



Aiken Land Conservancy

# Tax Impact of a Conservation Easement





# What are the potential tax benefits?



## Federal Income Tax Benefits

Federal tax laws allow the donor of a qualified easement to claim the value of the easement as a charitable contribution for income tax purposes. A landowner gets no deduction for selling the easement for fair market value.

For charitable contribution purposes, the easement value is generally based on the difference between the fair market value of the property before the easement (“before value”) and the value of the property after donation of the easement (“after value”). The difference between the “before value” and the “after value” is the amount that can be treated as the “Conservation Easement Value” and therefore considered the charitable contribution amount for income tax purposes. These values are determined by a “qualified appraiser,” as that term is defined by federal tax regulations, and depend on the specifics of the property and the conservation easement restrictions.

For example, suppose that an individual who owns a 500-acre Aiken property valued at \$2 million (\$4,000 per acre) places a qualified easement on the property, precluding future industrial development and limiting segmentation. Suppose further that the easement reduces the value of the property by 30% to \$1.4 million. The charitable donation would be valued at \$600,000 (\$2m before value- \$1.4 m after value= \$600,000 conservation easement value). The numbers in this example are merely illustrative, for example purposes only and not intended to represent likely results.

The landowner could deduct the charitable contribution up to 50% of the landowner’s adjusted gross income (AGI) for that year. A qualifying farmer or rancher (50% or more of AGI from farming or ranching) could deduct charitable contributions up to 100% of the landowner’s adjusted gross income. The landowner could deduct the unused portion of the contribution over the 15 succeeding years (subject to the applicable AGI percentage limit). The Federal deduction rate of 50% and 100% limitations and 15-year carry- forward provisions were made permanent by Congress in 2015. Please consult your tax or legal advisor to determine how potential tax benefits could affect your individual tax situation.



Our experience shows that easement values typically vary from a 20% to 80% reduction in the value of the land, based on the size and location of the parcel and other factors. The highest easement values typically are associated with properties that have significant conservation resources and are under intense development pressure. The nature and extent of the restrictions a landowner places on the property through the conservation easement also impact the easement value.

By law, the easement value must be determined by a qualified appraiser, and the appraisal must satisfy numerous requirements.



It is the responsibility of the donor to hire a qualified appraiser who is familiar with the property and has experience with conservation easements and local growth trends. ALC has a list of appraisers who have been involved with conservation easements in the region.

To qualify for a federal income tax deduction, an easement must provide a public benefit through permanent protection of at least one of the following important conservation resources:

1. The protection of a relatively natural habitat of fish, wildlife or plants, or a similar ecosystem;
2. The preservation of open space, including farm and forestland, for the scenic enjoyment of the general public or pursuant to an adopted governmental conservation policy;
3. The preservation of a historically significant land or building; or
4. The preservation of land for public outdoor recreation or education.



## South Carolina Income Tax Benefits

South Carolina allows a deduction for South Carolina income tax purposes for the donation of a qualified easement. The calculation of the easement value and the requirements for a qualified easement for South Carolina deduction purposes are the same as they are for federal income tax purposes. In addition to the federal and South Carolina income tax deductions, a donor of an easement (on property in South Carolina) that qualifies for a federal income tax deduction is also entitled to a credit against South Carolina income taxes (a dollar-for-dollar decrease in a taxpayer's tax liability) equal to 25% of the total amount of the deduction subject to certain caps. The credit may not exceed \$250 per acre of restricted property and the credit used in any one year may not exceed \$52,500 (unused credits may be carried forward with no limit). Also, the credit may only be taken on South Carolina income, it is not available for income earned in another state. The taxpayer may also sell the state income tax credits, subject to generally applicable income tax principles.

## Note on State and Local Tax Limitation

As a result of recent changes in the tax laws, there is a \$10,000/year limit on state and local taxes deductible by individuals on their federal tax return. Additionally, and in response to states' attempts to develop a work-around for this limitation, the tax




laws now limit the amount of state income tax credits an individual can receive in connection with a donation that produces a charitable deduction. The unintended consequence of this new limitation is that it can result in a reduction in the state tax incentives for landowners that donate land or conservation easements. Please note though, this does not affect federal wetland or mitigation credits, only the state and local credits. As a result of this new limitation, a donor who takes a federal tax deduction for the value of the gift of a conservation easement and receives a state tax credit (as is the case in South Carolina) may have to reduce their federal tax deduction by the amount of the state credit. Due to the technical nature of this limitation, landowners are advised to consult with their tax professionals to determine whether this limitation on the state income tax credit will apply.



## Example Landowner Tax Benefits Scenario

If a landowner donates a conservation easement on a 500 acre parcel, the value of the conservation easement is \$600,000, and the landowner's AGI (adjusted gross income) is \$150,000 (married and filing jointly).

1. The income tax deduction allowed in Year 1 = \$75,000 (calculated as  $\$150,000 \times 50\%$ ). This deduction is allowed for federal and state income tax purposes.
  2. The SC income tax credit = \$125,000 (equals the lesser of the two calculations below)
- 

$$25\% * \text{the amount of the deduction} \\ (\$600,000) = \$150,000$$

Or, \$250 per acre \* 500 acres = \$125,000

Since the taxpayer will only owe \$5,250 in SC state income taxes for the years in which the income tax deductions are claimed ( $\$150,000 - \$75,000 * 7\%$ ), the landowner will only use \$5,250 of the credit each year, but the excess may be carried forward indefinitely.



3. State and Local Limitation: (Consult with your tax advisor to determine if this limitation would affect your income tax deduction)

The following chart illustrates the approximate tax savings for the landowner in the above example (assuming the levels of AGI set forth in the chart and an estimated 29% combined federal and state income tax burden):

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8
AGI	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000	\$ 150,000
Federal/State Deductions Available	\$ 475,000	\$ 400,000	\$ 325,000	\$ 250,000	\$ 175,000	\$ 100,000	\$ 25,000	\$ -
Federal/State Deductions Used	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 25,000	\$ -
Taxable Income	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 75,000	\$ 125,000	\$ 150,000
State Tax Liability	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 8,750	\$ 10,500
SC Tax Credits Available	\$ 125,000	\$ 119,750	\$ 114,500	\$ 109,250	\$ 104,000	\$ 98,750	\$ 93,500	\$ 84,750
SC Tax Credits Used	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 5,250	\$ 8,750	\$ 10,500
Tax Savings	\$ 27,000	\$ 27,000	\$ 27,000	\$ 27,000	\$ 27,000	\$ 27,000	\$ 16,000	\$ 10,500

[illegible]

## Estate Tax Benefits

Conservation easements can significantly reduce the value of an estate, making estate taxes more affordable to heirs. Unlike limits placed on deductions for federal income taxes, the Internal Revenue Code allows unlimited charitable contributions for the purpose of reducing estate and gift taxes. Essentially, the value of the property is frozen at the lower “after” value for estate and gift tax purposes. In addition to the above tax benefits, up to 40% of the value of land covered by a conservation easement may be exempted from estate and gift taxation, as long as the total dollar value excluded does not exceed \$500,000. The full 40% benefit is available for easements that reduce the fair market value of a property by at least 30%. Smaller deductions are available for easements that reduce the value by less than this amount. *Also, heirs can donate post-mortem conservation easements to reduce estate taxes under the above provisions if the easement is completed within nine months from the date of the decedent’s death.*

Under current law, the unified credit (amount of an estate that is not subject to tax) is \$12.06 million per person for tax year 2022 and is adjusted for inflation each year going forward.

With the uncertainty surrounding the estate tax and the possibility that these benefits may be of differing values based on the size of each taxpayer’s total taxable estate. Property owners considering the donation of a conservation easement for estate tax benefits should consult their tax or legal advisor regarding recent tax law changes and implications.



## Property Tax Benefits

As a conservation easement restricts various development rights and diminishes the fair market value of the property, it has the potential to provide ad valorem tax relief. South Carolina law explicitly requires that the valuation of property for ad valorem tax purposes take into account the existence of any conservation easements.



In addition, South Carolina law provides that unimproved real property that is subject to a conservation easement is agricultural real property if the property otherwise qualifies as such. This provision ensures that the granting of a conservation easement will not jeopardize the special 4% assessment ratio applicable to agricultural real property.



## Sources for Additional Information

For more about ALC, our land protection and education projects, see our website [www.conserveaiken.org](http://www.conserveaiken.org) or call us directly at 855.252.5263.

To find a list of land trusts working in South Carolina, please see the list provided on the South Carolina Conservation Bank's website: <http://sccbank.sc.gov>.

For information on land trusts generally across the U.S., contact the Land Trust Alliance which is the national clearinghouse for this information and the umbrella professional organization for land trusts across the country. That website is [www.lta.org](http://www.lta.org).

Tax Benefit Analysis (August 2020):

John M. Scott, III

Haynsworth Sinkler Boyd, P.A.

135 South Dargan Street, Suite 300

Florence, SC 29506

[jscott@hsblawfirm.com](mailto:jscott@hsblawfirm.com)

843.673.5320



*\*ALC does not give tax or legal advice. It is recommended that you consult your own accountant or tax attorney for advice on these matters\**

## *Protecting the Places You Love*



Aiken Land  
Conservancy



*Our success is in no small part thanks to you, the community. Our efforts to protect the things that make Aiken such a special place to live and raise a family would not be possible without your enthusiastic support."*



Mailing Address:

PO Box 3096

Aiken, South Carolina 29802

<https://conserveaiken.org/about-alc/>

Email: [mail@conserveaiken.org](mailto:mail@conserveaiken.org)

Website: [www.conserveaiken.org](http://www.conserveaiken.org)

Phone: 1-855-ALC-LAND

Telephone: 855-252-5263