



Congress Renews a Tax Incentive to Help You Conserve Your Land

Congress recently renewed an incentive that enhances the tax benefits of protecting your land by donating a voluntary conservation agreement**. This incentive is available to landowners who donate a qualified conservation agreement between January 1, 2010 and December 31, 2011. If you own land with important natural or historic resources, donating a voluntary conservation agreement can be one of the smartest ways to conserve the land you love, while maintaining your private property rights and possibly realizing significant federal tax benefits.

The new incentive makes it easier for average Americans, including working family farmers and ranchers, to donate the development rights on their land. **The incentive:**

- **raises the maximum deduction you can take for donating a voluntary conservation agreement from 30% of your adjusted gross income (AGI) to 50%;**
- **allows you to deduct up to 100% of your AGI if you qualify as a farmer or rancher; and,**
- **increases the number of years over which you can take deductions from 6 years to 16 years.**

These changes allow many modest income landowners to deduct much more than they could under the old rules, bringing increased fairness to the tax code.

Unless Congress acts, these enhanced tax benefits will expire December 31, 2011. We will be asking Congress to make the incentive permanent, but as things stand, you should aim to complete your donation by the end of 2011.

What do you need to know to enter into a voluntary conservation agreement? Here are the facts:

- A voluntary conservation agreement is a legal agreement between a landowner and a nonprofit land trust, like the Land Conservancy of West Michigan, or government agency that permanently limits uses of the land in order to protect important conservation values. It allows you to continue to own and use your land and to sell it or pass it on to heirs.
- When you enter into a voluntary conservation agreement with a land trust, you give up some of the rights associated with the land. For example, you might give up the right to subdivide your land or build additional houses, while retaining the full right to grow crops. Future owners also will be bound by the agreement's terms. The land trust is responsible for making sure the terms of the agreement are followed.

**A conservation "agreement" is another name for a conservation "easement". Unlike access easements, it does not grant others the right to enter or use a private property. Instead, a conservation agreement/easement simply limits the full development of a property in order to conserve its important natural and open space features.

- Voluntary conservation agreements vary widely. For example, an agreement to protect rare wildlife habitat might prohibit any development there, while one to protect the scenic and historic values of a farm might allow continued farming and the building of additional agricultural structures. An agreement may apply to just a portion of the property, and need not require public access.
- A conservation donation requires not only a willing donor, but a qualified conservation organization to accept the donation. That organization needs to be able to show that the donation closely fits its particular charitable mission. A land trust will not accept a donation that does not fit its mission and purposes.
- A voluntary conservation agreement can help a landowner pass land on intact to the next generation. By limiting the land's development potential, the agreement lowers its market value, which in turn lowers estate tax. Whether the agreement is donated during life or by will, it can make a critical difference in the heirs' ability to keep the land intact.
- If a conservation agreement benefits the public by permanently protecting important conservation resources and meets other federal tax code requirements, it can qualify as a tax-deductible charitable donation. The amount of the donation is the difference between the land's appraised value with the agreement and its value without the agreement.
- To qualify as a charitable donation, a conservation agreement must be permanent and meet other specific requirements discussed at the Land Conservancy's website: www.naturenearby.org/ConservationEasements. A landowner should get professional financial planning and legal advice before making such a major donation.

The State of Michigan also provides an important tax benefit for conservation agreement landowners. Land that is protected with a qualified conservation agreement is exempt from the State's "pop-up" tax. When land is passed along to family members or to a purchaser, the land's taxable value does not "pop-up" to the current fair market value. Instead, the property's taxable value may increase no more than 5% per year. Capping the property taxes on conserved land is a great benefit for an heir, or in the case of a future sale, may help attract potential buyers.

To learn more about protecting your land with a voluntary conservation agreement, contact the Land Conservancy's office at 616-451-9476 or lcwm@naturenearby.org.

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