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Tax Benefits for Landowners who Donate Conservation Easements

A great way to conserve the land you love and protect Georgia's natural heritage while continuing to own and use your property is to donate a Conservation Easement (CE). Landowners who donate CEs may also realize significant federal, state, estate and property tax benefits.

In order to receive these tax benefits the CE must protect certain natural resources, such as important wildlife or plant habitats, wetlands, riparian buffers along significant rivers and streams, significant animal and plant communities, working farms and forests, scenic views and historic areas.



Federal Taxes:

To claim a federal tax deduction a CE must meet certain requirements including:

- The CE must be donated, permanent and held by a “qualified organization” (Athens Land Trust (ALT) is a “qualified organization”).
- The CE must serve one or more of the following Conservation Purposes (Internal Revenue Code Section 170(h)):
 1. the preservation of land areas for outdoor recreation by, or the education of, the general public
 2. the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem
 3. the preservation of open space (including farmland and forest land) for the scenic enjoyment of the general public, or pursuant to a clearly delineated Federal, State, or local government policy, and yielding a significant public benefit
 4. the preservation of a historically important land area or certified historic structure.
- The landowner must obtain a qualified appraisal and submit an IRS form 8283.

How the Federal Tax Deduction works:

- The CE value (the landowner's charitable donation) is the difference between the property's Fair Market Value (FMV) and the value of the property with the CE, as determined by a qualified appraisal. The CE removes certain development rights; as such, the more rights given up in the CE, the higher the CE value (Note: If land has been owned for less than 1 year, under the Federal Conservation Easement Tax Deduction, the price paid for the land is substituted for the fair market value).

- The incentive (made permanent on December 18, 2015 by the Protecting Americans from Tax Hikes Act of 2015, Pub. L. 114-113, Division Q, Sec. 111):
 1. raises the maximum deduction for donating a voluntary CE from 30% of AGI to 50%
 2. allows deduction of up to 100% of AGI if qualified as a farmer or rancher; and
 3. increases the number of years over which deductions can be taken from 6 to 16 (including year of donation).

These are highlights for the Federal tax incentive. Please see visit the Land Trust Alliance website, or view the latest information at www.lta.org/policy.

State Taxes:

Georgia law (O.C.G.A. §48.7.29.12) allows donors of CEs to claim a credit on their state income tax if they meet certain requirements. The requirements include:

- The CE must be donated, permanent and held by a “qualified organization.” Beginning January 1, 2014, land trusts accepting CE donations must be accredited by the Land Trust Accreditation Commission. ALT is both a “qualified organization” and an accredited land trust.
- The property must meet at least two of the following Conservation Purposes:
 1. water quality protection for wetlands, rivers, streams or lakes
 2. protection of wildlife habitat consistent with state wildlife conservation policies
 3. protection of outdoor recreation consistent with state outdoor recreation policies
 4. protection of prime agricultural or forestry lands
 5. protection of cultural sites, heritage corridors, or archeological and historic resources
- Determination by the State Property Commissioner and certification by Georgia DNR that the property is suitable for conservation purposes. The application for DNR certification must meet certain requirements and include an appraisal, the CE, a Baseline Documentation Report, and payment of a fee.
- No subdivision on land less than 500 acres, and only one subdivision for land over 500 acres.

How the State Tax Credit works:

- The tax credit is equal to 25% of the CE value (maximum of \$250,000 for individuals and \$500,000 for corporations and partnerships). Any credit above this annual limitation cannot be carried forward, sold or transferred in subsequent years.
- Any unused portion of the tax credit may be carried forward for the next 10 years.
- No tax credit is allowed with respect to any amount deducted from net income as a charitable contribution (i.e. the federal tax deduction).

Sale of State Tax Credit:

Additionally, as of January 2012, landowners who have donated qualified CEs and who have earned but unused tax credit can also sell them to third parties for direct income. Tax credit brokers operating in Georgia can help landowners to sell their unused tax credit.

- The CE donation must be completed and certified by DNR.
- The tax credit sold cannot exceed the amount of credit claimed but not used by the landowner.
- The tax credit must be sold within the carry-forward period.
- A landowner can only make a single sale of tax credit earned in a taxable year, although the sale may involve more than one transferee.

These are highlights for the Georgia State Tax Credit. Please see: glcp.georgia.gov/georgia-tax-credit. Landowners should consult their tax professionals or tax credit brokers directly.

Estate Taxes:

The burden of estate taxes can lead to a break-up, sale or development of family-owned property. CEs typically reduce the value of property, which in turn reduces the value of the estate for the heirs.

In addition to the reduction in value, the federal tax law allows an exclusion of 40% of the restricted property value (up to \$500,000).

Property Taxes:

Property taxes may also be reduced on a property protected by a CE. If the CE reduces the fair market value of the land, then the local tax assessor may recognize that the property taxes should likewise be decreased. The local assessor is required by state law to reevaluate the property once the CE is recorded, but there is no standardized treatment by assessors. Each property owner must work with their local assessor to determine the CE's effect on property taxes.

For your local tax assessor's office see www.gaassessors.com

The best way to both conserve the land you love and preserve it for your family and the future is to donate a CE on it. Donating a CE can be a part of good estate planning and can yield substantial benefits.

To learn more about protecting your land, please contact Athens Land Trust's Conservation Staff at 706-613-0122, or email conservation@athenslandtrust.org

This document is a brief summary of tax provisions for general information. Persons intending to donate a conservation easement should consult their own legal and tax professionals and ensure that they are knowledgeable about all current federal and state tax codes regarding conservation easements.

