Congress Reinstates Income Tax Advantages for Conservation Easements

Article By:

Real Estate Practice Group

Executive Summary: Congress has temporarily reinstated certain income tax advantages for donations of conservation easements. These advantageous provisions are scheduled to expire at the end of 2013.

Background: The income tax charitable deduction for non-cash charitable donations is generally limited to 30% of a taxpayer's adjusted gross income ("AGI"). The value of a non-cash charitable donation in excess of the 30% limitation may generally be carried forward to the next five successive tax years.

2013 Tax Law Changes: Congress has temporarily reinstated three tax advantages that had previously lapsed at the end of 2011 for donations of conservation easements:

- Increased the cap on the allowed deduction from 30% to 50% of the donor's AGI.

- For farmers and ranchers, the AGI increased the aforesaid cap to 100 percent of AGI

- Taxpayer's whose primary source of income is from timber may also qualify.

- Extended the carry-forward period for any unused portion of the deduction from 5 years to 15 years

These advantages had been initially granted in 2006 but expired at the end of 2011. In 2012, landowners making conservation easement donations had been limited to a deduction of up to 30% of their AGI with only a 5-year carry-forward period. Since the extension is retroactive to 2012, landowners who made donations of conservation easements during 2012 should consult their tax advisors regarding the law's retroactive reinstatement. Landowners considering future conservation easement donations should be aware that the enhanced income tax benefits for conservation easements is scheduled to sunset at the end of 2013.

National Law Review, Volume III, Number 145

Source URL:https://natlawreview.com/article/congress-reinstates-income-tax-advantages-conservation-easements