**[LAND TRUST]**

**OVERVIEW OF TAX CODE AND APPRAISAL REQUIREMENTS**

**FOR DONATED CONSERVATION EASEMENTS**

Conservation easements protect land for the benefit of the general public. Because of this, the donation of a conservation easement may result in significant tax benefits for the donor. In order for a landowner or landowner’s estate to claim a federal tax deduction for a conservation donation, certain requirements must be met. What follows here is a general overview of these requirements, as contained in I.R.C. §170 and U.S. Treasury Regulations (26 C.F.R. §1.170-14).

1. The easement must be donated to a government entity or qualified tax-exempt public charity whose primary purpose is preserving land. [LAND TRUST] is a qualified public charity.
2. The easement must achieve one or more conservation purposes.
3. The preservation of land areas for recreation by, or the education of, the general public
4. The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem
5. The preservation of open space (including farmland and forest land) that will yield significant public benefits and is protected either for the scenic enjoyment of the general public or pursuant to a clearly delineated federal, state, or local governmental conservation policy
6. The preservation of an historically important land area or a certified historic structure.
7. The easement must be enforceable in perpetuity.
8. The easement must be recorded.
9. Any mortgages or liens on the property must be subordinated to the right of the easement holder to enforce the terms of the easement.
10. If the mineral rights of the property are not donated along with the easement, a determination must be made that the possibility of their being exercised is “so remote as to be negligible.”
11. A written, “qualified” appraisal must be conducted on the property to determine the value of the donated conservation easement. The relevant U.S. Treasury regulations state that: the appraisal must be performed no earlier than 60 days before the gift is made and no later than the date on which the landowner files the tax return claiming the deduction.

The appraisal must contain

* A description of the property including its location and its physical condition.
* The actual or anticipated date of the gift, and the date on which the property was valued by the appraiser.
* The appraised fair market value of the property on the actual or anticipated date of the gift, including a description of the method of valuation used and the specific basis for the valuation, such as comparable sales.
* The name, address, and social security number of the appraiser, and a statement describing the appraiser’s qualifications
* A statement that the appraisal was prepared for income tax purposes.
* A description of the fee arrangement between the donor and appraiser.
* The signature of the appraiser and the date of the report.

The appraisal must meet the Uniform Standards of Professional Appraisal Practice and be conducted by a “qualified appraiser”; that is, the appraiser must be qualified by training and experience or certification to perform appraisals. In addition, the appraiser cannot have any personal stake in the property or the donated easement, cannot be related to the donor or to a [LAND TRUST] insider, or have any business relationship with either party that would cause a reasonable person to question the appraiser’s independence. The appraiser’s fee cannot be based upon a percentage of the appraised value of the easement.

1. The landowner must attach a “fully completed appraisal summary” on IRS Form 8283 to the tax return for the year in which the easement is donated. The Form 8283 must be signed by the appraiser and a representative of [LAND TRUST]. Please note that [LAND TRUST] will sign the 8283 only when Parts I and III of Section B have been completely filled out and only when it has no significant concerns about the tax deduction claimed for the donation. The appraisal report itself need not be attached to Form 8283 except when the donated property is valued at $500,000 or more, in which case the full appraisal report must be filed with the donor’s income tax return.

1. The easement donor is required to maintain records pertaining to the gift, including a copy of the qualified appraisal.

***This information is intended to give a general overview of tax code and appraisal requirements for tax deductions claimed for donated conservation easements. It is not a complete summary of these requirements; nor does it constitute legal or tax advice. For additional information and guidance, consult a qualified attorney or tax professional.***

***It is the policy of* *[LAND TRUST] to review the landowner’s appraisal before signing Form 8283. [LAND TRUST] will not participate in conservation projects where it has significant concerns about the tax deduction.***