



**Bayfield Regional Conservancy**

PO Box 410, Bayfield, WI 54814

Telephone: 715-779-LAND

E-mail: [brc@brcland.org](mailto:brc@brcland.org)

[www.brcland.org](http://www.brcland.org)

## **Tax Benefits**

The driving force behind most donations of land or money to a land trust is a landowner's love for the land and a wish to see that land preserved for future generations to enjoy. However, the tax benefits can be substantial and add value for those deciding to participate in a land protection program. Leaving a priceless legacy can benefit both the land and the landowner.

Here is a brief summary of tax-saving gift arrangements and ideas that conservation-minded landowners should consider as they make financial and estate plans. An attorney or tax planner can furnish more complete details.

### **Outright Gifts**

**Gifts of Money or Other Financial Assets** - Outright cash gifts are the simplest way to support a land trust and gain a tax deduction. However, donations of other assets, like securities, stocks, life insurance, or valuables such as artwork or coin collections, also may be given to help a land trust's conservation efforts.

**Gifts of Land** - Real estate that meets a trust's acquisition criteria will be protected in its natural state or according to terms and conditions outlined in a conservation easement document. Other donated real estate-like homes, vacant lots, or commercial and industrial properties - may be sold (with development restrictions, if appropriate), with the proceeds used to further the goals of the land trust. Gifts of appreciated real estate held long-term may entitle the landowner to an income tax deduction for its full-market value, subject to certain limitations.

**Donations of Conservation Easements** - Potential federal income tax benefits vary with the particulars of each donation. Essential points to consider include:

- 1) Work with a qualified conservation organization - The easement must be granted to a qualified conservation organization, like a land trust or a public agency charged with overseeing land conservation or historic preservation programs.
- 2) Donations should be made for conservation purposes - An easement must be granted exclusively for conservation purposes. This can cover preservation of natural habitats or resource lands, historic sites, unique scenic landscapes, wildlife corridors or connections to other preserved parcels, areas of concern for public education or recreation, or open spaces in vicinity of intense land development. In general, the maximum allowable deductions arise from conservation easements donated over large tracts of open space in areas where development pressures are intense.
- 3) Agreement must have permanence - The easement must be granted in perpetuity.
- 4) Deduction for donations are calculated differently - The amount a property owner can deduct for a donated easement generally equals the reduction in the property's value due to the easement

or the difference between the property's independently appraised value before the easement is granted and after the easement's restrictions take effect.

5) Secure the proper appraisal - The appraisal that determines the easement value must meet strict federal substantiation requirements as specified in federal tax law regarding conservation easements.

### **Limits on Deductions**

Taxpayers cannot eliminate all taxable income by making charitable donations, no matter how large the donations. In general, the deduction for charitable donations or appreciated property cannot exceed 30 percent of the taxpayer's adjusted gross income, although any excess amount may be carried forward and deducted over the five succeeding years. Under some circumstances, the donor may be subject to the Alternative Minimum Tax (AMT). An accountant or tax lawyer can determine whether the AMT will apply.

### **Estate Taxes**

Many heirs to large estates and large tracts of open space, farms, natural areas and timberland, in particular, face substantial estate taxes. Even if they wish to keep inherited property in an undeveloped condition, the federal estate tax is levied not on the current-use value of the property but on its "highest and best use," or the amount a developer or speculator would pay. The resulting estate tax can be so steep, the heirs must sell the property quickly to pay the taxes. A conservation easement can reduce estate taxes because the donation of the easement reduces the value of the property. An easement can be donated as part of a will then deducted from the taxable estate. Also, as of July 1, 2001 the executor of an estate may place a conservation easement on a property held within the estate.

Note: In the 2001 Tax Reform Bill estate taxes will be eliminated for the year 2010, but the future after that is uncertain.

### **Property Taxes**

Local real property tax assessments are based on a property's full-market value, which takes into consideration the property's development potential. If a conservation easement reduces this potential and limits the property's future use, the level of assessment and, accordingly, the amount of real property taxes, may be reduced. In Wisconsin, local tax assessors are required by law to consider the effects of a conservation easement when assessing property.

**New!** The federal tax benefits for the donation of a qualified conservation easement were recently expanded! These changes include:

- An increase in the maximum annual deduction a landowner can take for donating an easement, from 30% adjusted gross income to 50%-- and up to 100% for qualifying farmer and ranchers.
- An increase in the number of years over which donors can extend their deduction from 5 years to 15 years.

These new incentives offer a wonderful opportunity to preserve lands we cherish in northwestern Wisconsin. But they will not last forever; the incentives will expire on December 31, 2007.