The **Federal Tax Incentive** for
Conservation Easement Donations:
An Introduction for Landowners

In 2015, Congress made permanent an enhanced federal tax incentive for conservation easement donations. If you own land with important natural or historic resources, donating a voluntary conservation easement 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 enhanced incentive makes it easier for average Americans, including working family farmers and ranchers, to donate the development rights on their land to conservation organizations like Sonoma Land Trust.

Under the enhanced incentive:

- Landowners who donate a conservation easement are eligible to deduct up to 50% of their adjusted gross income in the year of the gift and for a period of 15 additional years, or until they've deducted the full value of the conservation easement.
- Qualifying farmers and ranchers (see definitions below) may deduct up to 100% of their adjusted gross income during this period.

Certain criteria must be met for a conservation easement donation to qualify as tax-deductible. For example, the easement must be perpetual (it must run with the land forever), and it must be donated to a qualified conservation organization – like Sonoma Land Trust — with the mission and resources to protect land forever.

Frequently Asked Questions

Can you give me an example of how the tax deduction works?

Under the enhanced incentive, a landowner earning $50,000 a year who donates a $1 million conservation easement could take a $25,000 deduction in the year of the donation and each year for an additional 15 years. That's a total of $400,000 in deductions. If the landowner qualifies as a farmer or rancher, they could take a maximum of $800,000 in deductions for the million dollar gift.

How is the value of a conservation easement determined?

In order to qualify for a deduction the landowner must commission an appraisal to determine the value of their charitable gift. During this process an appraiser will determine the fair market value of the land in its unencumbered state (before the conservation easement is put in place), as well as the fair market value of the land after the easement is in place. The difference between the "before" value and the "after" value is the value of the conservation easement. Essentially, it's the value of the development rights that the landowner is donating.

Who qualifies as a farmer or rancher?

The law defines a farmer or rancher as someone who receives more than 50 percent of their gross income from "the trade or business of farming." The law references Internal Revenue Code (IRC) 2032A(e)(5) to define activities that count as farming. Specifically, those activities include:

- cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training and management of animals) on a farm;
- handling, drying, packing, grading, or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant, or operator of the farm regularly produces more than one-half of the commodity so treated; and
- planting, cultivating, caring for or cutting of trees, or the preparation (other than milling) of trees for market.

For an easement to qualify for the special treatment, it must contain a restriction requiring that the land remain "available for agriculture." The qualified farmer or rancher provision also applies to farmers who are organized as C corporations.

Do these changes apply to gifts of land?

This expanded incentive does not apply to gifts of land in fee; it only applies to gifts that qualify under IRC 170(h)(2), such as conservation easements. Landowners considering donating their land should consult with an attorney to determine whether they should consider changing the structure of their gift to take advantage of this new incentive.

Will donors who use this provision be audited?

Taking advantage of this new law should not affect one's likelihood of being audited. All donors should note, however, that the IRS does pay close attention to high value donations of property — including donations of conservation easements.

That makes it particularly important for donors and their advisors to know and follow the law; to utilize a reputable professional appraiser who has experience in the appraisal of conservation easements; and to donate to an accredited organization like Sonoma Land Trust (SLT). Please note that SLT cannot give tax advice.

How can I learn more?

Conservation easements are complex, and each situation is unique. We are happy to provide more information and talk with you about your property! Please contact us at: **(707) 526-6930 x103.**

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Thanks to The Land Trust Alliance for providing content for this fact sheet.