

Tax Incentives for Conservation Easement Donations Extended Through 2009 *A Guide for Vermont Landowners*

If you are considering a conservation easement donation, now may be the time to act.

In 2006 Congress created new tax incentives to promote donations of conservation easements by private landowners. This legislation resulted in a nationwide surge of easement donations, including Vermont. However, the law was effective only until December 31, 2007. Then, **in May 2008, Congress extended the new incentives for an additional two years.** Landowners who donate a qualified conservation easement in 2008 or 2009 will be able to:

- Increase their charitable deduction from 30 percent to 50 percent of their adjusted gross income (AGI) in the year of their gift (Qualified farmers may deduct up to 100 percent of AGI); and
- Carryover any unused deduction for up to 15 years instead of only 5 years.

For example:

Under the previous rules, a landowner with an AGI of \$50,000 who donated a \$400,000 conservation easement could take a \$15,000 deduction in the year of the donation and \$15,000 per year for the next five years. His total deduction would be \$90,000. The remaining \$310,000 would in effect be lost.

Under the new rules, the same landowner would be able to deduct \$25,000 in the year of the donation and then \$25,000 per year for an additional 15 years (assuming his income remains the same). In this case, the deduction would total \$400,000, the entire value of the conservation easement.

Frequently Asked Questions

Why should I consider a conservation easement donation?

- A conservation easement permanently protects your land from development. The land continues to be privately owned but carries with it protective restrictions that are forever upheld by the Vermont Land Trust. You may choose to have an easement on your property to protect conservation values such as agricultural or forestry resources, rare plants or wildlife habitat, scenic value, or perhaps to ensure public access.
- Easements can reduce income and estate taxes. An easement gift is considered a charitable donation and may provide an income tax deduction. In restricting the overall value of the land with a conservation easement, the landowner also reduces the total value of his or her estate.
- Easements are flexible and are tailored to a family's needs.

"As residents of a rural town, we sometimes take it for granted that we can roam around in the woods, cut firewood and fenceposts, snowshoe and pick fiddleheads, and watch the hemlocks and pines get really big. We want to be sure that future neighbors can still wander out their back doors and experience the outdoors in the way we can today."

—Ann Ingerson, who donated a conservation easement with her partner, David Brown, on 71 acres in Craftsbury

- Easements are permanent. A conservation easement is upheld by VLT, which will protect the easement.

What are VLT's requirements for accepting conservation easement donations?

Most of the easements that VLT accepts are on farmland, forestland, recreational land, natural habitat, and open land with substantial scenic or community value. Occasionally, VLT accepts easements on land with primarily historic value. VLT's decision to accept a conservation easement may also depend on the location and size of the parcel.

"I certainly think the new (tax incentives for easement donations) law is a huge improvement and should encourage future interest in land conservation, such as our recent easement donation. The fact that farmers can take a 100% deduction from their adjusted gross income and other landowners with moderate incomes will not lose any of their deduction is much more fair than the previous law."

—M.A. Swedlund who, with her brothers, conserved 253 acres in Londonderry, VT

How does a conservation easement impact property taxes?

A conservation easement generally reduces the value of property because it removes some of the rights, such as the right to develop land. If the land is enrolled in the state's Use Value Appraisal Program (Current Use) the land will still be assessed at a "use value" that represents only the income-producing potential for agriculture or forestry. This use value is usually lower than the conserved value, so landowners would simply continue to pay taxes based on the use value.

If an easement is placed on land that is not enrolled in Current Use, it is possible that the

listed value of the property will be reduced. Listers are directed to tax landowners on only the remaining rights. However, in practice many listers don't change the assessment. In this case, you may decide to grieve your assessment, especially if you have an appraisal showing a reduction in value.

How do I donate a conservation easement to the Vermont Land Trust?

The Vermont Land Trust can provide a wide range of information about conservation easements, other conservation options, and the effects of conservation easements on taxes. Interested landowners should engage a lawyer or financial advisor to assist with this decision. Also, the IRS requires a qualified appraiser to prepare the appraisal for income tax purposes that meets regulatory standards. **It is also important to note that the process can take at least six to nine months.**

"My family has a strong connection to the land. For me personally, it is an incredible relief to know that the land is going to be protected. I consider that to be very positive."

—David Cobb who donated a conservation easement on 123 acres in Westford

To learn more or to begin the process of donating a conservation easement, please call the Vermont Land Trust at (802) 223-5234. Or for a list of regional offices, [click here](#).



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