The state tax code is ever-changing. We encourage you to consult your chosen tax professional for the most current information.

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The SC State Tax Credit

How it Works:

For conservation easements donated to a qualified conservation organization that have qualified for a federal income tax deduction, landowners may claim a **credit against their state income tax of up to 25% of the appraised value of the easement, with a limit of $52,500 p/r year or $250 p/r acre. Unused portions of the credit may be carried forward indefinitely until the full credit is claimed.** The South Carolina conservation easement tax credit applies in addition to federal tax benefits.

South Carolina state tax credits for conservation contributions may be sold or traded. This allows landowners who are non-residents in SC or who do not earn income in SC to utilize the credit. More information can be found at the South Carolina Conservation Credit Exchange's website: www.conservesc.com.

Example:

Land Value (before) = $8,000,000 Property Size: 2,000 acres
Land Value (after) = $5,600,000
Easement Value = $2,400,000

Since, SC Law Limits Credits to $250/acre
Amount of Credit ($250 x 2,000 acres) = $500,000

In this example, a landowner donates a conservation easement on a 2,000-acre reserve. The easement qualifies under Section 170(h) as a charitable deduction so it is eligible for the SC income tax credit. The qualified appraisal values the land at $8M and the easement at $2.4M. Although 25% of $2.4M equals $600K, the cap of $250/acre limits the credit to $500K. The landowner may deduct the lesser of tax liability or $52,500 in any given year. The remainder may be carried forward indefinitely or transferred until the full $500K credit is used.

Important Notes:

- More information can be found at the South Carolina Department of Revenue's Tax Credit website: www.sctax.org/Publications/conservsation.htm
- Golf courses and post mortem donations do not qualify for this credit
- The annual credit may not exceed tax liability, but may be carried forward indefinitely until the full value has been used

The state tax code is ever-changing. We encourage you to consult your chosen tax professional for the most current information.