

<p>Placer Land Trust Tax Benefit Fact Sheet</p>
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The purpose of this fact sheet is to provide basic tax information to landowners interested in donating land or conservation easements to Placer Land Trust, or selling land or conservation easements to Placer Land Trust at below market value. This fact sheet provides information to address the most common questions regarding tax benefits, but should not be considered assistance or “advice”. Placer Land Trust cannot make representations about the tax implications, of a proposed donation, and does not render legal or tax advice to landowners. Landowners should consult an independent professional to examine and consider potential tax benefits associated with a conservation donation or sale.

How can I claim a tax deduction for a conservation gift, and what will the deduction be?

This is the big question! Placer Land Trust cannot really answer this question – you need to consult your own advisor(s). The answer will be determined by the nature of your gift and your unique income and tax situation. However, Placer Land Trust can provide some important general information, as follows.

What are the federal guidelines regarding tax benefits for conservation contributions?

Internal Revenue Code Section 170(h) is the federal statute which contains the requirements a conservation easement or land donation must meet in order to qualify for a federal income tax deduction. The legal term for these qualifying partial interests is “qualified conservation contributions”. The statute outlines three basic tests a donation must meet to be considered a qualified conservation contribution. It must be:

1. A qualified real property interest (which includes perpetual conservation easements);
2. Granted to a qualified organization (generally a government agency or a nonprofit); and
3. Granted exclusively for conservation purposes, of which there are four categories:
 - a) Provides outdoor recreation or educational use for the general public;
 - b) Protects a relatively natural habitat of fish, wildlife, plants, or similar ecosystem;
 - c) Preserves open space (including farmland and forestland) where such preservation:
 - Provides for the scenic enjoyment of the general public or is pursuant to a clearly delineated federal, state or local governmental conservation policy, and
 - Yields a significant public benefit;
 - d) Preserves an historically important land area or a certified historic structure.

Section 1.170A-14 of the Treasury Department regulations further define the requirements put forth in IRC §170(h). Collectively, these requirements are commonly referred to as the “IRS criteria” for conservation contributions qualifying for tax benefits. The most essential and complex part of determining whether a conservation easement qualifies for a tax deduction is whether it meets the IRS definition of “conservation purposes”. The Treasury regulations define conservation purposes at substantial length, and provide specific examples of conservation plans and types of properties that do and do not qualify. The Treasury regulations include a number of other requirements, including specific provisions that must be included in a conservation easement deed or document.

Why should I be concerned about the contribution being “qualified”?

In addition to the governmental regulations discussed above, there may be other financial reasons why it is important to ensure that your gift is considered a qualified conservation donation prior to seeking tax benefits. Non-qualified conservation contributions will not qualify for a tax deduction. Also, a non-

qualified conservation contribution may be subject to a gift tax. And finally, an improperly claimed tax deduction could result in financial penalties (see IRS Notice 2004-41) or a financial audit.

What are the Pension Protection Act and the Farm Bill?

The Pension Protection Act of 2006 is legislation that expanded federal tax incentives for qualified conservation easement contributions. This legislation was extended in the 2008 Farm Bill. To learn more about this legislation and how it affects conservation contributions, ask your tax advisor.

Are there any state tax benefits for conservation contributions?

The Natural Heritage Preservation Tax Credit Act offers tax incentives to preserve wildlife and plant habitat, agricultural lands, open spaces, and water rights on private lands. Landowners, including pass-through entities who donate land, an easement, or water rights, are eligible for the credit. Eligible donations must meet the goals of a conservation plan, protect species or habitat, conserve threatened agricultural land, or increase public access to open space or archaeological resources. The tax credits are managed by the state resource agencies and are essentially “granted” to landowners. Donors are allowed an income tax credit of 55% of the fair market value of the donated property against their income, with an eight-year carry-forward period. The California conservation easement tax credit is non-transferable and applies in addition to federal tax benefits. To learn more about this program, contact the Wildlife Conservation Board at (916) 445-8448 or visit http://www.wcb.ca.gov/Pages/nhptca_requirements.asp.

Are there any other tax benefits for conservation contributions?

In some cases, there may be property tax benefits, estate tax benefits, exchange benefits, or other financial benefits associated with a qualified conservation contribution. Additionally, charitable financial contributions to Placer Land Trust (such as for conservation easement stewardship purposes) are tax-deductible to the extent allowed by law. Consult with your financial advisor.

Why is Placer Land Trust concerned about tax benefits?

If Placer Land Trust knows that you will be seeking tax benefits, it will work diligently to insure that every charitable gift of land or easements meets applicable tax law requirements. Land trusts have a special interest in trying to make sure that tax-deductible gifts of land and conservation easements meet IRS and other requirements, because land trusts have a vested interest in maintaining public confidence in, and support for, tax incentive programs. Gifts of conservation easements in particular tend to be complex, are generally unfamiliar to most landowners and their advisors, and may be subject to more scrutiny by the IRS. Placer Land Trust compares every land and easement gift for which a tax deduction will be claimed with the IRS requirements in order to satisfy itself that there are no obvious or manifest errors. While Placer Land Trust does not bear legal responsibility for seeing that IRS requirements are met, it benefits Placer Land Trust and the larger land conservation community to ensure that they are. Placer Land Trust will not knowingly participate in a conservation transaction that is ethically, financially, or legally questionable.

Where can I get more information?

Talk with a financial advisor to get more information about tax benefits. Attorneys with tax and real estate experience are good advisors, as are many CPAs and estate planners. Professionals advising landowners on conservation easements may also want to refer to *The Federal Tax Law of Conservation Easements*. For more information about tax benefits associated with the gift of land or conservation easements, contact the Land Trust Alliance (LTA), 1331 H Street NW, Suite 400, Washington, DC 20005, 202-638-4725, or visit their website: <http://www.landtrustalliance.org/policy/taxincentives>.