

CONSERVATION TAX INCENTIVES FOR CONNECTICUT CORPORATIONS

In 1999, the State of Connecticut enacted, in Public Act 99-173, two tax incentives for corporations which donate open space land, or sell it for less than fair market value for conservation. Together with existing federal tax deductions for conservation, these incentives can make the donation of open space land or easements on land a very attractive prospect for Connecticut businesses.

This document is intended to, and can only, serve as a guide to interested parties. Information in it may be inaccurate or out of date, and will not reflect particular circumstances which affect any given taxpayer. Parties considering a conservation transaction should consult with their own tax attorney to determine the accuracy and applicability of any information contained here in the context of any specific situation.

EXEMPTION FROM STATE BUSINESS TAX

The first provision, found at the end of the first paragraph of Sec. 12-217 of the Connecticut General Statutes, (Section 39, of PA 99-173), enables corporations which sell land or interest in land (e.g. an easement) at any price to the state, a municipality or a non-profit land conservation organization for conservation purposes to exempt the amount of capital gain from the sale, from that company's taxable income under the state corporate business tax. (*"The state, a municipality or a non-profit land conservation organization for conservation purposes" will be abbreviated in the rest of this document as "CTMUNPO."*) If a company had purchased a tract of land for \$100,000 and then sold it to a private buyer for \$1 million and incurred a total of \$50,000 in appraisals, surveys and other real estate expenses, their taxable income on the sale would be \$1 million minus its basis, \$100,000, and minus the expenses, \$50,000, or \$850,000. If it sold the land to CTMUNPO for the same price, it could exempt the \$850,000 from its taxable income, in effect paying no income tax on the gain from the sale. Since the state corporate tax rate is currently 7.5%, the company would save the \$63,750 it would have paid on a sale to a private buyer.

TAX CREDIT

The second provision, found in Sec. 12-217dd of the Connecticut General Statutes, (Section 47, of the 1999 legislation, the language of which was clarified and amended in 2000 in Sections 6 and 8 of P.A. 00-203), enables companies which donate land or sell it for less than fair market value to CTMUNPO to take a credit against their states corporate taxes of 50% of the value in land or interest in land donated.

The credit in any year can not exceed the company's tax liability for that year. Subsequent amendments enable companies whose liability in one year is less than the credit to which it is entitled, to carry the credit forward in succeeding years up to twenty five years.

A corporation which donates a tract of land appraised at \$500,000 to CTMUNPO would be able to reduce the taxes it owes the state by \$250,000. If it sold that same tract to CTMUNPO for \$400,000, \$100,000 under the fair market value, it would be able to claim a credit of \$50,000. If it only had a tax liability of \$10,000 per year, it could take a credit worth \$10,000 for five years. Going back to the first sentence of this paragraph, if the company which donated \$500,000 of value only had an annual liability of \$10,000, it would be able to claim \$10,000 in tax credits for the first year and for ten succeeding years, for a total credit of \$110,000. The company would have to forfeit \$140,000 of the \$250,000 credit to which the donation would have entitled it.

PLEASE NOTE: Since 2003, corporations have not been allowed to take tax credits, in any year, against their state corporate tax, which exceed seventy percent of the tax liability the company would have prior to applying any credits. For example, the company in the previous paragraph, which had an annual liability of \$10,000, would not be able to take credits, for a conservation donation or any other activity for which they might receive a state tax credit, exceeding \$7,000 in any year. It could carry forward the conservation credit, and others allowing a "roll-over", into succeeding years, but would not be able to completely eliminate their state taxes in any year.

FEDERAL TAX INCENTIVES

The fair market value of property contributed to a charity can be taken as a charitable deduction under Section 170 of the Internal Revenue Code. This gift can be deducted up to 10% of corporate net taxable income. If the value of the gift exceeds 10% of that year's net taxable income, the charitable deduction can be carried forward for five years beyond the year of the gift. The value of this charitable deduction as a tax shelter can be measured by the amount of the gift multiplied by marginal income tax rate for the seller's ordinary income. Thus, in a 35% tax bracket, for every \$10,000 of taxable income, \$3,500 goes to the IRS. A charitable contribution of \$10,000 can be deducted from that \$10,000 taxable income, leaving those \$3,500 in the taxpayer's hands.

Other federal incentives or restrictions may apply.

For more information, contact David Sutherland at The Nature Conservancy
Connecticut Chapter

(860) 344-0716 x 317

9/09