

12/13/19



THE COMPACT
OF CAPE COD CONSERVATION TRUSTS, INC.

October 2019

TO: Landowners; Land Trusts

FROM: Mark H. Robinson, Executive Director

RE: Change to federal charitable deductions associated with state tax credits

I am writing to you as someone currently working with The Compact or one of our local member organizations on a transaction involving a Massachusetts Conservation Land Tax Credit (CLTC). The good news is that the Mass. CLTC is still available and has not changed. You are still entitled to it for your intended land transaction with us for conservation.

So, after priming the good news, I have some slightly bad news to relay: the Tax Cuts and Jobs Act of 2017 (Public Law 115-97) capped the amount of state and local taxes that taxpayers can deduct from their federal adjusted gross income. As an intended or unintended consequence, the IRS has adopted a requirement that any taxpayers receiving a state tax credit (for anything) must deduct the amount of the credit from their federal deduction associated with the same charitable act.

Here is an example as how it would affect a Mass. CLTC transaction:

BEFORE – you had a \$75,000 state tax credit and a \$455,000 federal deduction
AFTER (*assuming the proposal is enacted as law later this year*) – you would have a \$75,000 state tax credit and a \$380,000 federal deduction (that is, \$455,000 minus \$75,000)

My understanding of the IRS' 15% exemption is that the limitation on federal deduction would not apply if the donated value is more than \$500,000 (i.e., because the \$75,000 max. CLTC is 15% of \$500,000). See examples attached.

Remember that a tax credit is usually more powerful than a tax deduction. The credit is a one to one tax savings (in this case, coming to you in the form of tax elimination and/or a State refund check). The federal deduction reduces the amount of gross income on which you pay federal tax.

The new rule is retroactive to August 27, 2018, so it affects any charitable transactions after that date. There is a lot of upset throughout the donor world across the country, not just our Mass. conservation tax credit folks. So it may change again. But I wanted you not to be caught unawares.

As always, I am not qualified to provide tax advice; please confer with your own tax advisor. I have attached a summary to show your advisors.

To provide consistent treatment for state or local tax deductions and state or local tax credits that provide a benefit that is generally equivalent to a deduction, the proposed regulations include a *de minimis* exception under which a taxpayer may disregard a state or local tax credit if such credit does not exceed 15 percent of the taxpayer's payment or 15 percent of the fair market value of the property transferred by the taxpayer. The *de minimis* exception reflects that the combined value of a state and local tax deduction, that is the combined top marginal state and local tax rate, currently does not exceed 15 percent. Accordingly, under the proposed regulations, a state or local tax credit that does not exceed 15 percent does not reduce the taxpayer's federal deduction for a charitable contribution. <https://www.federalregister.gov/documents/2018/08/27/2018-18377/contributions-in-exchange-for-state-or-local-tax-credits> (See Public Law 115-97.)

When CLTC is 50% of the donated value, must subtract CLTC \$\$ from federal deduction

Land donation value = **\$60,000**

CLTC = $1/2 \times \$60,000 = \$30,000$ state tax credit

Federal deduction = $\$60,000 - \$30,000 = \$30,000$

When CLTC is 50% of the donated value, must subtract CLTC \$\$ from federal deduction

Land donation value = **\$150,000**

CLTC = $1/2 \times \$150,000 = \$75,000$ state tax credit

Federal deduction = $\$150,000 - \$75,000 = \$75,000$

When CLTC is >15% but <50% of the donated value, must subtract CLTC \$\$ from federal deduction

Land donation value = **\$200,000**

CLTC = $1/2 \times \$200,000 = \$100,000$ but limited to \$75,000 maximum state tax credit = \$75,000

Federal deduction = $\$200,000 - \$75,000 = \$125,000$

When CLTC is <15% of the donated value, full federal deduction is available

Land donation value = **\$550,000**

CLTC = $1/2 \times \$550,000 = \$275,000$ but limited to \$75,000 maximum state tax credit = \$75,000

Federal deduction = \$550,000 (because \$75,000 is less than 15% of \$550,000, all of the deduction is available)

When CLTC is <15% of the donated value, full federal deduction is available

Land donation value = **\$1,000,000**

CLTC = $1/2 \times \$1,000,000 = \$500,000$ but limited to \$75,000 maximum state tax credit = \$75,000

Federal deduction = \$1,000,000 (because \$75,000 is less than 15% of \$1,000,000, all of the deduction is available)

CLTC / Donated Value = 50%

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CLTC / Donated Value = 37.5%

CLTC / Donated Value = 13.6%

CLTC / Donated Value = 7.5%

Effective IRS rule change, August 2018, requiring federal charitable contributions to be reduced by state tax credits received; please confer with your own tax advisor for specific guidance. October 2019

*CLTC = Mass. Conservation Land Tax Credit program
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