



GIVING THROUGH BEQUESTS

One of the easiest ways to make a gift to the Vermont Land Trust is through a bequest. Bequest provisions in a will and/or a revocable living trust *allow the donor to control* the distribution of his or her estate and *to preserve as much of the estate as possible* through judicious use of tax-saving opportunities.

Bequests can be used to ensure that the donor's annual charitable contributions to the Vermont Land Trust (VLT) programs continue; to place conservation easements on land; or to make a special gift that will enhance VLT's ability to achieve its mission in the future. Donors can also use their wills to establish charitable gift annuities or charitable remainder trusts both of which will provide income to their heirs and VLT with a long-term benefit. However, when a charitable gift annuity or charitable remainder trust is created at death, the donor's estate only receives an estate tax deduction, and no income tax deduction is available to the estate.

HOW CAN I GIVE THROUGH A BEQUEST?

Bequests come in several types:

- 1. Specific bequests.** A specific bequest is an outright gift of money, stocks or bonds, land, tangible personal property, or other assets. The suggested wording for a specific bequest is:

I give, devise, and bequeath to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, the sum of \$_____ (or describe any real or personal property), to be used for its general purposes.

In the case of a bequest of land that has conservation value, the owner is urged to talk with VLT before the will is signed. This will ensure that the owner's wishes will guide VLT's discussions about the future conservation and disposition of the property.

- 2. Specific bequests of a conservation easement.** Some donors have used specific bequests to place conservation easements on land at their deaths. However, it is important that a donor consult with VLT, prior to signing the will, to assure that the donor's conservation goals can, in fact, be met. There are important technical details in drafting conservation restrictions that must be included in order to fulfill the IRS deductibility requirements, and donors should be aware of VLT's stewardship endowment policy for the management and enforcement of the easement. The suggested wording for bequests of conservation restrictions is:

1) In the event I do not make such a conveyance [describe the intended conservation easement here] during my lifetime, I hereby bequeath unto the Vermont Land Trust, Inc., a publicly supported 501(c)(3) organization with offices in Montpelier, Vermont, the development rights and conservation restrictions in certain real property described as follows: (Legal Description of Protected Property). The development rights and conservation restrictions to be conveyed shall be substantially in the form set forth in the

Grant of Development Rights and Conservation Restrictions attached to this will as Exhibit B, and incorporated herein by reference as if fully set forth. 2) I further bequeath to the Vermont Land Trust, Inc., the sum of \$(_____) as a stewardship endowment for the purpose of monitoring and enforcing the conservation restrictions on the property conveyed pursuant to the preceding paragraph.

- 3. Residuary bequests.** In a residuary bequest, the donor leaves all or a part of the balance of the estate to a beneficiary after each of the specific bequests has been satisfied. The suggested wording for a residuary bequest is:

I give, devise, and bequeath to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, all (or ____%) of the rest, residue, and remainder of my estate, to be used for its general purposes.

- 4. Contingent bequests.** A contingent bequest provides for the disposition of the estate if one or more of the named beneficiaries fails to survive the donor. It can be used in conjunction with a specific bequest or a residuary bequest.

If any of the above-named beneficiaries should predecease me, I hereby bequeath his or her share to the Vermont Land Trust, Inc., a nonprofit charitable organization with offices in Montpelier, Vermont, to be used for its general purposes.

- 5. Revocable living trusts.** Some donors prefer to plan the distribution of their estates through revocable living trusts. Like wills, living trusts can be changed while the donor is still alive, and retain for the donor complete lifetime control over his/her assets. However, living trusts have several advantages over wills. If the Living Trust is properly funded, the trustee can distribute much or all of the donor's estate without the expense or delay of probate. If the donor owns real estate that requires management, such as a farm, the trustee can make management decisions should the donor become incapacitated, thereby avoiding the complexities of a guardianship. Although living trusts are simple to establish, they may in some cases be more time-consuming to set up than a will, but the beneficiaries of the estate will realize significant cost savings in the end. Because the donor usually reserves the right to revoke or modify a living trust, the donor may not realize any immediate income tax benefits. However, if properly drafted, a living trust can, like a will, save estate taxes at one's death.

WHAT ARE THE TAX CONSEQUENCES OF MAKING A BEQUEST?

Estate tax rates start at 45% for taxable estates over the "unified credit" (currently \$2.0 million and increasing to \$3.5 million in 2009), and can run as high as 46%. Any person who has a potential estate of more than \$2 million (including personal property, bank accounts, investments, real estate, life insurance death benefit, retirement accounts, ownership in a business, accounts receivable, i.e., all assets) should do some estate planning. The estate tax is supposed to disappear entirely in 2010, but then it springs back to 2001 levels in 2011. Therefore, it seems likely Congress will take some action to amend the law again in the next few years. It is a good idea to have a will and an estate plan, even if you plan to avoid estate taxes by leaving all your assets to your spouse.

All property left to a qualified charitable organization, like the Vermont Land Trust, is deducted from the donor's estate before the federal estate tax is calculated. Therefore, for a person in the highest tax bracket, a \$10,000 bequest to the VLT can save as much as \$4,600 in estate taxes. A bequest of conservation easements that might reduce the appraised value of land by \$200,000 can save as much as \$92,000 in estate taxes.

HOW DO I GET STARTED?

Your attorney will be the principal advisor in your will preparation. The Vermont Land Trust can provide sample language for specific, residuary and remainder bequests. If your bequest to VLT involves real estate, it is very important to meet with our staff while the will is still in preparation. If you intend to bequeath a conservation easement, we need to determine whether the easement bequest conforms to board policy, and discuss what the restrictions will be. VLT will then draft the easement for you and your attorney to review. If your intention is to leave land to VLT outright, it is important for us to understand your desires for the future conservation and use of the property. The more information we have about the land and your goals, the better the chances are that your expectations can be fulfilled.

SEEK YOUR OWN PROFESSIONAL ASSISTANCE

It is essential that anyone considering his or her estate plan seek the advice of a competent attorney before executing a will or living trust. If the person owns real estate or other assets of uncertain value, that property should be appraised in order to assess the potential tax liability the estate will face. Many heirs have experienced unnecessary litigation expenses or unnecessarily high taxes because a donor failed to do adequate estate planning. Estate plans should be reviewed regularly so that changes in estate and tax laws or changes in a family's circumstances can be adequately taken into account.

CONSULT WITH THE VERMONT LAND TRUST IN ADVANCE

In addition, if a person is planning a bequest of a conservation easement or land to the Vermont Land Trust, it is essential to consult with VLT before the will or living trust is executed. Drafting conservation easements involves important technical details, and donors should be aware of the VLT's stewardship endowment policy.

Most importantly, the Vermont Land Trust needs to know why the donor is making the gift, so that future decisions about the protection and stewardship of the land will be guided by his or her objectives.

For answers to questions or to learn more about how to include the Vermont Land Trust in your estate plans, contact Darby Bradley at darby@vlt.org or at the number below.

Vermont Land Trust
8 Bailey Avenue
Montpelier, VT 05602
Phone: 802-262-1202
Fax: 802-223-4223
www.vlt.org