A **conservation easement** is a legal agreement between a landowner and a land conservation organization or agency that protects important natural resources such as productive agricultural and forestry land, wildlife habitat, scenic open space, historic resources, and ecosystem services. Conservation easements do this by legally limiting future subdivision and development of the property to a mutually agreed level. The landowner continues to own the land and typically retains the right to use the property for productive rural uses such as agriculture and forestry.

The donation of a conservation easement can be valued by a qualified real estate appraiser for income tax purposes and the landowner may be eligible for certain state and federal tax benefits. The value of the easement, as determined by the appraiser, equals the difference between the fair market value of the property before and after the easement takes effect. As with all charitable gifts, it is the responsibility of the donor to choose their own appraiser and substantiate the value of their gift with the IRS and the Virginia Department of Taxation.

### I. Virginia Income Tax Credit:

Virginia conservation easement donors are eligible for a Land Preservation Tax Credit (LPTC) equal to 40% of the value of their donation. Each taxpayer can use no more than $20,000 in credits per year for 2019 and this is expected to increase to $50,000 per year for 2020 and beyond. Unused credits may be carried forward for an additional ten years (year 1 + 10 = 11 total years).

In addition, LPTCs may be transferred or sold to another Virginia tax payer for their use. When LPTCs are sold the Virginia Dept of Taxation assesses a transfer fee of 5%. After paying the transfer fee and other transaction costs, donors often net about 80 cents on the dollar when they sell their credits.

Virginia has an overall cap on the number of credits issued per year at $75 million and they are allocated on a first come first served basis.

For example, a landowner who donates an easement worth $500,000 would receive a $200,000 in LPTCs (40% of $500,000). The landowner could use some of these credits to offset their own Virginia income (as long as they don’t exceed the $20,000 individual use cap in 2019) and sell the rest to other Virginia taxpayers.

The credits can be sold privately, or the easement donor can employ the services of an attorney, accountant, or tax credit broker. There is robust demand for Virginia LPTCs and most conservation easement donors will find it relatively easy to sell their credits in the open market.

### II. Federal Income Tax Deduction:

The donor of a qualified conservation contribution is eligible for a federal income tax deduction equal to the value of their easement less the value of any state income tax credits received in exchange for the donation.

As an example, if a landowner donates an easement worth $100,000 and receives $40,000 in Virginia Land Preservation Tax Credits, they will be eligible for a $60,000 federal income tax deduction.

The landowner may use that deduction at the rate of 50% of their Adjusted Gross Income (AGI) per year and any remaining deduction may be carried forward an additional 15 years (year 1 + 15 = 16 total years to use deduction). Further, “farmers” (meaning individuals with 50% or more of their income from agriculture) are able to deduct the donation at the rate of 100% of AGI per year.
III. Estate and Inheritance Tax:

In 2019, a husband and wife can each exclude $11.4 million worth of assets from their taxable estate. This means that with proper planning a married couple may be able to pass a total of $22.8 million to their heirs with no estate tax due. As a result, most landowners will have no estate tax due upon their death.

When there is a large estate, the tax rate is 40% of the assets over the exclusion. In such circumstances donating an easement can help by:

1. Reducing The Value of Estate
   The deceased's estate will be reduced by the value of the donated conservation easement. As a result, taxes will be lower because heirs will not be required to pay taxes on the extinguished development rights. In other words, heirs will only have to pay estate taxes on preserved farmland values, and not full development values.

2. Estate Exclusion
   Federal law allows the easement donor and their heirs to exclude up to 40% of the value of land from the taxable estate when the landowner dies. This exclusion is subject to a $500,000 cap and is in addition to the reduction in land value attributable to the easement itself as described above.

IV. Reduced Property Taxes:

In counties where “Land Use Assessment” is in place, land subject to a conservation easement is automatically entitled to taxation at use value rates under the “open space” category. In localities that have not adopted the land use valuation program, land under easement is assessed at its restricted value.

PLEASE NOTE: The explanation of complex tax and land planning issues provided in this fact sheet has been greatly simplified. For more detailed information and to ensure that a conservation easement donation will qualify for the described tax deductions in your particular situation, you are encouraged to seek professional legal and tax advice. Piedmont Environmental Council staff cannot assure the deductibility of a conservation easement donation or the applicability of the benefits described.