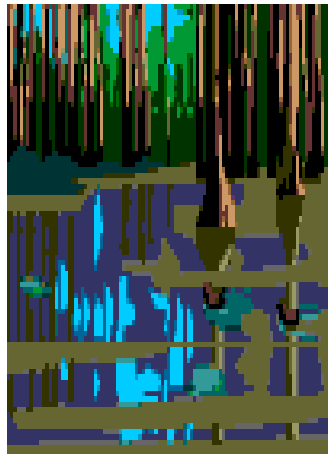


Tax Incentives

Possible Tax Incentives

- ▶ Federal income tax deduction
- ▶ Federal Estate tax reduction
- ▶ Property tax reduction
- ▶ North Carolina tax credit



Federal Deduction – Internal Revenue Service

- ▶ Federal tax laws allow the donor of an easement to claim its value as a deduction for income, gift and estate tax purposes under 26 U.S.C. 170(h).



Federal Tax Deduction

- ▶ Must be a qualified easement according to Section 170(h) of IRC which means it must be:
 - Must be perpetual
 - Must be given to a qualified Grantee (generally a non-profit or public agency)
 - Must have it appraised by qualified appraiser
 - Must meet one of IRS's Conservation Purposes



Conservation Purposes

- ▶ (i) the preservation of land areas for outdoor recreation by, or the education of, the general public,
- ▶ (ii) the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem,
- ▶ (iii) the preservation of open space (including **farmland and forest land**) where such preservation is--
 - ▶ (I) for the scenic enjoyment of the general public, or
 - ▶ (II) pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit, or
- ▶ (iv) the preservation of an historically important land area or a certified historic structure.



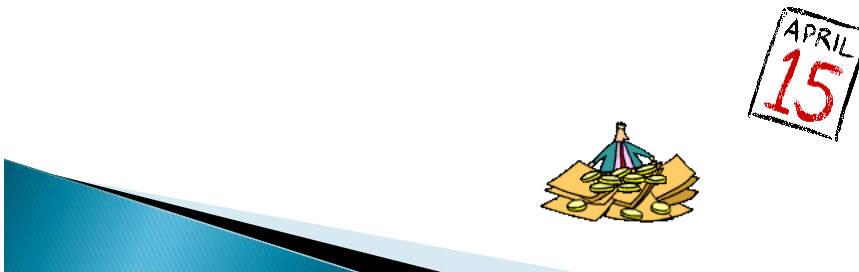
Federal Income Tax Deduction

- ▶ If land is a long-term capital gain property, Donor may claim a federal income tax deduction for FMV of the easement.
- ▶ Up to 30% of AGI in year donation is made
- ▶ Carry-over remaining value for next 5 years



Federal Income Tax Deduction

- ▶ Example:
 - Easement valued at \$100,000
 - Owner has AGI of \$60,000
 - May deduct 30% of \$60,000 or 18,000 in each of years 1–5, and the remaining \$10,000 in year six.



Expanded Tax Incentives

- ▶ Congress expanded federal income tax incentives for qualifying conservation easement donations in 2006.
- ▶ Raises the deduction a donor can take from 30% to 50% of AGI.
- ▶ Extends the carry-forward period from 5 to 15 years
- ▶ Expired Dec. 31, 2009, but will likely be extended for another year.



Expanded Federal Tax Incentives

▶ Comparison Example

Old Rules

AGI- \$50,000

\$1 million CE value

Can deduct \$15,000/year

Total deduction over 6 years
is \$90,000

New Rules

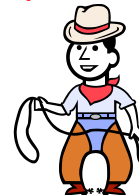
\$25,000/year

Total=\$400,000
over 16 years.



Expanded Federal Tax Incentives

- ▶ **Qualified farmer or rancher**, defined as a landowner who receives more than 50% of his or her gross income from the business of farming
- ▶ Can deduct up to 100% of their AGI.
- ▶ Previous example – \$50,000 AGI, \$1 million dollar easement, total deduction is \$800,000
- ▶ **For more details, see www.lta.org/policy/tax-policy.**



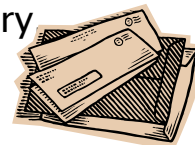
Conservation Easements and Estate Taxes

- ▶ Federal estate (death) taxes and state estate taxes frequently prevent land with substantial value from being passed intact to heirs.
- ▶ An easement may significantly reduce the Market Value of the property going into an estate, thus reducing overall estate taxes.
- ▶ Easement may be granted by will, the donor's estate may claim a charitable deduction, thus reducing the estate tax.



Conservation Easements and Property Tax

- ▶ Conservation Easements do not remove land from the property tax rolls.
- ▶ NC law requires that land subject to CE's be assessed at its actual value.
- ▶ However, if property is in agricultural or forestry use value, likely not going to reduce real property taxes if easement allows the continuation of farming and forestry



N.C. Conservation Tax Credit Program

- ▶ Allows landowners to receive a tax credit for gifts of conservation easements.
- ▶ Dollar for Dollar subtraction of income taxes owed up to 25% of easement value.
- ▶ Caps– \$250,000 for individuals; \$500,000 for corporations.
- ▶ Must have public benefit, CE must qualify.
- ▶ Contact Scott Pohlman at NCDENR at:

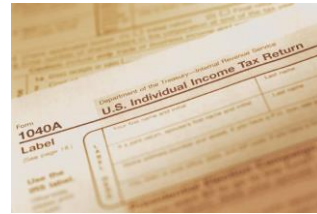
www.onencnaturally.org

N.C. Conservation Tax Credit Program—continued

- ▶ **Donations must serve a public benefit that is useful for:**
 - ▶ * Public beach access or use,
 - ▶ * Public access to public waters or trails,
 - ▶ * Fish and wildlife conservation,
 - ▶ * Forestland or farmland conservation,
 - ▶ * Watershed protection,
 - ▶ * Conservation of natural areas as that term is defined in G.S. 113A-164.3(3),
 - ▶ * Conservation of natural or scenic river areas as those terms are used in G.S. 113A-34,
 - ▶ * Conservation of predominantly natural parkland, or
 - ▶ * Historic landscape conservation

Form 8283

- ▶ IRS Form for Non-Cash Charitable Contributions
- ▶ Must be completed by Grantor and signed by Grantee
- ▶ Declaration and signature of appraiser
- ▶ Must state value of CE (if value is over \$500,000 need to include copy of appraisal)



Recommended Practices/Policies

- ▶ Internal Policy on review of 8283 form and Grantor's appraisal and value claim.
- ▶ Pre-Easement: Send landowner a letter outlining responsibilities – no legal or tax representation!
- ▶ Post-Easement: Send landowner an acknowledgement letter once conservation easement has been recorded.
- ▶ Remind landowner that you need to sign their 8283 form.

