

THIS IS ONLY AN EXAMPLE OF HOW TO COMMUNICATE FINANCIAL INFORMATION WITH A LANDOWNER – IT SHOULD ALWAYS BE TAILORED TO THE NEEDS OF YOUR PROGRAM.

MEMORANDUM

TO: Donors of Gifts of Land or Conservation Easements and Their Advisors

FROM: [REDACTED]

DATE: [REDACTED]

RE: Filing for Income Tax Deductions and Credits

This memo is intended as a general description of the steps necessary for you to claim the income tax benefits of your land donation. The information provided is intended only as an introduction. Tax rules and forms change frequently; please make sure you have the current forms before filing. **Please be sure to consult your personal tax advisor with respect to your donation; the Conservation Trust cannot provide tax advice or counsel to any of its donors.**

A. Federal Income Tax Deduction

In order to claim the donation as a federal income tax charitable deduction, the project must meet the requirements of Internal Revenue Code §170. You will need to complete **Form 8283, Noncash Charitable Contributions, which was revised in December 2006**. Form 8283, Section B, applies to deductions claimed over \$5,000 in the aggregate. Form 8283 is attached to your Form 1040, federal income tax return, when it is filed in April. It has four parts.

- Part I provides information about the gift. Make sure that you described not only the land itself, but also specify the type of gift (e.g. fee title donation, conservation easement donation, bargain sale of conservation easement, etc.)
- Part II applies to individual items valued at \$500 or less.
- Part III is a statement by your appraiser about the appraisal of the property, which he signs.
- Part IV is an acknowledgment by the [REDACTED] as donee, that it did in fact receive the property on a certain date, which we sign. (Our signature does not imply that we have reviewed and approved the value claimed as a deduction, but we will review the information provided in the first part to make sure that it is both complete and accurate, and that a contribution has in fact been made.)

If your donation is for a conservation easement, the Instructions for Form 8283 also require you to attach a statement that:

- Identifies the conservation purposes furthered by your donation;
- Shows, the FMV [Fair Market Value] of the underlying property before and after the gift;
- States whether you made the donation in order to get a permit or other approval from a local or other governing authority and whether the donation was required by a contract; and
- If you or a related person has any interest in other property nearby, describes that interest.

Practical Tip:

Since the Form 8283 should be signed by you, by your appraiser and by us, please give us at least five business days to review, sign, and return to you, with any statement required for a conservation easement deduction. We would appreciate receiving a copy of your appraisal for our files.

We will not sign forms that are either incomplete or inaccurate.

B. State Income Tax Credit

In order to claim the donation as a state income tax credit, you will first need to complete the attached application and forward to the State Department of Environment and Natural Resources (DENR) for them to certify the conservation value of the land. DENR can accept tax credit applications at any time after recording, so you may go ahead and submit this now. Once DENR approves the application, they send a letter of certification to you and a copy to the NC Department of Revenue. At taxtime, you claim the credit as a “Miscellaneous tax credit” on Form D-400 TC, and then enter on Form D-400. The Department of Revenue suggests that you attach a copy of the DENR’s letter to you certifying the conservation values, plus a separate sheet of paper showing any calculations used to determine the amount claimed.

C. Annual Ad Valorem Property Tax Reductions

County tax offices do not re-appraise annually but only every 3-4 years. You may already be receiving the benefit of special use (forestry or agricultural) valuation. Even so, it may be to your benefit to formally request a re-evaluation of tax value based upon your appraiser’s opinion of value. You do this during the January 1-31 listing period.

D. Appraisals

For federal income tax purposes, your appraisal generally should be dated no earlier than 60 days prior to the donation/closing but, no later than the due date of the return in which the contribution is claimed (i.e., April 15th, 2009 for the calendar year 2008 returns). The land trust requires a copy of your appraisal report and will not knowingly participate in a project if it has significant concerns about the tax credit or deduction. The land trust recommends using an appraiser familiar with conservation easement and conservation property valuation.

Practical tip: You may need to have your appraisal updated if it was completed more than 60 days before the closing. Don’t wait until the last minute; appraisers get busy at tax time just like accountants.

E. Transaction expenses (i.e., appraisal fees, legal fees, etc.)

Please consult your own tax advisor about deducting these expenses. Some donors have included them with their land value as a charitable contribution, but some authorities indicate that such expenses are only deductible as a “miscellaneous deduction” on Schedule A (Itemized Deductions) and thus only to the extent that they exceed 2% of your Adjusted Gross Income.

In closing, thank you again for your contribution. Please see enclosed information but refer all tax issues to your own advisor. If you or your usual family tax advisor would like a referral to a specialist who has experience with conservation contributions, please feel free to call.