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Hi, Robin. Here is your e-newsletter for July 26, 2011.

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Keep Your Property Undeveloped and Get a Tax Break Too

Law Extends Breaks for Qualified Conservation Contributions Through 2011

Tax breaks for qualified donations of conservation property are back. These gifts appeal to nature lovers with a large parcel of property they would like to keep undeveloped. By donating qualified conservation property to a charitable organization, you agree to protect the land's natural beauty while getting tax breaks.

The *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010* (better known as the tax cut extension package) retroactively restored the liberalized deduction rules for qualified conservation contributions for tax years beginning in 2010 and extends them through tax years beginning in 2011

Qualified conservation contributions (QCCs) are donations to IRS-approved charities of real property ownership interests -- including remainder interests and conservation easements that perpetually restrict the use of real property. The donation must be made exclusively for a conservation purpose, which can include:

- The preservation of land for outdoor recreation uses.
- The protection of natural habitats for fish, wildlife, or plants.
- The preservation of open space (including farmland and forest land) for the scenic enjoyment of the general public; and the preservation



Potential Audit Target?

For years, the IRS has been aware that some taxpayers claimed inappropriate deductions for property transfers that do not qualify as conservation contributions, or they claimed deductions for amounts that exceed the fair market value of the donated easement. In some cases, the tax agency reported that some taxpayers claimed inappropriate deductions for cash payments or easement transfers to charitable organizations in connection with the taxpayers' purchases of real property. If you are interested in donating conservation property, contact your tax adviser to ensure it is set up

of certain historic land areas and structures. properly.

Both individual taxpayers and C corporation farmers and ranchers can benefit from the liberalized deduction rules for QCCs. Without the new law, the liberalized rules would have expired at the end of 2009.

Here is what the tax cut extension law does for eligible taxpayers.

Individual Taxpayers

For individual taxpayers, the liberalized rules generally increase the maximum deduction for qualified conservation contributions from the normal 30 percent of adjusted gross income (AGI) to 50 percent of AGI. In determining the 50 percent-of-AGI limitation, allowable deductions for other charitable donations are subtracted. In effect, deductions for those other donations plus deductions for QCCs cannot exceed 50 percent of the taxpayer's AGI. Qualified conservation contributions that cannot be deducted in the year of the gift due to the 50percent-of-AGI limitation can be carried forward for 15 years (versus the normal five-year carry-forward period for garden-variety donations).

Example: In 2011, let's say you contribute \$25,000 in cash to various IRS-approved charities. You also contribute a scenic easement that perpetually restricts the use of 500 acres of scenic land that you own. The fair market value of the easement, which meets the definition of a qualified conservation contribution, is determined to be \$75,000.

Assume your 2011 AGI is \$160,000. Your tentative 50 percent-of-AGI limitation is \$80,000 (50 percent times \$160,000). The tentative limitation is then reduced by the \$25,000 of allowable deductions for garden-variety donations. Therefore, your final QCC deduction limitation for 2011 is \$55,000 (\$80,000 minus \$25,000), and your allowable QCC deduction for that year is \$55,000 (lesser of the \$75,000 QCC or the \$55,000 limitation). The \$20,000 excess QCC (\$75,000 minus \$55,000 deducted in 2011) is carried forward to 2012 and the following 14 years if necessary (total of 15 years), subject to the same 50 percent-of-AGI limitation.

Keep in mind the easement must be granted "in perpetuity," meaning that it lasts forever. What have you given up? You still own the land and you can continue enjoying the scenery. In theory, your property has lost value because you can't sell it to a developer to subdivide it into small lots. But in reality, your property may hold its value or appreciate because future buyers will prize the fact that little or no development will be permitted. What's more, you can pass the property on to your heirs with the conservation easement in place.

Individual Farmers and Ranchers

Under the liberalized QCC rules that the tax law extended through 2011, the maximum deduction for QCCs by an individual taxpayer who is a qualified farmer or rancher can be up to 100 percent of AGI. To qualify for the more-generous 100 percent-of-AGI limitation, the QCC must be an interest in real property used for agriculture or livestock production, and the donated property must be subject to a restriction requiring it to remain available for agriculture or livestock production. A qualified farmer or rancher is someone who receives more than 50 percent of gross income from the following two sources:

1. The raising, harvesting, and storage of agricultural commodities or
2. The raising, shearing, feeding, care, training, or management of animals.

In determining the 100 percent-of-AGI limitation amount, allowable deductions for other charitable donations are subtracted. In effect, deductions for those other donations plus deductions for farm or ranch QCCs cannot exceed 100 percent of the taxpayer's AGI. Farm and ranch QCCs that cannot be deducted in the year of the contribution due to the 100 percent-of-AGI limitation can be carried forward for 15 years (versus the normal five-year carry-forward period for garden-variety donations).

C Corporation Farmers and Ranchers

The tax cut extension law retroactively restores for tax years beginning in 2010 and extends through tax years beginning in 2011 liberalized deduction rules for QCCs of farm and ranch property by qualified C corporation farmers and ranchers.

To qualify for the liberalized rules, the QCC must be an interest in real property used for agriculture or livestock production, and the donated property must be subject to a restriction requiring it to remain available for agriculture or livestock production. A qualified C corporation farmer or rancher is a C corporation that receives more than 50 percent of its gross income from the two sources listed above. Plus, the corporation's stock cannot be publicly traded.

Under the liberalized rules, the corporation's maximum deduction for farm and ranch QCCs is increased from the normal 10 percent of adjusted taxable income to 100 percent of adjusted taxable income. In determining the 100 percent-of-income limitation amount, allowable deductions for other charitable donations are subtracted. In effect, deductions for those other donations plus deductions for farm or ranch QCCs cannot exceed 100 percent of the corporation's adjusted taxable income. Farm and ranch QCCs that cannot be deducted in the year of the contribution due to the 100 percent-of-income limitation can be carried forward for 15 years (versus the normal five-year carry-forward period for garden-variety donations).

Appraisal Requirements

Taxpayers must obtain qualified appraisals for any qualified conservation contribution valued at over \$5,000. For any QCC valued at over \$500,000, the qualified appraisal must actually be attached to the taxpayer's return.

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