

# Athens Land Trust, Inc.



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## New Federal & State Laws Give Better Tax Break for Donation of Conservation Easements

Congress recently passed a law to enhance the tax benefits of protecting land by donating a voluntary conservation easement. If you own land with important natural or historic resources, donating a voluntary conservation easement can be one of the smartest ways to conserve the land you love and protect America's natural heritage, while maintaining your private property rights and possibly realizing significant federal tax benefits. Georgia also has a new state tax credit program that supports conservation efforts.

The new federal incentives make it easier for average Americans, especially working family farmers, to donate easements on their land. The legislation:

- Raises the deduction a donor can take for donating a conservation easement from 30% of adjusted gross income ("AGI") in any year to 50%;
- Allows qualifying farmers to deduct up to 100% of adjusted gross income, provided the land remains available for agricultural production;
- Increases the number of years over which a donor can take deductions from 5 to 15; and Raises the deduction a donor can take for donating a conservation easement from 30% of adjusted gross income ("AGI") in any year to 50%;
- Only applies to donations made by 12/31/07.



Langdale Farm – protected farmland in Athens-Clarke County

*These changes will allow many landowners -- especially those of modest income -- to deduct much more than they could have under the old rules, bringing increased fairness to the tax code.*

### The following hypothetical examples illustrate the new federal law:

Frank owns 75 acres in Oconee County. Taking into account current zoning and development potential, an appraiser determines that this property has a value of \$900,000. Frank has an AGI of \$100,000 and wishes to protect his land by donating a conservation easement, reserving two future house sites but otherwise prohibiting development on the property. The appraiser determines the new value of the land to be \$300,000, which means the conservation easement donation is valued at \$600,000 (which becomes his maximum tax deduction). Under the new rules, Frank will be able to deduct \$50,000 (or 50%) from his AGI the year of the donation. And, if his income does not change significantly, he will be able to take \$50,000 in deductions each of the next 11 years, until he has deducted the full value of the donated easement (i.e., \$50,000 x 12 years = \$600,000). This will reduce Frank's annual federal tax from \$13,890 to \$5,755 for a period of 12 years (i.e., until the amount deducted equals the easement value). His total income tax savings will be \$97,620 (i.e., \$8,135 x 12 years).

Walter farms 80 acres in Madison County with an appraised value of \$750,000. He wants to protect this agricultural land and eventually pass it on to his son. Walter's AGI is \$50,000 and an appraiser has determined that the property's value will be \$250,000 after it is put under a conservation easement that reserves one future house site, meaning the easement's value is \$500,000. Because more than 50% of his income comes from farming, Walter will be able to deduct \$50,000 (100%) from his AGI in the year of the donation. He will be able to continue deducting this amount for nine additional years, until he has deducted the full value of the donated easement. Walter's annual federal tax will be reduced from \$4,210 to \$0 for 10 years and his total income tax savings will be \$42,100 (i.e., \$4,210 x 10 years).

### **What do you need to know about donating a conservation easement? Here are the facts:**

- A donated conservation easement is a legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect important conservation values. You continue to own and use your land and may sell it or pass it on to heirs.
- When you donate a conservation easement to a land trust, you give up some of the rights associated with the land. For example, you might give up the right to subdivide your land or build additional houses, while retaining the full right to grow crops. Future owners also will be bound by the easement's terms. The land trust is responsible for making sure the terms of the agreement are followed.
- Conservation easements vary widely. An easement to protect rare wildlife habitat might prohibit any development there, for example, while one on a farm might allow continued farming and the building of additional agricultural structures. An easement may apply to just a portion of the property, and need not require public access.
- A conservation easement donation requires a qualified conservation organization, such as Athens Land Trust (ALT), to accept the donation. As a qualified conservation organization, ALT must meet IRS guidelines. Also, land trusts will only accept donations that fit its mission and purposes.
- A donated conservation easement can help a landowner pass land on intact to the next generation. By limiting the land's development potential, the easement lowers the land's market value, which in turn lowers estate tax. Whether the easement is donated during life or by will, it can make a critical difference in the heirs' ability to keep the land intact.
- If a conservation easement benefits the public by permanently protecting important conservation resources and meets other federal tax code requirements, it can qualify as a tax-deductible charitable donation. The amount of the donation is the difference between the land's value with the easement in place and its value without the easement.
- To qualify as a charitable donation, a conservation easement must be permanent. A landowner should get professional financial planning and legal advice before making such a major donation.
- In addition, Georgia has a **new state conservation tax credit program** signed into law by Governor Sonny Perdue on April 21, 2006. This program provides a state tax credit to individuals and corporations donating land or easements for conservation. The tax credit allows taxpayers to claim a credit against their state income tax liability of 25 percent of the fair market value of the donated property interest, up to a maximum credit of \$250,000 for individuals and \$500,000 for corporations. *This tax credit applies in addition to federal tax benefits.*

To learn more about protecting your land with a conservation easement, please contact Laura Hall at the Athens Land Trust, 706-613-0122.