



BULLETIN: Congress adopts law that increases the tax benefits for gifts of conservation easements.

Congress has recently enacted, and the President has signed into law, legislation that significantly improves the tax benefits for landowners who donate conservation easements to preserve open space in their communities. Similar benefits are available for bargain-sales of conservation easements and for gifts of land for conservation purposes, where the donor retains a reserved life estate. The legislation was the result of five years of effort by the land trust community, and represents a significant victory for conservation.

In brief, here are the principal changes:

1. Donors and bargain-sellers of conservation easements may take a charitable deduction of up to 50% of their adjusted gross income (AGI) in the year of the gift. The previous limit was 30%.
2. Qualified farmers (individuals or corporations earning more than 50% of their gross income from farming) may deduct up to 100% of their AGI.
3. If the appraised value of the conservation easement is greater than the 50% (or 100%) AGI limit in the year the gift is made, the donor may carry over the unused balance for up to fifteen years. The previous law allowed only a five year carryover.

These changes only apply to easements donated in **2006** and **2007**. Unless Congress makes them permanent, the deductible limit of 30% of AGI and the five year carryover period will apply to gifts made in 2008 and after.

Because the value of a conservation easement is often many times higher than a donor's annual income, here is why the change can make such a difference: Consider the situation of a retired couple that has an AGI of \$60,000 per year and who donates a conservation easement with an appraised value of \$240,000. **Under the old law**, they would be entitled to deduct \$18,000 (30% x \$60,000) in the year of the gift. Assuming their income remains unchanged, they could also deduct \$18,000 in each of the following five years. The total allowable deductions over the six years would be \$108,000. The balance of the easement value (\$132,000) would be lost for income tax purposes.

Under the new law, the outcome is considerably better. The donors would be able to deduct \$30,000 (50% x \$60,000) in the year of the gift and (assuming no change in their income) in each of the next seven years. Over an eight year period, they would be able to use the entire \$240,000 deduction.

It is essential that donors consult with their own legal and financial advisors. Tax laws and IRS regulations tend to be complex and highly technical, and donors must rely on their own advisors to determine how the new law affects their individual situation.