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**NORTHERN CALIFORNIA LAND TRUST**
**FACT SHEET**
**POTENTIAL TAX SAVINGS**

This fact sheet is a general summary of issues surrounding tax deductibility of conservation easements. Potential easement donors should always consult with a qualified tax professional.

**Income Tax**

Donation of a conservation easement, although a gift of a partial interest in real property, is eligible for a federal tax deduction if:

- (1) it is of a qualified real property interest (i.e. a restriction in perpetuity on the use of real property;
- (2) it is to a qualified organization; and
- (3) it is exclusively for conservation purposes (one of the five categories).

An income tax deduction is the most common deduction sought by donors of conservation easements. Some facts about income tax deductibility:

- The easement must be donated or sold for less than fair market value.
- It must be granted in perpetuity.
- It must be to a qualified conservation organization.
- It must be granted exclusively for conservation purposes.
- The amount claimed for a deduction generally equals the reduction in the property's value due to the easement.
- The appraisal that determines the easement's value must meet IRS standards.
- There are limits on the percentage of adjusted gross income that can be deducted for charitable expenses.

**Estate Tax**

Property is valued at its "highest and best use" for the purposes of determining estate taxes. By recording a perpetual conservation easement over his or her property, a property owner limits the potential uses for that property. By thus precluding uses that could drive up the value of the land, the landowners avoids the pitfall of a highest and best use valuation that could force the sale or development of the land to pay estate taxes.

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This consideration can be particularly relevant to "land-rich but cash-poor" agricultural landowners who wish to keep their land in agriculture after their death.

### Property Tax

While in theory the reduction in value of the property should qualify it for a reduction in property taxes, in practice this is rarely the case. Especially in California, where Proposition 13 has reduced property tax burdens for those properties that have not changed hands since the Prop 13 initiative, reassessment of the property could increase the assessed value, the conservation easement notwithstanding. Ultimately, the decision on potential property tax savings rests with the county assessor, and a favorable decision will require persistence on the part of the donor.

### Appraisals

Conservation easements appraisals are conducted similarly to all other appraisals of real property, with one variation. Appraisals of conservation easements are based on sales comparisons, summation of component values, or expected income, except that two appraisals are conducted. The first determines the value of the property without the conservation easement, the second the value with the easement. The loss in value of the property between the first and second appraisal is the value of the easement rights.