Congress Renews a Tax Incentive to Help You Conserve Your Land

Congress recently renewed, through 2009, an incentive that enhances the tax benefits of protecting your land by donating a voluntary conservation agreement. 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.

These new incentives make it easier for average Americans, including working family farmers and ranchers, to donate land. The legislation:

- 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.

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

- A voluntary conservation agreement, also known as a conservation easement, is a legal agreement between a landowner and a nonprofit land trust, like Anderson Valley Land Trust, 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.

- Voluntary conservation agreements vary widely. An agreement to protect rare wildlife habitat might prohibit any development there, for example, while one on a farm might allow continued farming and the building of additional agricultural structures. An agree ment 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.

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- 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 agree ment.

- To qualify as a charitable donation, a conservation agreement must be permanent. A landowner should get professional financial planning and legal advice before making such a major donation.

- Anderson Valley Land Trust and the Land Trust Alliance are working to make this impor tant conservation tool permanent, but under current law it will expire on December 31, 2009. Deductions for easements donated between 2006 and 2009 will continue to carry over. Visit www.lta.org/policy/tax-policy/ to learn how you can help make the incentive permanent.

To learn more about protecting your land with a voluntary conservation agreement, call Anderson Valley Land Trust at 707.895.3150.