



## Aspen Valley Land Trust LANDOWNER INFORMATION SERIES

### QUESTIONS YOU SHOULD ASK (IF YOU HAVEN'T ALREADY!)

(Revised February 2016)

#### **1. Do I have to hire an attorney or accountant to represent me?**

*Yes, you should.* AVLT does not require that you have an attorney, but given that a conservation transaction is a major legal and financial commitment, you should have independent counsel from the outset of your project. It is your responsibility to understand the legal requirements and consequences of granting a conservation easement, and a knowledgeable advisor can help you do this. AVLT will guide you through the steps required to grant an easement, but we cannot provide you with legal or tax advice.

You should thoroughly review your financial situation and any potential tax consequences with an accountant or tax advisor currently experienced with the peculiarities and complexities of conservation easements prior to entering into an easement. *If your accountant does not have recent relevant experience with conservation easements, AVLT will require that, at a minimum, your conservation easement tax forms be reviewed and/or prepared by an accountant who does.* Improperly completed tax forms have been one of the most common audit triggers over the last several years, and are certainly among the most avoidable! We recommend that you consult or work with a knowledgeable conservation easement tax advisor from start to finish – a route that may appear more expensive but often saves you time, money and frustration in the long run. (A list of attorneys and tax advisors versed in conservation easements is available in your Landowner Information Packet or from AVLT at [www.avlt.org](http://www.avlt.org).)

#### **2. Can conservation easements ever be terminated, condemned, or amended?**

*Only in rare circumstances.* Conservation easements held by AVLT are permanent encumbrances that cannot be revoked or terminated, except by a court order. If the property is entirely condemned or circumstances change such that the purpose of the easement becomes impossible to accomplish, there are mechanisms by which the easement may be legally terminated in a court of law, with any condemnation proceeds to be distributed between the landowner and the land trust. Partial condemnation, such as by a utility company or public road department, cannot necessarily be prevented on conserved lands unless the conservation easement is held by a higher condemning authority, though a land trust may be able to help you in negotiations to try to relocate the condemnation route. As with full condemnation or termination, damage or condemnation proceeds paid by the condemning authority must be distributed between the landowner and land trust according to law, as described in the conservation easement, in proportion to the easement's value compared to the property's fair market value.

Amendments to AVLT's easements may be made to further the conservation purposes of the easement (such as to add additional acreage or increase protections); to correct typographical, clerical or factual errors; to clarify language or ambiguities in the easement deed; or in rare and warranted situations, to account for unforeseen or changed circumstances. No amendment may be made to confer financial benefits to an individual that exceed the benefits gained by the general public. Amendments may also not affect the perpetual nature of the easement or its qualification

according to Colorado Revised Statutes (C.R.S.) Section 38-30.5-101, *et seq.*, or Section 170(h) of the Internal Revenue Code (I.R.C.). AVLT is not obligated to amend an easement, and may decline to do so at the sole discretion of the Board of Directors. *A minimum fee of \$5,500 is required to cover AVLT's legal costs and staff time to review and process amendment requests.*

### **3. Will placing my land under conservation easement reduce my property taxes?**

*It may.* The treatment of conserved lands for property tax purposes is described in the C.R.S. Sections 38-30.5-109 and 39-1-102(1.6)(a)(III), stating that lands protected by conservation easement shall be assessed “with due regard to the restricted uses to which the property may be devoted,” and with regard to the agricultural status of the land at the time of the easement's grant. Actual assessment may vary from county to county.

In general, land assessed as agricultural prior to its placement under conservation easement will retain its agricultural assessment provided that the property is at least 80 acres, or less than 80 acres without any residential structures. Other non-agricultural conserved land should be valued with regard to the restrictions placed upon the property, which in most cases will reduce its assessed value. We recommend that you contact your county assessor with questions.

### **4. I hear a lot about “donated” easements. Does AVLT ever buy easements?**

*Not usually.* Most easements in Colorado are donated precisely because Colorado offers such progressive and valuable incentives, including a way to convert tax credits into cash. There are very rare circumstances under which AVLT may seek grants in order help purchase an easement; however, this is a complicated, time-consuming process usually reserved for particularly outstanding, large-scale projects that cannot be funded through other means. (*Pitkin and Eagle counties have dedicated open space funds that landowners may apply for, often in conjunction or partnership with AVLT.*)

### **5. How much does it cost to donate a conservation easement?**

*A lot.* Believe it or not, donating an easement costs money. AVLT requires a one-time contribution to help cover the costs of mandatory annual monitoring and legal defense of an easement, often called a stewardship contribution, together with a transaction fee to help offset its costs. There are also IRS, State and land trust requirements that every conservation easement donation be supported by proper documentation – including a qualified appraisal, title report, baseline inventory and often a geologist's assessment of the property's mineral potential. Even easements that are not associated with tax benefits require supporting documentation. After all is said and done, granting an easement may cost an average of \$65,000-\$75,000, depending on its complexity (for a detailed accounting of this cost, please see AVLT's *Financial Requirements for Creating a Conservation Easement* in your Landowner Information Packet). For those to whom this is an unreasonable burden, AVLT may provide low-interest loans for qualifying expenses, which must be repaid upon closing or by April 15 of the following year, regardless of whether the easement has been completed.

### **6. AVLT has a list of recommended appraisers with whom they work. What is my responsibility as the client?**

*The appraiser is your expert.* While AVLT has developed a list of appraisers who are experienced in the valuation of conservation easements, the quality of their work depends on your active cooperation. The appraisal is part of the documentation for your tax benefits and the

information you provide will go a long way to helping the appraiser understand your property. You will need to show the property to the appraiser, and provide him or her with as much information as you can about water rights, rights you wish to reserve, covenants or restrictions already in place, floodplain/survey information, access issues, additional property you or your family own in the area, recent comparable sales, and any other relevant details about the property before they begin their analysis. An uninformed appraisal that returns an artificially high value will not be defensible. Please remember: *if it seems too good to be true, it probably is.*

After you receive a draft or completed copy of your appraisal, read it thoroughly and check for errors, accuracy of representations and consistency. State law requires that easement donors intending to claim a state tax credit submit their appraisal to the Colorado Division of Real Estate for review and approval, so it is worth troubleshooting this document before they do!

*Things to look for in your appraisal:* Has the appraiser referenced the correct property and legal description? Have they considered all of the salient facts and comparable sales in the area of which you are aware? Do the numbers add up and appear sensible? Are the conclusions believable and well-supported? Have they considered all of the land that you and your family own in the area, as well as any “enhancement” that the conservation easement may have on neighboring family land? Are reserved rights and special uses correctly listed and described (such as number of retained home sites)? This is the one document that assigns a monetary value to your donation, and it is your responsibility to assure it is reasonable and correct. *AVLT will not be held responsible for any representation of value, and will not knowingly participate in any transaction for which it has significant concerns over the nature or value of the donation. AVLT reserves the right to decline to sign tax forms claiming a tax deduction for any such transactions.*

#### **7. Will donating a conservation easement increase my chances of being audited?**

*Yes and No.* Large, one-time donations claiming significant tax deductions have always been subject to a higher level of attention from the IRS and Colorado Department of Revenue (DOR) than regular tax returns. Today, federal audit risk is still increased by donation of a conservation easement, but State audit risk has been eliminated (except on the basis of tax compliance matters) for any conservation easement donated after January 1, 2014, due to passage of Senate Bill 13-221, which requires that all conservation easement donations for which a state tax credit is claimed be pre-approved by the State’s Division of Real Estate and Conservation Easement Oversight Commission. Upon successful review of the recorded easement document, appraisal and other supporting documentation, the State will issue a tax credit certificate to the donor allowing them to claim a tax credit on their State tax return without risk of audit or further review by the Department of Revenue, provided the taxpayer is a qualified to claim the credit and submits complete and accurate tax forms. *(See Question 8 for more information.)*

The IRS is not affected by the State tax credit approval program and may audit conservation easement transactions and/or donor returns at will, though within the over the last decade the IRS has been responsible for far fewer audits in Colorado than the State’s own DOR. (The IRS did audit over 300 tax returns in Colorado for conservation easements donated in 2003-2004 in response to fraud that was occurring in the State during that time. Many of these donations deserved scrutiny, but the IRS’s wide net of suspicion also ensnared many high-quality, legitimate easement donations.)

Since that time the land trust community, headed by the national Land Trust Alliance and the Colorado Coalition of Land Trusts, has worked closely with the IRS, DOR, Division of Real Estate, and Colorado Legislature to provide a framework for review and regulation of conservation easements and the organizations that hold them. Reforms enacted in 2008 and 2010 resulted in increased requirements for appraisers and a requirement that all organizations that accept conservation easements for which a conservation tax credit is claimed be certified by the Division of Real Estate.

In 2008, the Governor appointed the Colorado Conservation Easement Oversight Commission to oversee the implementation of these reforms. House Bill 10-1197 and HB 13-1183 now limit the amount of conservation tax credits awarded statewide to \$45 million annually, which credits are administered by the Division of Real Estate under SB 13-221, the pre-approval process described in Question 8, below. State officials and the conservation community are confident that these measures have stopped the problems and support the legitimate donations of easements to certified land trusts.

AVLT urges donors to work closely with their land trust, attorney, appraiser and accountant to create a documented, quality donation that will stand the test of time. It is notable that in the midst of the IRS audits, federal and state legislators have given the land trust community a vote of confidence by extending the tax benefits for easements on both the state and federal level, speaking to the importance of conservation easements in protecting valuable open space.

**8. How does the State's Pre-Approval Process and Tax Credit Cap work for donations made after January 1, 2014?** *(This information was provided by the Colorado Division of Real Estate in January 2014)*

Landowners who donate all or a portion of a conservation easement to a governmental entity or nonprofit organization certified by the State's Division of Real Estate may qualify for state tax benefits. The State of Colorado provides a transferable income tax credit for donated conservation easements as a powerful incentive for private land conservation. If certain requirements are met, landowners may earn a conservation easement tax credit at the amount of amount of 75% of the donated value of the easement up to the first \$100,000 of easement value and 50% of easement value thereafter up to a maximum tax credit of \$1.5 million. For a landowner to be eligible for a tax credit, the grantee must be certified by the Division of Real Estate ("Division").

In response to the state's 2010 budgetary shortfall, an aggregate limit on the total dollar amount of tax credits available for a given year was established under HB 10-1197. Beginning in 2014 and each year thereafter, the cap is \$45 million under HB 13-1183. The Division administers the cap by issuing tax credit certificates to landowners that submit an application. Approved applications submitted after the cap is reached are placed on a \$15 million waitlist for the next year as set forth in HB13-1183. The Department of Revenue will not allow a tax credit claim unless a tax credit certificate is first issued by the Division.

Beginning in 2014, Senate Bill 13-221 established a pre-approval process prior to the claim of a state conservation tax credit for conservation easement donations made on or after January 1, 2014. SB13-221 authorizes the Director of the Division of Real Estate to determine the credibility of the appraisal, and the nine-member Conservation Easement Oversight Commission (“Commission”) to determine whether the donation is a qualified conservation contribution. The Department of Revenue no longer has jurisdiction to disallow a tax credit for issues relating to the appraisal or conservation purposes.

As a safeguard against abuse of the tax credit, the application and review process does not guarantee the issuance of a tax credit certificate and depends upon a positive final determination by the Director and the Commission. Donations that meet both requirements are issued certificates in the order in which the applications are received by the Division. Landowners may also request an optional preliminary advisory opinion for a proposed conservation easement donation and/or appraisal in advance of the tax credit certificate application.

Landowners are given the opportunity to show the validity of their conservation easement donation. Division staff will, in their examination, engage the landowner, the conservation easement holder, and any individual associated with the materials in the application in order to address any potential deficiencies. The staff examination will result in recommendations to the Director and the Commission.

If potential deficiencies cannot be clarified in the course of the examination, the Director and/or the Commission may request more information and a second examination of any additional documents will be conducted. If potential deficiencies are still not addressed, the Division will either (1) issue a formal written denial, or, if the potential deficiencies lie exclusively with the appraisal, (2) the Director and the Commission may request a second appraisal. Settlement discussions between the landowner and the Director or Commission are possible at any time during the application review process.

A denial does not necessarily end the process. Within 30 days, the landowner may submit a written appeal by requesting an administrative hearing; otherwise, the denial becomes final. At this time, the application is referred to the Attorney General who will conduct settlement discussions. Barring settlement, an administrative law judge will determine the outcome of the appeal.

**9. Will the IRS tell me in advance if my easement donation qualifies for tax benefits?**

*Only in certain circumstances.* For approximately \$8,000-12,000, the IRS may issue a private letter ruling for an individual conservation easement donation that determines whether the donation qualifies for federal tax benefits based on the stated facts and circumstances presented at the time. The IRS will NOT rule as to the easement’s value or pre-approve an appraisal. Private letter rulings should not be relied upon by or extrapolated to other cases or circumstances not under review.

**10. Do you have to be a Colorado resident to qualify for the Colorado tax credit?**

*Not necessarily.* According to Colorado Revised Statutes (C.R.S.) Section 39-22-522, taxpayers who may qualify to claim the Colorado gross conservation easement credit (including transferees of these credits) include:

- Colorado residents,
- C corporations, trusts and estates established by a Colorado taxpayer,
- Partners, shareholders or members of Colorado pass-through entities (such as partnerships, S corporations, or LLCs) that receive the credit from a pass-through entity, regardless of whether those individuals are Colorado residents.

The following restrictions apply:

- Joint tenancy, tenancy in common, and pass-through entities must allocate the credit to the entity's members in proportion to their distributive shares of income or ownership percentage in such entity or group.
- A single-member LLC will generally be disregarded for federal tax purposes (I.R.S. Regulation 301.7701-3) as well as state tax purposes, and does not qualify for the conservation easement tax credit unless the member is a Colorado resident.
- Individuals who are *not residents* of Colorado cannot claim the conservation easement tax credit. *Part-year residents may claim the credit only if they make the donation while they are Colorado residents.* Nonresident owners included in a joint tenancy, tenancy in common, and similar groups cannot claim the conservation easement tax credit. Only a credit apportioned to nonresident members of a pass-through entity can be claimed by nonresidents.

Additional and new regulations may also apply. Please consult with your advisor for more information.

**11. If I sell my conservation tax credits for cash, how will this affect my income taxes?**

*Likely it will be treated as ordinary income, if sold within a year of qualifying for the tax credit.*

The sale of conservation tax credits creates taxable income. The holding period for tax credits begins at the time of receipt of the credits, not when the taxpayer acquired the land. The credits are capital assets with a basis of \$0 (*see Tempel v. Commissioner, 136 T.C. 15, April 5, 2012 and McNeil v. Commissioner, T.C. Memo. 2011-109, May 2012*). This means that credits sold within a year of being granted create short-term capital gain and are treated as ordinary income, while credits sold at least a year after being granted create long-term capital gain. *For more information, please consult your tax advisor.*

Income from the sale of a tax credit may not be considered income derived from farming or ranching, which could affect your status as a “qualified farmer or rancher” as defined by USC Section 2032A(e)(5) for that year. Under the now-permanent enhanced federal easement incentive, conservation easements donated by qualified farmers or ranchers are also eligible for higher tax deductions provided that the farmer or rancher receives more than 50% of his or her income from the act of farming or ranching. Discuss this point with your tax advisor if you think you may qualify as a farmer or rancher for tax purposes, as this one-time influx of non-ranch income may change the percentage that you may deduct through a conservation easement from 100% to 50%.

In addition, the amount of you deduct annually from your federal income as a result of a conservation easement donation must be added back to your state income – this is called a federal add back. Your tax advisor can help you forecast the tax liability so that you can retain part of your state tax credit to offset your state liability.

Finally, remember that conservation tax credits can only be transferred once, and may not be transferred back to the original donor. Unused credits survive death, however, and may be claimed or transferred by your estate. If you have claimed and/or transferred a conservation tax credit prior to January 1, 2014, that tax credit must be completely used or extinguished (either by you or the transferee of the credit) before you may qualify for another tax credit in a subsequent year. Easements donated after January 1, 2014 do not have to be used or extinguished before a donor can claim another tax credit in a subsequent year, but all donors are limited to claiming no more than one conservation tax credit per transaction per year.

*This is complicated business. We always recommend that you consult with a knowledgeable tax advisor.*

### **12. Can I “phase” a conservation easement across my property over multiple years?**

*Possibly.* Phasing of conservation easements across large or particularly valuable pieces of land is a common strategy among Colorado landowners who wish to maximize conservation tax incentives or who require extra time and flexibility for estate or land planning purposes. Phasing involves extra costs on the part of the landowner and land trust, and must not result in decisions that emphasize financial benefit over conservation benefit. Phased projects must be carefully considered and planned. As with any donation, each phased easement must “stand alone” and have sufficient conservation purpose and public benefit to qualify by itself as a deductible easement.

AVLT may accept phased easement projects in appropriate cases after working with landowners to develop a *non-binding phasing plan* reviewed by the AVLT board. AVLT’s phasing policy describes the criteria, process, fees, and requirements for using the latest AVLT model easement document, and can be found in your landowner packet or on our website, [avlt.org](http://avlt.org). Note that the Colorado Division of Real Estate has the ultimate jurisdiction over approving all conservation easement transactions, including all phased transactions, for which a state tax credit is claimed, and that each conservation easement phase must stand alone in order to qualify for tax benefits.

### **13. Can conservation easements be granted in conjunction with development approvals, and are there tax incentives for doing so?**

*Yes and no.* A special review and approval by AVLT’s board of directors is required for easements being offered in conjunction with development approvals. Generally this will involve an assessment of the conservation values of the property in question, and of the potential impacts to those values that may result from proposed or neighboring development. Conservation easements required by government contract or as a condition of development approval are not recognized by the IRS or the State of Colorado as tax-deductible gifts. In addition, there are no conservation tax benefits available for transferring development rights from one part of a property to another.

*If you have any questions or concerns about these or other issues, please call or email AVLT at 970-963-8440 or [avlt@avlt.org](mailto:avlt@avlt.org) and we will gladly meet with you or direct you to an advisor that can help you find the answer.*

## **Frequently Asked Questions about the Enhanced Federal Conservation Easement Tax Incentive (*Updated for 2016*)**

*In tax years 2006-2014, an enhanced federal tax incentive for conservation easement donations has helped thousands of landowners to conserve their land. This incentive was made permanent on December 18, 2015 and retroactive to conservation easements granted in 2015.*

When the enhanced incentive was first enacted in 2006, Congress also added several reasonable reforms to help prevent abuse of that incentive, which reforms are still in place now that the incentive has been made permanent. For a more comprehensive look at the tax rules applicable to easement donations see [www.landtrustalliance.org/policy/tax-matters/rules/conservation-donation-rules](http://www.landtrustalliance.org/policy/tax-matters/rules/conservation-donation-rules). Here are answers to some commonly asked questions:

### **1. How does the enhanced easement incentive change the law for conservation donations?**

The enhanced easement incentive:

- Raises the deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income in any year to 50%;
- Allows qualifying farmers and ranchers to deduct up to 100% of their income; and
- Extends the carry-forward period for a donor to take tax deductions for voluntary conservation agreements from five to 15 years (in addition to the year of donation).

### **2. Can you give me an example?**

The enhanced easement deduction allows that landowner to deduct \$25,000 for the year of the donation and then for an additional 15 years. That's \$400,000 in deductions. If the landowner qualifies as a farmer or rancher, they can zero out their taxes. In that case, they could take a maximum of \$800,000 in deductions for their million dollar gift.

### **3. Who qualifies as a farmer or rancher?**

The enhanced easement incentive defines a farmer or rancher as someone who receives more than 50% of their income from "the trade or business of farming". The law references an estate tax provision (Internal Revenue Code (IRC) 2032A(e)(5)) to define activities that count as farming.

The qualified farmer or rancher provision also applies to farmers who are organized as C corporations. For an easement to qualify for the special treatment, it must contain a restriction requiring that the land remain "available for agriculture."

### **4. Do these changes apply to gifts of land?**

This enhanced easement incentive applies to the various specific gifts of partial interests in land specified as a "qualified real property interest" under IRC 170(h)(2).

The enhanced incentive provides special treatment for certain donations (those qualifying under section 170(h)), allowing the donor to deduct 50% of AGI and carry forward their deductions for 15 years. They can deduct 100% of their AGI if they are a "qualified farmer or rancher."

*That treatment does NOT apply to gifts of land in fee, gifts of a donor's entire interest in a piece of land, or to gifts of an undivided interest in a piece of land, which are deductible under the same terms as other charitable donations of capital gain property -- up to 30% of AGI, with 5 years carryover).*

A person whose income is modest compared to the value of their land, who has been considering a gift of land in fee, *may want to consider a gift of a partial interest qualifying under section 170(h) instead, if the more favorable treatment of such gifts is important to them.* They have three options:

- A gift of a conservation easement;
- A gift of a remainder interest (they donate the land, in fee, but retain a life estate, the right to live on and use the land until they die); or,
- A gift of all their rights to a piece of land reserving for themselves the right to certain mineral rights.

All of these have their complications and expenses. *But there is nothing in these gifts that would preclude the landowner's option to donate the remainder of their rights* (the rights not previously given to the donee in the conservation easement, their life estate interest, or their mineral rights) *at some later date.*

Such a second donation would be treated as an ordinary charitable donation of capital gain property, subject to the 30%, 5 year carryover rules.

*A caveat:* A "qualified farmer or rancher" who wishes to do this will not, in most cases, be able to benefit from the 100% AGI deduction by this means, unless their donation includes a restriction requiring that their land remain "available to agriculture".

## **5. Does the enhanced easement incentive apply to bargain sales of land?**

The enhanced easement incentive does apply to bargain sales of conservation easements that qualify under IRC 170(h). It will not apply to donations of land in fee, or to bargain sales of fee title to land.

In order for a landowner selling a conservation easement in a bargain sale to qualify as a "farmer or rancher" they may need to consider an installment sale. The income received from the sale of the conservation easement probably will not be viewed as "income from the trade or business of farming" by the IRS, and this income could disqualify them. However, *to be qualified as a farmer or rancher the IRS only needs to qualify the donor's income in the year of the donation*, a farmer could arrange an installment sale that would provide him little sale income in that year, but provide the balance to him in the next year, which could allow him to qualify for the 100% deduction.

## **6. Does the enhanced easement incentive apply to C-Corporations and S-Corporations?**

Under the enhanced easement incentive, C-corporations whose gross income from farming is more than 50% of their total gross income, and whose stock is not publicly traded on a recognized exchange, are treated as an individual and qualify to take a deduction for a conservation easement donation of 100% of their adjusted gross income (AGI) and may carry over unused deductions for 15 years.

Other C-corporations remain limited to a deduction of no more than 10% of their AGI for a gift of a conservation easement, and may carry over unused deductions no more than 5 years.

Donations by S-corporations are passed through to their stockholders, and they, as individuals, benefit from the enhanced easement incentive as other individuals. If the S-corporation's income is solely from farming, however, *at this time (pending guidance from IRS) we believe that each stockholder would have to meet the test for a "qualified farmer or rancher" on their own, as an individual, in order to benefit from the 100% AGI deduction limit.* Check with your tax advisor.

### **7. What is the timeline for this expanded incentive?**

The now-permanent enhanced easement incentive applies to all easements donated between January 1, 2006 and the present.

## **Reforms to the Rules for Easement Donors**

### **1. How does the 2006 Pension Protection Act prevent abuse?**

Under the new law, the definitions of substantial and gross misstatements of value have been changed. Previously, a taxpayer whose donation was finally determined to be worth \$200,000 would have been guilty of a substantial misstatement if they had claimed a value of \$400,000, and guilty of a gross misstatement if they had claimed a value of \$800,000. Now, they would be guilty of a substantial misstatement for claiming a value of \$300,000, and of a gross misstatement if they claimed a value of \$400,000. There are substantial additional tax penalties for such misstatements for the taxpayer, and they make the appraiser subject to penalties of up to 125% of their fee plus potential disbarment from working on federal tax matters.

The law also redefines who is a "qualified appraiser", and gives the IRS the power to issue new regulations on appraiser qualifications. This is important: as of the date of enactment of this law, appraisers will need to show donors that they are qualified under the new law and any new Treasury regulations or guidance that may follow from it. Lastly, the law states that a qualified appraiser must "demonstrate verifiable education and experience in valuing the type of property subject to the appraisal."

These new rules apply not just to conservation easements, but to all charitable donations of property.

### **2. Will this make appraisals more expensive?**

It is possible that appraisals for conservation easements will be marginally more expensive. But these reforms are important steps towards ensuring that appraisals accurately reflect the value of charitable gifts.

### **3. Have there been other changes besides the 2006 Pension Protection Act?**

Yes! The IRS has changed the instructions for Form 8283, and now asks for additional information from easement donors. In 2004, the IRS also issued a cautionary notice regarding conservation donations.

*This information on the Federal tax incentive is provided by the Land Trust Alliance and AVLT based on their careful reading of the legislative language, which is believed to be reasonable and consistent with Congressional intent. It is not legal advice. If considering one of these strategies you may wish to consult one or more of the tax guides available on at [www.landtrustalliance.org/ccn/publications](http://www.landtrustalliance.org/ccn/publications).*