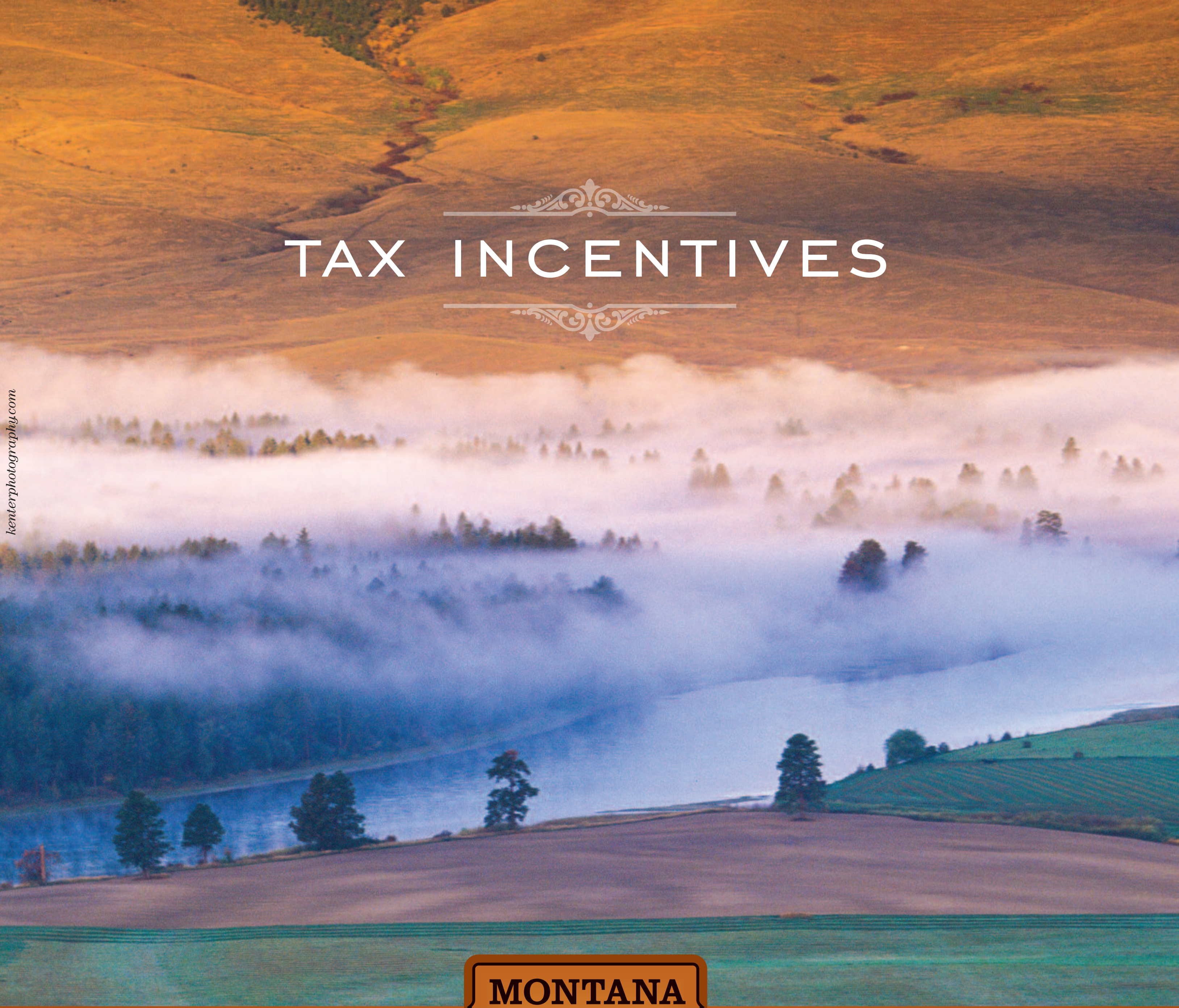
TAX INCENTIVES



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MONTANA
LAND RELIANCE

Protecting Montana's Open Landscapes

The Montana Land Reliance (MLR) is a private, nonprofit, accredited land trust that partners with private landowners to permanently protect agricultural lands, fish and wildlife habitat, and open space.

MLR has been among the most effective land conservation organizations in the nation since its founding in 1978, conserving **one million acres** of Montana and counting. The largest statewide land trust in the country, MLR has played a leading role in championing conservation incentives that have facilitated conservation around the nation.

MLR holds more than 800 conservation easements across Montana, with landowners as diverse as the special places they have protected. These landowners have partnered with MLR to perpetually conserve landscapes in every corner of the state and the places in between.

Lynn Donaldson

Jason Savage

John Lambing

Donors of perpetual conservation easements may save on state and federal income taxes, gift taxes, and estate taxes.

Congress has enacted significant tax benefits to encourage private landowners to voluntarily conserve their land, most recently in 2015 when Congress made even greater tax benefits for the donation of conservation easements to land trusts permanent.

Federal tax law recently made permanent allows for generous use of charitable deductions attributable to conservation easements.

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The comments in this brochure reflect MLR's understanding of federal tax law as of June 2017. The examples used in this brochure are for illustrative purposes only. MLR does not give legal or tax advice.

The tax implications of your conservation plan will depend upon the value of your gift, your finances, and other factors particular to your circumstance.

To fully understand how current law affects your conservation plan, you need to consult with qualified legal, accounting, tax, and financial professionals.

MLR is a 501(c)(3) tax-exempt corporation. MLR's Tax Identification Number is 81-0369262. MLR is independently audited annually, and audit copies are available upon request.

The conservation easement deduction is more favorable than almost any other type of charitable contribution.

Income Tax Benefits

The size of a conservation easement donor's income tax savings will depend on the appraised value of the conservation easement.

For illustrative purposes, assume you are the owner of a ranch and would like to donate a conservation easement on the property. Working with MLR staff, you negotiate the terms of the easement, which allows continued agricultural use and protects scenic open space and important fish and wildlife habitat. The easement may allow for construction of additional residences, and precludes commercial development, subdivision, surface mining, and any waste dumping.

A certified real estate appraiser qualified under the Uniform Standards of Professional Appraisal Practice (USPAP) determines the value of the easement, measured as the difference between the value of the property with and without the easement in place. The appraiser will consider data on comparable properties to arrive at the market value of the property after the conservation easement is in place. The difference between the before and after values becomes the value of the easement, and the amount of the charitable contribution.

For example, consider a property worth $1,000,000 without a conservation easement, a price which reflects some value for future development potential. After a conservation easement is put in place forever prohibiting future development, the property might only be worth $600,000. The easement is therefore valued at the difference between these prices, or $400,000. This is also the amount of the tax-deductible contribution, which would help the donor in this scenario save state and federal income taxes for up to 16 years.

Enhanced tax incentives made permanent

Federal tax law, recently made permanent, allows for generous use of charitable deductions attributable to conservation easements. Contributions of conservation easements are deductible up to 50% of your adjusted gross income in the year of the donation, and up to 15 years in the future for any unused contribution amounts. The conservation easement deduction is exempt from the alternative minimum tax calculation. This is a tax treatment more favorable than almost any other type of charitable contribution.

100% deductibility for qualified farmers & ranchers

For farmers and ranchers, the treatment is even better. Another provision of the law entitles "qualified farmers and ranchers" to take the deduction up to 100% of their adjusted gross income (for individuals and for qualifying farm and ranch corporations), also with a 15-year carryforward. That means farmers and ranchers can zero out their income taxes for up to 16 years.

According to the law, "qualified farmer or rancher" means a taxpayer whose "gross income" from the business of farming or ranching is greater than 50% of the taxpayer's gross income for the taxable year in which the conservation easement is donated. This definition applies to individuals and to corporations. For pass-through entities like LLCs and S-corporations, the test is applied at the individual level. For purposes of this incentive, farming, ranching, forestry, and other kinds of agricultural activities satisfy the requirements of the statute.

Deductibility of easement costs

Some of the costs incurred in making a charitable contribution of a conservation easement are themselves deductible.

Expenses necessary to secure compliance with federal tax law requirements are generally considered deductible as business expenses, to the extent they exceed the 2% "floor" for miscellaneous itemized deductions. These expenses include most expenses in the easement donation process, such as legal fees, appraisal fees, recording fees, and costs incurred in preparation of the resource documentation report, or "baseline."

Voluntary contributions to endow stewardship of a conservation property are considered charitable contributions.

ESTATE TAX BENEFITS

Succession Planning
Federal estate tax is assessed on the fair market value of the property at the time of the landowner's death, not on the original purchase price or current use value. This can be a significant and potentially debilitating tax burden for farm and ranch families whose land values have appreciated over time, particularly if the appreciated value is due largely to increased development value. Sometimes caught unaware and without the benefit of estate planning, ranch families may have to subdivide and sell some or all of their land just to meet estate tax obligations. Conservation easements can be a useful tool to reduce estate tax liability and allow ranches to remain in the family, and to ensure the future use of the ranch is in accord with the landowner's desires.

Additional estate tax exclusion
IRC Section 2031(c) also allows estates to exclude from the taxable estate up to 40% and up to $500,000 of the value of land subject to certain types of conservation easements. These savings are in addition to estate tax savings due to the reduction in value of property in the gross estate after a conservation easement is put in place.

Post-mortem election
The federal tax law allows estate beneficiaries and the estate's executor to elect to place the land under conservation easement after the owner's death, but before timely filing an estate tax return. This provision opens up the possibility of planning to donate a conservation easement in your will, and offers a valuable option to reduce or eliminate estate taxes that would otherwise be owed.

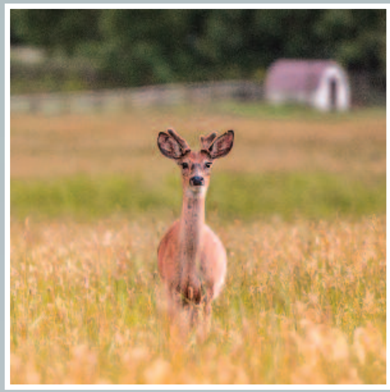
Bargain Sales
Income and estate tax deductions may also be available in the event of a bargain sale, where the landowner agrees to accept less than fair market value for a conservation easement on their property, as established by a qualified appraisal. While MLR does not independently fund conservation easement purchases except in extremely rare instances, funds for partially-purchased conservation easements may be available from other sources, such as the Natural Resources Conservation Service's Agricultural Conservation Easement Program or county open space bond funds. In these instances, landowners may still be able to take a tax deduction for the donated portion of the value of the easement.

Estate planning
Conservation easements are only one of several planning options available to effectively pass on a ranch or farm, as well as other assets, to the next generation. MLR often sees conservation easements being fully integrated into a landowner's plans for his or her estate, with terms in the easement and its donation reflecting many of the same desires driving the landowner's overall estate planning process.

No matter your age or wealth, your estate plan should reflect how you want to take care of the most important people in your life and the type of legacy you want to leave. With a few simple steps, you can be sure your family will be well cared for and your property will be distributed as you intend.

Qualifying for a tax deduction
To ensure your gift meets IRS requirements for tax-deductible conservation easements, it is strongly recommended the proposed gift be reviewed by a qualified tax professional early in the process. Not all properties will qualify, and a deductible, charitable donation can be made only to an IRS-qualified, tax-exempt organization, such as MLR. A number of other requirements are present, including that the donation must be fully complete, recorded, and made in perpetuity rather than for a shorter period of time.

Conservation easement appraisal
In order to claim a tax deduction on any charitable donation for property worth more than $5,000, donors must obtain a "qualified appraisal" by a state-certified appraiser qualified under the Uniform Standards of Professional Appraisal Practice (USPAP). Check with your attorney or accountant for details. You should consult with a professional appraiser who has direct experience with charitable gifts or conservation easements. The Montana Land Reliance can refer you to appraisers with experience in this field, but cannot provide the appraisal. The appraisal cost is a necessary expense if you wish to pursue a charitable tax deduction.



Alexis Bonogofsky

FOR MORE INFORMATION

If you would like more specific information or wish to discuss a conservation easement donation, please contact MLR directly or visit MLR's website.

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