Conserving Your Land

Comprehensive Version of Section 3 – Tax Benefits

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NEW HAMPSHIRE
LAND TRUST COALITION

Tax benefits can be a helpful additional incentive for landowners to conserve their land. As "Section 3 – Tax Benefits" of the "Conserving Your Land" book gets into more technical and complex issues, we provide this online "Comprehensive Version" of that Section to give more information for those who want it, including more in-depth explanations, additional examples, and specific website links to relevant laws, rules, and regulations. We recommend that you share this "Comprehensive Version" with your legal and/or financial advisor(s).

First, a few cautions and disclosures:

- As tax benefits can change over time and are highly case-dependent, the information presented here may not be current or apply to your situation.
- Although the land trust can provide you with helpful information, it cannot give you legal, financial, or tax advice. It's important that you consult qualified advisors, e.g. attorney, accountant, and/or financial advisor, to help you:
  - » Evaluate your options and associated tax implications;
  - » Confirm current laws, rules, and regulations, and their applicability to your project;
  - » Work with the land trust to design the project;
  - » Complete the mechanics of the land or conservation easement transaction; and
  - » Determine and claim possible tax benefits.
- Other than municipal property taxes, which are addressed in Section 2 – Land Conservation Methods, the only tax benefits currently associated with permanent land conservation in New Hampshire are at the federal level--there are none at the state level.
- There are many ways to enjoy additional tax benefits by meshing conservation options with various types of "planned gifts." Only a few are briefly mentioned here, such as donating a remainder interest in your residence, or setting up a gift of land in your will. Consult your advisor(s) for more details.

A. Federal Income Tax

When you give land, a conservation easement, or some other real estate interest (e.g. right-of-way for a hiking trail) to a land trust, you may be able to claim a deduction on your federal income tax return for your charitable contribution. (For purposes of simplicity, we'll refer to "land or conservation easement" as a shorthand reference to any type of real estate

From the Land Trust's Perspective

The land trust has a strong interest in ensuring that every project in which it participates adheres to high legal and ethical standards. Accreditation standards and best practices put forth by the national ***Land Trust Alliance***, the Charitable Trusts Unit of the NH Attorney General's Office, and the IRS govern charitable giving protocols and standards. The land trust must also abide by its own policies and procedures. This is why the land trust and you should understand clearly and early on in a project whether you intend to claim certain tax benefits, the steps involved, and what each of you expects of the other.

interest.) To claim such a deduction, there are certain IRS requirements and/or other considerations you need to take into account, as described below.

1. Full vs. Partial Gift

When you make a full gift of your land or conservation easement, generally the amount you can claim as a charitable deduction is the appraised fair market value of your land or easement at the time of your contribution. If you're financially willing and able to make a full gift of your land or easement to the land trust, vs. selling it for some agreed upon price, you'll likely maximize your tax benefits and make the project easier and faster to complete for both the land trust and you.

If you "bargain sell" your land or conservation easement (see Section 2.A.1. "Fee Ownership May Be Donated or Sold."), i.e. at a price less than its full value, you may be able to claim a deduction for the donated portion of the land or easement's value. A bargain sale might yield the same net financial result for you as selling to someone else at full value through a real estate broker. Here's why. First, any capital gains tax that you might owe to the IRS (especially if your land has increased in value) would be lower for a bargain sale because of the way these taxes are calculated. Second, your deduction for the gift component may help offset any capital gains tax you may owe. Third, depending on the type of grant funds that the land trust secures to make its purchase from you, some conservation purchases are exempt from the NH Real Estate Transfer Tax. Finally, selling to the land trust without using a real estate broker may reduce or eliminate the expense of a sales commission (as much as 10% of price) that you'd otherwise have to pay. See Example 1. If you were to sell your land or easement at its full appraised value, there would be no gift involved and so no income tax deduction.

2. Deductibility Requirements for Gift of Land or Conservation Easement

a. True Donation. For the IRS to recognize your donation as a charitable gift for income tax purposes, your gift must reflect "donative intent" without the prospect of receiving something in return. For example, if you give a conservation easement as a condition of the municipal Planning Board's approval of your subdivision application for development of other land, you're not making a true donation of the easement because you're receiving something valuable (subdivision approval) in exchange. Your donation must also be "complete" and "irrevocable." For example, if you specify that the land you're giving to a land trust must revert back to you if the land trust doesn't use the land in accordance with certain conditions, your donation is not deductible.

b. Qualified Recipient. You must donate your land or conservation easement to an entity defined as a "qualified organization." (See the IRS Code at: ***IRS Code Sect. 170(h).)*** This could include a nonprofit, tax-exempt land trust or a unit of government (e.g. the United States of America acting through the Natural Resources Conservation Service, the State of NH acting through the Fish and Game Department, or a municipality acting through its conservation commission).

c. Appraisal. For your donation of land or conservation easement for which you claim a deduction of more than $5,000, the IRS requires that you obtain—and pay for—a "qualified appraisal" prepared by a "qualified appraiser" to establish the value of your land or conservation easement contribution. (A "qualified appraisal" and qualified appraiser must meet specific IRS requirements at: ***Treasury Regulation 1.170A-13(c)(3) and 1.170A-13(c)(5)***). Not all appraisers have the training or experience to appraise conservation lands or easements. Note also that a letter from a real estate broker providing an "opinion of

Example 1: Bargain sale of land: calculation of charitable contribution

ASSUME:

- Landowner Jill sells 95 acres to Land Trust
- Qualified appraisal shows fair market value (FMV) of $400,000
- Bargain sale price is $340,000 (85% of FMV)

Fair market value of land:	$400,000
Bargain sale price:	$340,000
Value of charitable land contribution :	$60,000

RESULT: By bargain selling her 95 acres to the Land Trust at a discounted price of 85% of fair market value, Jill makes a charitable contribution of land with an appraised value of $60,000.

Comparison of bargain sale to Land Trust (above) vs. full-value sale to third party:

ASSUME:

- Jill sells 95 ac. at full FMV price of $400,000 to private buyer via broker
- Jill bought land 10 yrs. ago for $150,000
- Jill's income tax bracket is 22%
- Capital gains tax rate is 15%

	BARGAIN SALE	FULL-VALUE SALE
Sale price	$340,000	$400,000
Income tax savings (see Note A)	+ $13,200	0
Capital gains tax (see Note B)	- $31,875	- $37,500
10% real estate broker's commission	0	- $40,000
Real estate transfer tax (see Note C)	0	- $3,000
Net Amount to Seller Jill	$321,325	$319,500

RESULT: Jill's bargain sale to the Land Trust at a price of 85% of fair market value leaves her with $1,825 more than selling her land to a third party at full value on the open market through a real estate broker. However, in the case of the bargain sale, she'll have additional costs possibly using up her $1,825 in "savings" (and maybe more) to pay for her IRS-qualified appraisal for claiming a charitable income tax deduction. In any case, the discounted price made the project feasible for the Land Trust, which couldn't have afforded a purchase of the property at the full-value price.

NOTES

A. Income tax savings, assuming Jill can claim entire $60,000 charitable contribution as federal income tax deduction = 22% tax bracket x $60,000 charitable deduction = $13,200

B. Capital gains tax: Capital gain = Sale price minus the property's "basis." "Basis" is the cost of the property at the time you bought it, or the value of the property when you inherited it. If you

received the property as a gift other than through inheritance, you assume the basis of the prior owner. Basis can be increased ("adjusted") for additional capital improvements you make on or to your property.

Bargain sale:
To calculate basis for sale portion of land, allocate original land basis according to percentage of sale portion vs. total FMV of land, as follows:
$340,000 sale price ÷ $400,000 FMV of land = 85%
So, 85% x $150,000 original land basis = $127,500 basis for sale portion of land
Capital gain = $340,000 sale price - $127,500 basis = $212,500
Capital gains tax = 15% tax rate x $212,500 capital gain = $31,875

Full-value sale:
Capital gain = $400,000 sale price - $150,000 basis = $250,000
Capital gains tax = 15% tax rate x $250,000 capital gain = $37,500

C. **NH Real Estate Transfer Tax:** The NH Real Estate Transfer Tax is 1.5% of the sale price, split evenly between seller and buyer, or 0.75% each. In Jill's bargain sale to the Land Trust, if one of the project funders is the state or a municipality and if that governmental entity must also receive an interest in the property as a condition of its grant, both of which situations are common, the sale will be exempt from the real estate transfer tax. In the full-value sale, Jill will owe 0.75% of the $400,000 price, or $3,000.

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value" won't qualify. Your land trust may ask to review your IRS-qualified appraisal prior to your submission of the tax return in which you claim the charitable deduction.

If a land trust intends to buy your land or conservation easement, it will likely get an appraisal done for its own purposes before it completes its purchase from you. However, if the land trust's purchase also involves a partial donation from you (i.e. bargain sale) for which you'd like to claim a deduction, you'll have to purchase your own separate qualified appraisal for IRS purposes. You can hire the same appraiser the land trust used, but only if the land trust gives the appraiser permission to do so.

You must get your IRS-qualified appraisal done within a certain timeframe. On the one hand, you can have the appraisal prepared after you've made your land or conservation easement gift, and as late as your tax filing deadline (including any extensions) for the year in which you made your donation. In this case, your appraiser must retroactively determine the value of your land or easement as of the date of your gift or a date within 60 days before then. (The specific date to which an appraiser pegs the value is usually called the "effective," "valuation," or "as-of" date.) On the other hand, if you want to know the value of your land or conservation easement before you donate it, perhaps for tax planning or other purposes, your appraiser can do this. However, you must complete your gift to the land trust within 60 days of the valuation date to ensure that your appraisal stays within the IRS' required time window, which can sometimes be difficult. If you can't finalize your gift that quickly, you'll have to get your appraisal updated, which may be simple and inexpensive, or not, depending on how much time has elapsed and/or how quickly the real estate market has changed.

For an appraisal done before you make your land or conservation easement gift, the land trust and you will need to have agreed on key aspects of the gift, including the location/configuration of the land to be protected and any restrictions to be placed on the land. As good appraisers are often busy, it's smart to contact an appraiser early in the process to ensure that he or she can complete the appraisal for you in a timely manner.

d. **Written Acknowledgment of Gift.** To claim a deduction for your land or easement gift, the IRS requires you to have a written acknowledgment of your donation from the gift recipient. This is called the "substantiation" or "contemporaneous acknowledgment" letter (see: ***IRS Tax Code Sect. 170(f)(8)***). This letter must contain certain information, including a description of your donated land or conservation easement. It typically won't contain a monetary value for your gift, as this is your responsibility to obtain (through the appraisal process). You can expect to receive an official acknowledgment letter from the land trust after you've made your gift.

e. **IRS Form 8283, "Noncash Charitable Contributions."** To claim a charitable deduction for your land or conservation easement donation, you must file ***IRS Form 8283 "Noncash Charitable Contributions"*** with your income tax return for the year of your gift. This form asks for detailed information about your land or conservation easement donation, and for gifts for which you're claiming a deduction of more than $5,000 it must be signed by both the appraiser and the recipient land trust. In some cases, you must attach additional information and/or materials. You and/or your accountant should start completing this form well before your tax filing deadline, given the supporting documentation required, the logistics of getting signatures, and the likelihood that the land trust will want to review the form with all attachments, plus your appraisal, before signing the form. Your accountant and you should pay close attention to the instructions for Form 8283, to ensure all the required information is included and accurate.

3. Additional Issues Specific to Gift of Land.

If you donate land (vs. a conservation easement) and want to claim a charitable income tax deduction for it, your gift is subject to certain additional IRS rules, as follows:

a. **30% of Adjusted Gross Income, 5-Yr. Carryover.** The IRS limits your charitable deduction for any one tax year based on a certain percentage of your Adjusted Gross Income (AGI). Generally, for your donation of land, the maximum deduction amount that you can claim for the year of your gift is 30% of your AGI. If your deduction amount exceeds that limit, you're allowed to carry forward and claim the excess amount of the deduction in up to five subsequent years, the so-called "carryover period." You can continue claiming a deduction each year until either you've claimed the total amount of your deduction or you've run through all five carryover years. Any portion of the deduction remaining unclaimed after the sixth year (year of your donation plus five carryover years) is forfeited—it's a "use it or lose it" arrangement. See Example 2.

b. **50% of Adjusted Gross Income Election.** As an alternative to the 30% of AGI annual deduction limit, the IRS may allow you to elect 50% of AGI as your limit. However, instead of basing your deduction amount on the land's current appraised fair market value, you must use instead the property's basis to determine your deduction. (See in the first example above "Note B: Capital Gains Tax" for an explanation of basis.) Your decision whether to use the 30% vs. 50% of AGI limit may depend on various factors. For example, the 50% election may make sense if:

- Your purchase price (and basis) for your land is much higher than its current fair market value;
- You anticipate big reductions in future income; or
- You have a serious illness creating uncertainty about your longevity, and wish to take advantage of potential tax savings over a shorter period of time.

c. **Date of Gift.** For tax purposes, the official date of gift for donated land is the date on which you "deliver" your signed deed

Example 2: Bargain sale of land: claiming deduction over multiple years

ASSUME:

- Landowner Jill bargain sells 95 acres to Land Trust for $340,000.
- Qualified appraisal shows fair market value of land at $400,000.
- Charitable contribution of land is $60,000 ($400,000–$340,000).
- Jill's Adjusted Gross Income (AGI) is $60,000.
- Jill's income tax bracket is 22%.
- IRS annual income tax deduction limit is 30% of AGI with 5-yr. carryover period.

YEAR #	DEDUCTION AVAILABLE	DEDUCTION CLAIMED	CARRYOVER
1 (yr. of gift)	$60,000	$18,000 (30% × $60,000 AGI)	$60,000 – $18,000 = $42,000
2 (1st carryover yr.)	$42,000	$18,000 (30% × $60,000 AGI)	$42,000 – $18,000 = $24,000
3 (2nd carryover yr.)	$24,000	$18,000 (30% × $60,000 AGI)	$24,000 – $18,000 = $6,000
4 (3rd carryover yr.)	$6,000	$6,000	$6,000 – $6,000 = 0
5	$0		

Total income tax deductions claimed = $60,000
Income tax savings = 22% tax bracket × $60,000 deductions = $13,200

RESULT: Jill claims federal income tax deductions totaling $60,000 for the charitable gift part of her bargain sale of land. She claims a deduction of $18,000 for the year of her gift and for each of the following two carryover years, and then a deduction for the final $6,000 in her third carryover year, saving a total of $13,200 in taxes. This is on top of the $340,000 in cash that Jill receives from the Land Trust for the sale portion of the project.

to the land trust (note the different rule for conservation easements, below). Your attorney can help you understand how this relates to your particular situation

4. Additional Requirements & Issues Specific to Gift of Conservation Easement.
If you donate a conservation easement and want to claim a charitable income tax deduction for it, your easement must be perpetual, and the deed for it must contain specific IRS provisions detailed at: ***U.S. Treasury Regs. 1.170A-14***. In addition, your easement gift must meet certain other IRS requirements as follows:

a. "Qualified Conservation Contribution" (see: *IRS Code Sect. 170(h)*. This has the following required components:

i. "Qualified real property interest." A perpetual conservation easement meets

this requirement. Also qualifying are a remainder interest in a personal residence or farm, and certain other types of partial interests in property.

ii. **"Qualified organization."** The recipient of the conservation easement must meet certain requirements as explained under Sect. A.2.b. "Qualified Recipient" in the *Conserving Your Land* booklet.

iii. **"Exclusively for conservation purposes."** The contribution must be for at least one of the four purposes described in Sect. 2.B.4. "Crafting Your Conservation Easement" in the *Conserving Your Land* booklet.

b. **Appraisal.** There's no "rule of thumb" for estimating the value of your conservation easement. To establish its fair market value, the IRS generally requires your appraiser to use the so-called "Before and After Method" (see: ***U.S. Treas. Regs. 1.170A-14(h)***). Specifically, the appraiser first determines the value of your property before you convey the easement. Then, the appraiser establishes the value of your property after the easement's restrictions are in place. The appraiser then subtracts the "after value" from the "before value" to produce the fair market value of the conservation easement.

i. **Contiguous Property.** If you or "family members" own property adjacent to the proposed conservation easement area, the appraisal gets more complicated, and the so-called "contiguous property rule" applies. The IRS defines "family members" as your siblings, spouse, ancestors, and lineal descendants (see: ***IRS Tax Code Sect. 267(c)(4)***). In this case, the appraiser must include in the "before" and "after" analyses the larger area involved, i.e. the conservation easement land plus the adjacent property owned by you or family members. As before, the difference between the "before" and "after" values becomes the amount of the deduction that the donor can claim for the conservation easement gift. This situation commonly occurs when the landowner's residence and few acres are immediately adjacent to and excluded from the easement area. This may mean that the appraiser has to do a detailed appraisal of your home or that of relatives, including an interior inspection, photos, etc.

ii. **Enhancement.** There's an added complexity that may affect your deduction if you (as the donor), "family members," or other "related persons" own property in the vicinity whose value would be enhanced as a result of the conservation easement. "Related persons" includes not only "family members" but also trusts, estates, corporations, and partnerships with certain defined relationships to you (see: ***IRS Tax Code Sect. 267(b)***). The so-called "enhancement rule" applies and requires the appraiser to determine if there's any enhancement to these other properties, and if there is, how much that increase in value is. You must then subtract that enhancement amount from the value of the conservation easement to derive the amount of the deduction that the IRS will allow you to claim.

The complexity of the "before and after" methodology, especially when other properties and residences are involved, helps explain why the cost of a qualified appraisal for an easement can be much higher than an appraisal just for land. It also highlights the importance of disclosing early in the process to your appraiser and the land trust any other properties in the area whose ownership may be related to you and which may need to be included in the appraisal. See Example 3.

Example 3: Donated conservation easement with "contiguous property" & "enhancement": Calculation of charitable deduction

Calculation of the deduction amount for a donated conservation easement where there's both "contiguous property" owned by the donor and other nearby property owned by the donor's brother requiring adjustment for "enhancement."

ASSUME:

- Landowner Jill donates conservation easement (CE) on 95 acres to Land Trust
- Jill's only other property is her house on five abutting acres excluded from CE
- Qualified appraisal shows FMV of Jill's 100 ac. property (incl. house) unrestricted at $600,000
- Qualified appraisal shows FMV of Jill's 100 ac. property (incl. house) CE-restricted at $350,000
- Jill's brother owns undeveloped lot not contiguous to hers but with view across her CE-protected hayfield, enhancing his property by 2%
- Qualified appraisal shows FMV of brother's property at $250,000 before Jill's CE

FMV of 100 ac. (incl. house) BEFORE CE =	$600,000
FMV of 100 ac. (incl. house) AFTER CE =	- $350,000
Enhancement value accruing to brother's lot, 2% x $250,000 =	- $5,000
Deduction for CE with Contiguous Property & Enhancement Adjustment =	$245,000

RESULT: By making a charitable contribution to the Land Trust of a CE on her undeveloped 95 acres, Jill claims a federal income tax deduction of $245,000 after taking into account IRS appraisal rules for Jill's adjacent ("contiguous") house and five acres, and for the enhancement of her brother's nearby property by $5,000.

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c. **50% of Adjusted Gross Income, 15-Yr. Carryover.** For the gift of a qualified conservation easement, the annual limit of what you can claim as a deduction is 50% of your AGI with a carryover period of 15 years (vs. 30% of AGI with five-year carryover for the gift of land). See Example 4. If you're a "qualified farmer" as defined by the IRS, the annual limit of your deduction increases to 100% of your AGI.

d. **Mortgage.** If there's a mortgage (including home equity loan) on the land you plan to protect with a conservation easement, you'll need to complete another step prior to signing the easement to ensure that it remains perpetual. Without doing so, a foreclosure in the future could potentially extinguish the easement. You'll have to work with your lender to complete one of the following:

- **Remove the mortgage from the easement area.** If you can pay off the rest of your mortgage to accomplish this, that's great. If you can't afford to do that but you have paid off some of the principal, your lender may be willing to give you a "Partial Release of Mortgage." This could shrink the property used as collateral down to just the area excluded from the easement, e.g. perhaps your house and surrounding few acres, where much of the value of your property remains; or
- **Obtain a written subordination of the mortgage to your easement.** This ensures that the easement would remain in place in the event of a foreclosure and subsequent sale of the property by the lender.

Example 4: Donated conservation easement: "Claiming deduction over multiple years"

ASSUME:

- Landowner Jill donates conservation easement (CE) on 95 acres to Land Trust.
- Qualified appraisal shows availability of $245,000 income tax deduction for CE gift.
- Jill's Adjusted Gross Income (AGI) is $60,000.
- Jill's income tax bracket is 22%.
- IRS annual income tax deduction limit is 50% of AGI with 15-yr. carryover period.

YEAR #	DEDUCTION AVAILABLE	DEDUCTION CLAIMED	CARRYOVER
1 (yr. of gift)	$245,000	$30,000 (50% × $60,000 AGI)	$245,000 – $30,000 = $215,000
2	$215,000	$30,000 (50% × $60,000 AGI)	$215,000 – $30,000 = $185,000
3	$185,000	$30,000 (50% × $60,000 AGI)	$185,000 – $30,000 = $155,000
Years 4-8	Similar to annual calculations above		
9	$5,000	$5,000	0

Total Income Tax Deductions Claimed = $245,000
Income Tax Savings = 22% tax bracket × $245,000 deductions = $53,900

RESULT: Jill claims federal income tax deductions totaling $245,000 for her charitable CE contribution. Her deductions are spread over nine years, using eight carryover years, and she saves $53,900 in taxes.

Any partial release or subordination of a mortgage would be recorded at the county Registry of Deeds in association with your easement. As securing what's needed from your lender can take time, talk to your loan officer early in the process, and coordinate your efforts with the land trust, which may be willing and able to help provide information to your lender.

e. **Date of Gift.** According to IRS rules, the official date of gift for a conservation easement is the date when the easement deed is recorded at the county Registry of Deeds.

If, for example, you choose to make your easement gift by mail, or bad weather delays the land trust's travel to the Registry, or other unforeseen circumstances arise, the recording date may be later than the date on which you "deliver" your signed easement deed to the land trust and/or the date(s) on which you and the land trust sign the easement deed. If you plan to make an easement gift in late December and want to ensure that your official gift date remains within the same year for tax purposes, coordinate closely with the land trust to ensure the recording of your easement before the new year.

5. Other Income Tax Considerations

a. **Gift During Lifetime vs. After Death.** You must make your donation during your lifetime to realize possible income tax benefits. If, instead, you set up a land or conservation easement gift to be made upon your death, perhaps via provisions in your will or a revocable trust, there won't be any income tax deduction. However, there may be estate tax savings (see "Federal Estate Tax," below).

b. **Gifts by Revocable Trusts, Partnerships, Limited Liability Company, etc.** If the land or conservation easement is donated by an entity such as a revocable trust, partnership, or limited liability company rather than by an individual, the availability of a tax deduction is more uncertain. Consult your legal or financial advisor early in the process.

c. **Donating Land or Conservation Easement Held for Less Than One Year.** If you want to donate your land or conservation easement to an eligible land trust within one year after you acquired the land, special rules apply for determining the amount of your deduction. Generally, you must limit the amount of your deduction to your basis in the land or conservation easement, not its current fair market value. Consult your tax advisor for more details.

d. **Deductibility of Expenses.** Under current IRS rules, the costs you incur in making a charitable donation, such as your payment for legal services or for an IRS-qualified appraisal, are generally not in and of themselves tax deductible, with note that these rules change frequently. However, some of your expenses might still help you offset certain tax liabilities, for example by increasing your cost basis or the depreciation you can claim for your property--consult your advisors. If you make a cash donation to the land trust to support long-term stewardship costs associated with your land or easement gift (see Section 4 – Stewardship), you can generally treat this as a deductible charitable contribution. Note that your payment must be voluntary and not involve some "quid pro quo" to be deductible, e.g. the land trust can't require this "contribution" as a condition of accepting your land or easement.

e. **Gift of Remainder Interest with Reserved Lifetime Use Rights.** Donation of a remainder interest in your personal residence or farm, as explained in Section 2 in the *Conserving Your Land* booklet, enables you to continue to live on or otherwise use your property and may give you a federal income tax deduction. This may also reduce the value of your assets for federal estate tax purposes, as explained below. The amount of your deduction is based on the current, appraised, fair-market value of the property adjusted by a certain percentage that's set monthly by the IRS and that's based in part on the number and ages of those who retain continuing lifetime use rights. The younger and more numerous the persons holding such use rights, the smaller the percentage of your property's value that you can claim as a charitable deduction. Your donation of a remainder interest is generally eligible for the 30% of AGI annual deduction limit with five-year carryover period. Under limited conditions, it may qualify for the more favorable 50% of AGI annual limit with 15-year carryover, under the IRS rules for a "Qualified Conservation Contribution" described in more detail above. Seek advice from your accountant and attorney about your own unique situation.

B. Federal Estate Tax

The IRS taxes your overall collection of assets upon your death (your so-called "estate"). However, the current exemption amount—now over $11 million for an individual--means that the estates of only the most wealthy individuals are subject to this tax. If you anticipate the estate tax applying to you, there are conservation-oriented actions you can take to lessen or avoid this tax. For example, if you donate land to a land trust, or set up provisions for this to occur upon your death,

you may reduce the value of your taxable assets for estate tax purposes. Similarly, if you convey a conservation easement on your land, either while you're living or to take effect upon your death, the IRS will value your land for estate tax purposes in its restricted, reduced-value condition. The IRS may also give you an additional exclusion from your taxable estate of up to 40% of the restricted value of your easement-encumbered land under certain conditions (see: ***Internal Revenue Code Sect. 2031(c)***). These same exclusions from the estate tax also apply to the donation of a "post-mortem" conservation easement by the executor of your estate, as explained in Section 2 of "*Conserving Your Land*."