

Tax Benefits for Land Protection

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TAX BENEFITS OF CONSERVATION

- Same regardless if conveyance is to town, state or non-profit land trust
- Land trusts can provide concepts; landowners must “run the numbers” for their own situation, with own advisors
- Tax benefits lower the “pain” of donating value
- The higher the tax bracket, the greater the deduction = greater tax savings
- *EX: \$10,000 gift means \$3,500 savings to 35% bracket, but only \$2,200 to 22%’ers.*



'HEARD ANY
GOOD JOKES
LATELY?

YEAH,
TAX RELIEF.

TYPES OF TAX BENEFITS

- PROPERTY TAX: TOWN
- INCOME TAX: FEDERAL & STATE
- ESTATE TAX: FEDERAL & STATE
- CAPITAL GAINS: FEDERAL & STATE

PROPERTY TAX:

TOWN

- FEE SIMPLE DONATION: 100% elimination; effective July 1 following transfer date
- CONSERVATION RESTRICTION:
Parkinson v. Medfield, 1969: Town assessors must account for CR impact on value (398 Mass. 112, 1986)
- RESERVED LIFE ESTATE: No reduction while use is still residential
- CURRENT USE ASSESSMENT (Farm, Forest, Open)
75% reduction for open land; %range for farm, forest



INCOME TAX:

FEDERAL

- **Deduction from *Income***
- **Fair Market Value, less any partial consideration paid**
- **Fee Gift: 30% of AGI per year limit;**
 - spread over five additional years
- **CR Gift: 50% of AGI per year limit;**
 - Spread over 15 additional year

INCOME TAX:

FEDERAL

- **Income Tax Savings = deduction x tax rate**
- **Federal: 10% to 37% marginal tax rate**
 - Gift of \$100,000 x 22% = \$22,000
 - Gift of \$100,000 x 32% = \$32,000
- **Different rules apply to short-term assets = held less than 1 year.**

CHARITABLE DEDUCTION RULES

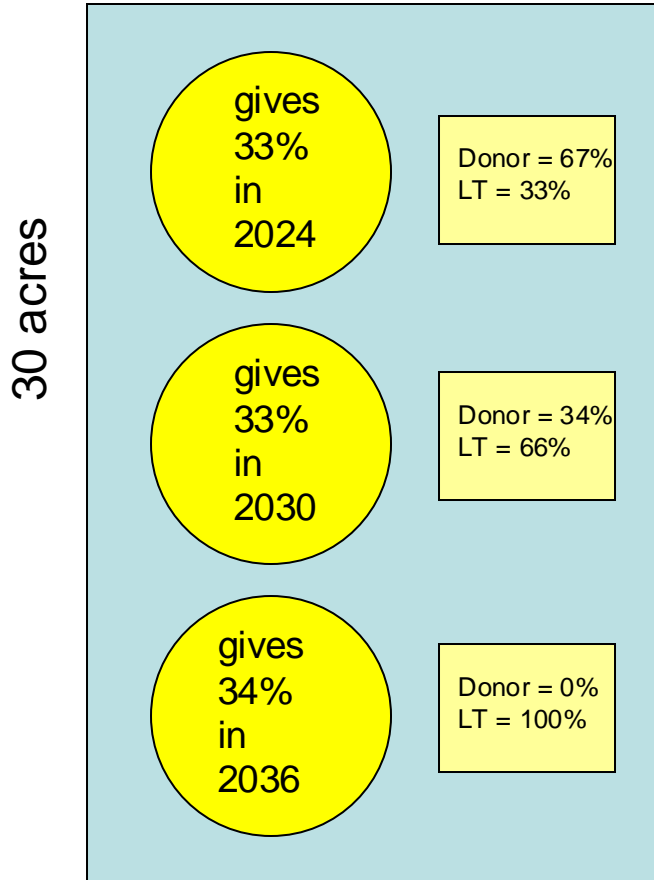
- **IRS requires appraisal if claiming more than \$5,000;**
 - Prepared to IRS specifications
 - Donee plays no role in certifying FMV
- **FMV includes any appreciation in value since acquisition**

INCOME TAX: State (MA)

- Massachusetts re-instituted in 2023
- Deduction only from *wage income*
- Reducing the taxable amount of income, at Mass blanket 5% rate
- *Cannot* combine with state tax credit for land conservation

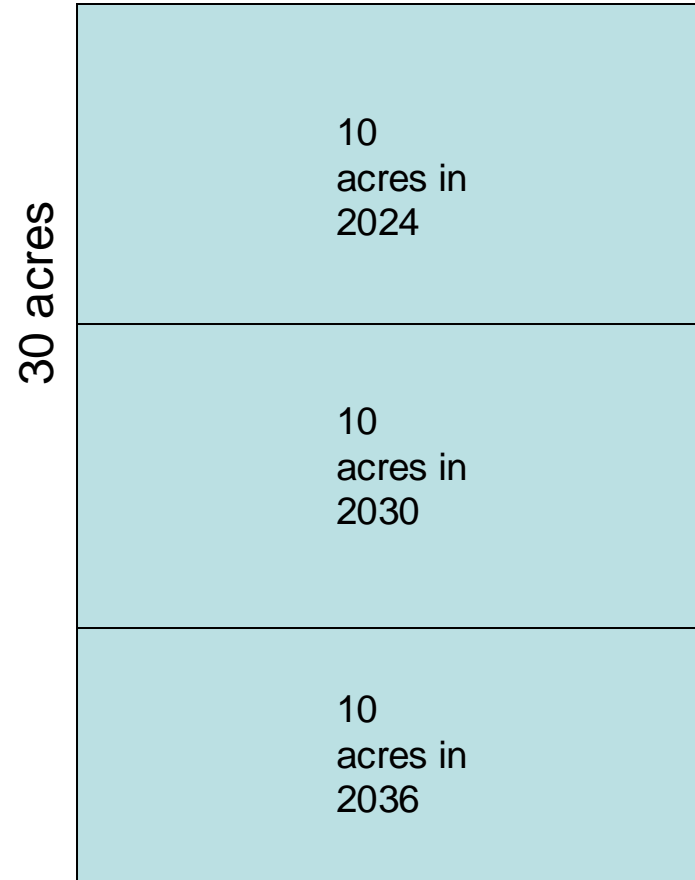
Installment Gifts of Land

Case #1: Undivided Interests



- no subdivision required
- property taxed until 100% owned by LT

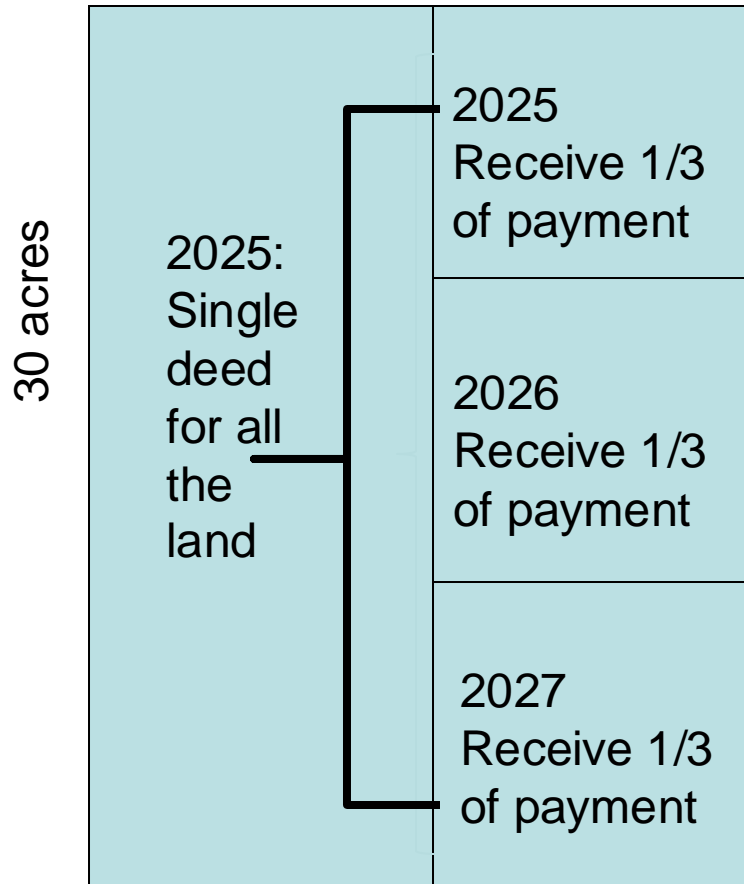
Case #2: Acreage Sales



- subdivision required
- lots no longer taxed as they are donated

Installment Payments

Case #3: Bargain Sale, Paid over 3 years



- No subdivision required
- Property tax stops immediately
- Stay in lower tax bracket



Capital Gains Tax

- Tax paid on asset appreciation or "Gain," paid when it is sold or "realized"
 - Sales price minus costs = Gain
- Long-term capital gain property = held for more than one year
- Donated land avoids all gains tax;
 - Yet, the full value is deductible
 - Bargain sale lowers the gains tax

CAPITAL GAINS RATES for 2024

Federal: 0% on gain if income is \$0 - \$47,025

15% on gain if income is \$47,026 - \$518,900

20% on gain if income is over \$518,900

State: 5% - one of highest rates in US

Primary home = \$250,000 exemption




STATE CONSERVATION LAND TAX CREDIT

Purpose	provide credit for qualified donation of a property interest with “sufficient natural resources” in the public interest
Transactions	donations or bargain sale of fee or CR <u>must</u> be protected in perpetuity
Donors	all owners must agree to transaction credit is based on % interest in MA land, <u>not</u> residency status
Donees	government agency, town, <u>incorporated</u> land trust
Land	must have significant natural resource values (e.g., drinking water, rare species, agriculture)
Monetary caps	program cap = \$2 million per year credit cap per transaction = lesser of \$75,000 or 50% of appraised value of donation
Non-transferable	specific to donor
Refundable	if credit is larger than donor’s tax liability precludes “carry-over”

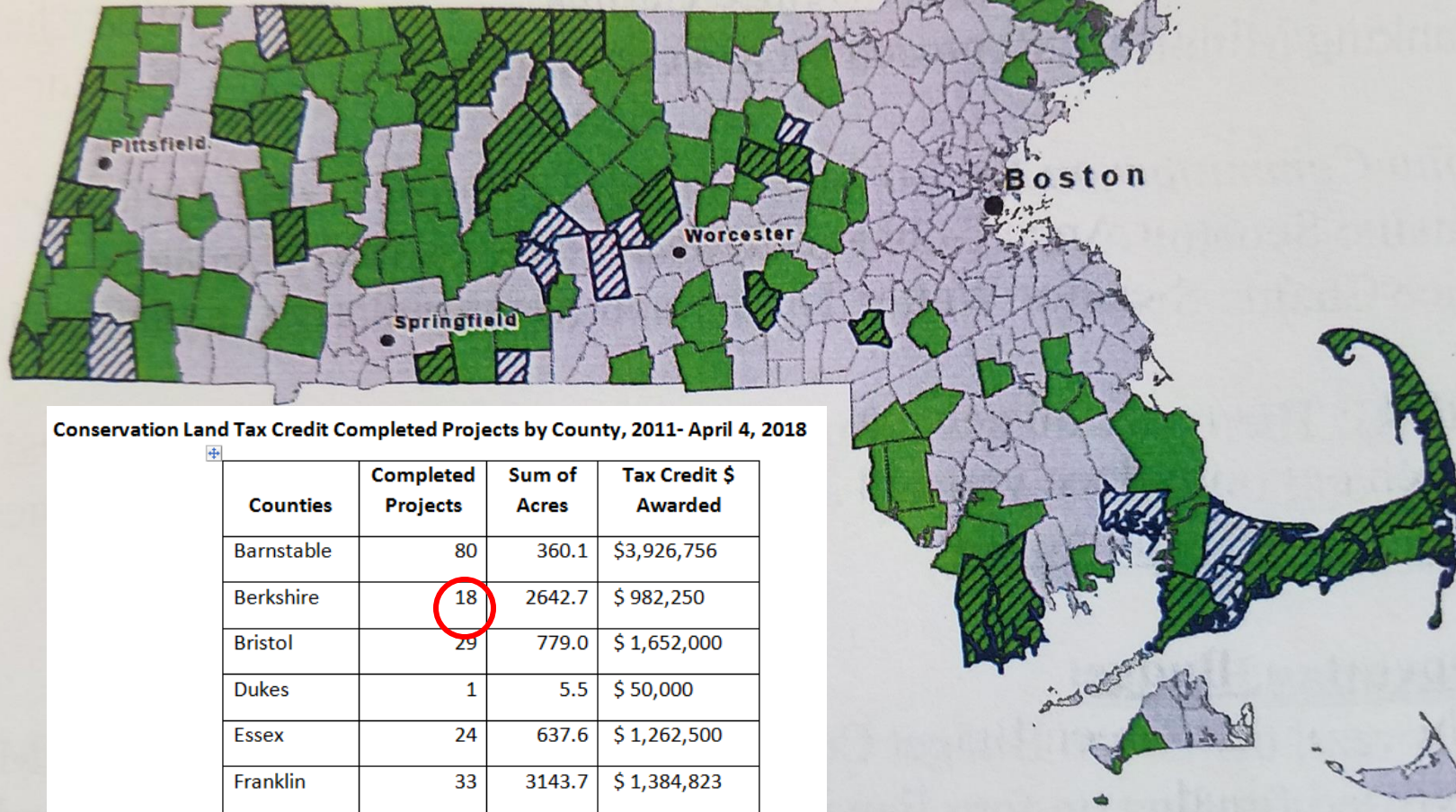
STATE CONSERVATION LAND TAX CREDIT

“Are you telling me the State is really going to send me a check?”

	Commonwealth of Massachusetts	Date <u>April 2019</u>
PAY TO THE ORDER OF	<u>John Landowner</u>	\$ 75,000.00
<u>Seventy-Five Thousand and 00/100</u>		DOLLARS
MEMO	<u>Conservation land Tax Credit</u>	<u>MA Dept of Revenue</u>
⑆ 123456789 ⑆	⑆001001234⑆	0790


“Well, so far more than 120 folks on the Cape have got one.”


CLTC IMPACT 2011-2018



Conservation Land Tax Credit Completed Projects by County, 2011- April 4, 2018

Counties	Completed Projects	Sum of Acres	Tax Credit \$ Awarded
Barnstable	80	360.1	\$3,926,756
Berkshire	18	2642.7	\$ 982,250
Bristol	29	779.0	\$ 1,652,000
Dukes	1	5.5	\$ 50,000
Essex	24	637.6	\$ 1,262,500
Franklin	33	3143.7	\$ 1,384,823
Hampden	7	255.21	\$ 332,500
Hampshire	14	966.8	\$ 746,750
Middlesex	9	143.6	\$ 497,500
Norfolk	2	11.0	\$ 125,000
Plymouth	7	230.2	\$ 351,250
Worcester	34	2303.5	\$ 1,574,210
Grand Total	258	11,479	\$ 12,885,539

Completed
 Municipalities where CLTC projects have been completed

Pending
 Municipalities where there are pending CLTC projects

STATE CONSERVATION LAND TAX CREDIT

Since 2019: Congress decides to subtract state credit from federal deduction (so-called *SALT limitation*)

reduces deduction by amount of state credit,
unless credit is less than 15% of deduction

Will expire in 2025 unless renewed by Congress

Example: \$200,000 federal deduction
\$ 75,000 state tax credit
\$125,000 net federal deduction



BARGAIN SALE

- A sale for conservation at less than FMV
- Brings to seller a mix of cash, income tax savings, state tax credit and capital gains tax relief

LEAVE MONEY ON THE TABLE?

PROBLEM: LANDOWNER HAS LOW INCOME,
WANTS TO DONATE TITLE TO HIGH VALUE PROPERTY,
BUT CAN'T DEDUCT IT ALL 😞

SOLUTION:

- 1) TAKE ADVANTAGE OF ENHANCED C.R. DEDUCTION RULES
**ACCELERATE AND EXTEND THE FEDERAL DEDUCTION*
- 2) THEN, DONATE THE FEE (TITLE AS RESTRICTED) FOR A
SECOND DEDUCTION
- 3) NEED A SEPARATE QUALIFIED ENTITY TO TAKE EACH INTEREST



LEAVE MONEY ON THE TABLE?

TRADITIONAL RULE FOR DONATION OF FEE SIMPLE APPRECIATED PROPERTY

1. USING APPRAISED VALUE OF PARCEL, DEDUCT **30%** OF ADJUSTED GROSS INCOME (AGI) FOR UP TO **6 YEARS**, OR UNTIL VALUE IS USED UP

2016: CONGRESS MADE C.R. DEDUCTION RULES PERMANENT

1. DEDUCT **50%** OF AGI EACH YEAR FOR UP TO **16 YEARS**, OR UNTIL APPRAISED VALUE OF C.R. IS USED UP

2. DEDUCT 100% OF AGI, IF QUALIFIED FARMER



3. The new rule allows the landowner to *accelerate* and *extend* the deduction

LEAVE MONEY ON THE TABLE?

Example: 5 upland acres on a pond, could be 4 buildable lots; owned for >1 year
Landowner's appraised value of potential subdivision, after dev. costs = \$550,000
Landowner's appraised value of C.R. = \$430,000
Landowner's adjusted gross income = \$55,000/yr. (assume AGI stays constant over time)



HOW TO LEAVE MONEY ON THE TABLE

	APPRAISED VALUE	ADJUSTED GROSS INCOME	DEDUCTION PER YEAR	
FEE SIMPLE DEDUCTION	\$ 550,000	\$ 55,000	\$ 16,500	30% of \$55,000
<i>IRS rule: limit of 30% AGI for 6 years</i>			X 6 years	
			\$ 99,000	
			total deduction	
	federal deduction left on the table	\$	451,000	\$550,000 - \$99,000

“I give the land trust property worth \$550,000 and I only get to use \$99,000 of it as a deduction?!?!?”

What kind of tax advisor are you?”

“Well, let’s ask the land trust for a better idea.”



HOW *NOT* TO LEAVE MONEY ON THE TABLE

	APPRAISED VALUE of C.R.	ADJUSTED GROSS INCOME	DEDUCTION PER YEAR	
CONSERVATION RESTRICTION	\$ 430,000	\$ 55,000	\$ 27,500	50% of \$55,000
<i>IRS rule: limit of 50% AGI for 16 years</i>			x 15 years	
			\$ 412,500	\$17,500 remaining
			+ \$17,500 in 16th year	\$430,000 - \$412,500
		total federal deduction C.R.	\$ 430,000	
	fee simple value AFTER CR:	ADJUSTED GROSS INCOME	DEDUCTION PER YEAR	
FEE SIMPLE DEDUCTION of RESTRICTED LAND	\$ 120,000	\$ 55,000	\$ 16,500	30% of \$55,000
<i>IRS rule: limit of 30% AGI for 6 years</i>			X 6 years	in years 17 to 22
		total federal deduction restricted fee	\$ 99,000	
		federal deduction left on the table	\$ 21,000	\$120,000 - \$99,000
		total federal deduction for C.R. and restricted fee simple gifts over 22 years!	\$ 529,000	\$430,000 + \$99,000

NOTE: the appraised value of the restricted fee simple land in Year 17 might be higher than it was in Year 1, so greater tax deduction, if so

***“OK, that’s more like it.
Thank goodness for the
land trust’s creativity.
Let’s do it.”***





ESTATE TAX: FEDERAL

- Paid by less than 0.2% of taxpayers, but revenues enormous (\$34 billion in 2022)
- Estate Tax Rate of 18% - 40%
- Exemption: first \$13,990,000 is not taxed (2024)
- *Sometimes the family land must be sold just to pay the estate tax on itself.*

ESTATE TAX: FEDERAL

- Assets removed via will are not part of taxable estate
- Since 1998, post-mortem CRs are allowed, either by will or by executor on advice of heirs
- CRs provide a bonus 40% deduction (\$500,000 max.) on value of restricted land, over and above the reduction in value conferred by the CR

ESTATE TAX: STATE

- No estate tax for decedent with estate under \$2 million
- The Mass. estate tax may be more important than the federal tax, owing to smaller exclusion

SUMMARY of TAX BENEFITS OF LAND CONSERVATION

As real estate values soar, the tax benefits to land/CR donors rise too.

The landowner's appraisal is the most important factor in driving the tax benefits; the tax advisor is also very important.

The land trust can provide these principles for the landowners to test with their advisors (for example, not all accountants know about the state tax credit); the land trust should not provide direct advice to landowners (landowners must run their own numbers).

There are approaches to maximize deductions/credits for lower income taxpayer/donors. As advocates, we can propose that landowners investigate such strategies with their advisors.