

Preserve Land and Get a Tax Break

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If the I.R.S. granted a 30 percent reduction in your income tax bill in exchange for your agreement to permanently preserve the natural features of your property, would you do it? The question is worth pondering because, under the current U.S. tax code, Uncle Sam will pay handsomely to ensure that unwelcome development never crops up on your land.

At present, you may deduct from your taxable income the fair market value of any property you charitably commit to open space preservation. Contrary to popular belief, making such a gift need not entail giving up any ownership of your land, nor must you welcome the public onto your property. By simply placing a conservation easement on your land, you can generate a substantial multi-year tax benefit while retaining full ownership and private enjoyment of your entire acreage. All you must do in return is agree to limit the development and landscape disturbance that occurs on your property.

Suppose, for example, that you own a home on 15 acres that has an appraised market value of \$500,000. And suppose that, under your town's zoning and subdivision regulations, your property could yield two additional building lots, each worth \$100,000. Without any rights to build, these two potential lots might have a residual value of just \$25,000 a piece, placing the value of each lot's development rights at \$75,000. By charitably giving just these development rights to a land trust through a conservation easement (you would still own all of your land and--unless you're terribly gracious--retain exclusive use of it), you would generate a \$150,000 income tax deduction, placing many thousands of dollars in your pocket that would otherwise go to the federal government.

If \$150,000 represented 30 percent or less of your annual income, you could take the full deduction in one year, shaving, in the 38.6 percent bracket, \$57,900 off your income tax bill. If your annual income were less substantial--say, \$100,000--you could spread the deduction out in varying amounts over the full six year period permitted by the I.R.S., shielding an annual average of \$25,000 from income taxes. This would leave an extra \$6,750 in your pocket each year, resulting in a total six-year tax savings of \$40,500 (27 percent bracket). If ownership of your land eventually passed to an estate, additional tax benefits could be realized.

If this all sounds too good to be true, you will want to note a few small catches. First, you must own your land for at least one year to fully benefit from an open space income tax deduction. Second, the land protected must merit conservation (most of Northwest Connecticut does). Third, you must work with a town, a not-for-profit land trust, or another qualifying entity to create the open space designation. Finally, you should bear in mind that open space dedications are generally permanent; if you anticipate ever wishing to erect a barn, guesthouse, or other structure on your property, you will want to ensure that the language of any conservation easement you accept makes it possible for you to do so (which may reduce your tax benefit).

The size of the income tax deduction you generate by conserving your land will depend on its appraised market value at the time your property is formally preserved. With land prices in many Litchfield County towns currently at record highs, now is an ideal time to obtain a favorable appraisal and substantial tax benefit. If you believe the recent talk of a real estate bubble and its

impending deflation, or if you wish to ameliorate recent losses in the financial markets, now is truly an opportune time to preserve your land and lower your income tax bill.

The major steps in creating an open space tax benefit include conducting an analysis of your land, determining its development potential under your town's land-use regulations, formulating a conservation strategy, obtaining a commitment from a qualifying entity to accept your gift of land or development rights, having your property appraised, and completing the appropriate tax forms. To ensure that your deduction withstands any potential I.R.S. scrutiny, it is important to consult experienced professionals throughout the conservation process--particularly when it comes to having your property's fair market value appraised.

To maximize the financial benefits of protecting your land, you may wish to creatively reconfigure it (or at least do so on paper) before obtaining an open space designation. For example, if you plan a subdivision that would yield numerous building lots, you may be able to increase your property's fair market value, generate a larger income tax deduction, and gain flexibility to utilize your deduction over a longer time period.

Completing the entire open space conservation process can take several months, but, if you act quickly, you may still be able to generate a substantial income tax deduction before the current year's end. So why not reduce your income tax liability and help preserve Litchfield County's rural character?

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