

STATE TAX CREDIT FOR LAND CONSERVATION

Starting late in 2011, for the first time ever, landowners who engage in conservation transactions with non-profit land trusts, towns or agencies can be eligible for a powerful new tax advantage—a refundable State income tax credit worth up to \$50,000. This should be exciting news for landowners. While there have always been income tax deductions available for land gifts on a donor's federal returns, there have never been any incentives on the State tax side. Now there are both.

The Commonwealth has provided guidelines on how the program will work. The type of transaction (land gift, conservation restriction, bargain sale, reserved life estate) is less important than the characteristics of the land itself, so long as the land is permanently protected. The office of Energy and Environmental Affairs must certify that the land to be preserved is significant to protect drinking water supplies, rare species and other wildlife habitats, agriculture or forestry, recreational opportunities and scenic or cultural values of state or regional importance. While those themes are fairly broad, you can see how a gift of a vacant lot in a subdivision might not qualify. Still, Cape Cod is still blessed with many resource protection parcels that have been neither yet developed nor preserved that could qualify.

The landowner must have the land pre-certified by the State (The Compact of Cape Cod Conservation Trusts can help do the paperwork) before the gift or bargain sale is completed. An appraisal is needed to justify that the land's market value and establish the credit amount. The title to the land must be clear. The State will refund any unused credit in the first year of the gift. That means that not only would your State income tax be wiped out for that year, but the State will issue you a check for the difference between that year's tax and \$50,000 or 50 percent of the appraised value, whichever is less. For example, if you donate a parcel worth \$30,000, your tax credit would be \$15,000. If your Mass. income tax is \$5,000, you would pay no state tax and get a tax refund for the remaining \$10,000.

If you donate a conservation restriction appraised at \$120,000, your tax credit would be the maximum \$50,000. If your Mass. income tax is \$10,000, you would pay no state tax and get a check for the \$40,000 difference. (The total of tax credit and refund check cannot exceed \$50,000.) You do not need to reside in Massachusetts or even pay taxes here; so long as you own the land, and the land qualifies, you qualify. The State approved the first 22 applications in December, returning \$976,000 in credits to landowners, including six on the Cape. A full \$2 million is available statewide in 2012.

Remember that this new tax credit is in addition to the regular federal income tax incentives for charitable contributions of land or interests therein. The Compact can be contacted for more details or a free, confidential consultation.

(prepared April 2012 by Mark H. Robinson, Executive Director of The Compact of Cape Cod Conservation Trusts, Inc., and, Board of Directors of the Massachusetts Land Trust Coalition Revised April 25, 2012 by Wellfleet Conservation Trust.)

