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Powerful Tax Benefits from Saving Land

How life insurance helps the Green Collar Client

WHO'S THE 'GREEN COLLAR' PROPERTY OWNER?

"Green Collar" clients are property owners who are conservation-minded and who own land as a primary or vacation property. The land may have been passed down over the generations — perhaps the property is being used as a farm, ranch, a family compound — or as a respite for fishing, hunting, sailing, biking or hiking, or to enjoy its stunning views. Green Collar clients may want to consider protecting the land they love by restricting how the land can be used in the future. They can do this by placing a perpetual conservation easement on it and benefit from powerful tax incentives at the same time.

WHAT ARE THE POTENTIAL TAX BENEFITS?

Property owners who place a qualifying conservation easement on their property — and follow the rules under IRC Section 170(h) that govern what qualifies as a tax-deductible easement — may benefit from a federal income tax deduction.

A **conservation easement** is a restriction the landowner adds to the property deed that permanently restricts how the property can be used and developed in the future. The property owner continues to own and use the property, and can sell it or bequest it, as usual.

Tax Deduction

WHAT IS THE FEDERAL INCOME TAX DEDUCTION?

Assume a rancher with property valued at $10M, qualifies under IRC Section 170(h). After placing restrictions on how the land can be used in the future, a qualified appraiser values the land at $7M. This means the rancher lost $3M in fair market value from the easement. This loss in value is considered a 'charitable gift of the earth.' Therefore, the value of the tax deduction in this case, is $3M.

$10M
Land value **before** conservation easement

-

$7M
Land value **after** conservation easement

=

$3M
Federal Income Tax Deduction

Assuming a 35% tax bracket, the deduction equates to potentially $1,050,000 total tax savings.

Are there limits on the amount of tax deduction?

The maximum amount of the deduction that can be taken in any given year is 100% of AGI if the landowner is a farmer or rancher. The deduction is limited to 50% of AGI for anyone else. Any portion of the deduction that is limited by AGI can be carried forward for up to 15 years, subject to the same AGI limits.

Life Insurance

WHERE LIFE INSURANCE FITS IN.

The $3M lost in the example can be replaced by having the landowner purchase a life insurance policy for $3M. A portion of the tax savings can be used to pay the policy premium. In this way, the family will inherit the full value of the property, while mom and dad can save the land from being irresponsibly developed forever.

Life insurance and the green collar client

TYPES OF PROPERTY THAT MAY QUALIFY FOR THE TAX BENEFITS. The property must protect natural, agricultural, or historic resources. In order to receive the tax benefits, the land that is restricted must qualify as useful for one or more of the following purposes, as specified under IRC §170(h):

- Provides public recreation or education
- Preserves a significant natural habitat
- Offers open space for scenic enjoyment or promotes government policy
- Preserves historic value
- Promotes sustainable agriculture and forestry

REQUIREMENTS TO QUALIFY FOR TAX DEDUCTION. To qualify for tax benefits under IRC §170(h), the conservation easement must:

- Last forever
- Remain with the property when it is transferred by sale, gift or bequest
- Be valued by a qualified land conservation appraiser
- Be donated to a qualifying conservation organization, such as a qualifying Land Trust

PARTNERING WITH A LOCAL LAND TRUST. The landowner will typically work with a local Land Trust, of his or her choosing, to design the restrictions so that they maximize the conservation qualities of the land. The landowner is technically conveying the rights to the property subject to the easement to the designated Land Trust that will then steward the land and ensure that the restrictions are followed into the future. In other words, the property owner is making a charitable donation of the rights to the 'eased' portion of the property to the Land Trust.

LTA.ORG. Land Trusts are closely tied to the communities they protect and are focused on conserving land for its historic, scenic, and recreational value, as well as preserving the land's natural features and resources, all for the sake of benefiting the public. Land Trusts are 501(c)(3) nonprofit, charitable organizations made up of conservation specialists and experienced attorneys in the field of property protection. The Land Trust Alliance (**LTA.org**), is a highly respected organization that the land trusts belong to and from which they receive accreditation and share best practices. The **LTA.org** website includes a map of land trusts operating across the country.

NOTE: The Internal Revenue Service in IRS Notice 2017-10 (the "Notice) narrowly targets a handful of unusual transactions. The Notice will not affect traditional donations of property and imposes no new requirements for, and will not result in more scrutiny of, traditional donations of easements. Easement or land donations where the land is owned by an individual, a family or a family partnership that hasn't recently sold partnership interests are not affected by the Notice. Donations from most other partnership entities, too, are unlikely to be subject to the Notice, because it so narrowly defines the transactions it covers. IRS Notice 2017-10 specifically targets transactions in which very high tax deductions are deliberately and explicitly "promoted" to potential investors. The Notice attempts to scrutinize transactions that generally involve "investors" and who otherwise have little or no interest in the specific property. **Clients should consult their own attorneys and LTA.ORG for more information.**

Contact Advanced Sales at **1-800-601-9983 Option #2**
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