

# Black Canyon Land Trust

Serving the Uncompahgre, North Fork, and Lower Gunnison Watersheds

## **IRS CONSERVATION EASEMENT TAX DEDUCTIONS**

### **HOW CAN AN EASEMENT REDUCE A LANDOWNER'S INCOME TAX?**

The donation of a conservation easement is a tax-deductible charitable gift, provided that the easement is perpetual and is donated “exclusively for conservation purposes” to a public agency or qualified conservation organization, such as the Black Canyon Land Trust. Internal Revenue Code Section 170 (h) generally defines “conservation purposes” to include the following:

- The preservation of land areas for outdoor recreation, by or the education of, the general public.
- The protection of relatively natural habitats of fish, wildlife, or plants, and high-quality natural communities.
- The preservation of open space – including farmland and forest land – for scenic enjoyment or pursuant to an adopted governmental conservation policy; in either case, such open space preservation must yield a significant public benefit.
- The preservation of historically important land areas or buildings.

To determine the value of the easement donation, the owner has the property appraised both at its fair market value without the easement restrictions, and at its fair market value with the easement restrictions. The difference between these two appraised values is the easement value. Detailed federal regulations govern these appraisals.

For example: A property is appraised at fair market value for \$100,000. Mr. Price, the landowner, donates a conservation easement to the Black Canyon Land Trust. The easement reduces the property's market value to \$25,000; proving the value of the easement is \$75,000. Assuming the easement meets the tax conservation purposes test, Mr. Price is eligible to deduct an amount up to 50 percent of his adjusted gross income each year for a total of sixteen years or until the value of the gift is exhausted. If Mr. Price has an annual adjusted gross income of \$50,000, he can deduct \$25,000 a year (50% of \$50,000) until he has exhausted the \$75,000 of the charitable gift. In this example, Mr. Price will exhaust his gift in a three-year period, if his income does not change.

## **HOW CAN AN EASEMENT REDUCE A LANDOWNER'S ESTATE TAXES?**

Estate tax is levied against property and possessions, "the estate", at the time of inheritance. Many heirs to large tracts of open space (farms and ranches in particular) face monumental estate taxes. Even if the heirs wish to keep their property in the existing condition, federal estate tax is levied not on the value of the property for its existing use, but on its fair market value, usually the amount a developer or speculator would pay. The resulting estate tax can be so high that the heirs must sell the property to pay the taxes.

A conservation easement often can reduce estate taxes. If the property owner has restricted the property by a perpetual conservation easement before his or her death, the property must be valued in the estate at its restricted value. To the extent that this restricted value is lower than the unrestricted value, the value of the estate will be less, and the estate will be subject to a lower estate tax.

Even if a property owner does not want to restrict a property during his or her lifetime, their will can specify that a conservation easement be made to the Black Canyon Land Trust upon the owner's death. The value of the easement gift can then be deducted from the estate, resulting in lower estate taxes.

The above mentioned scenarios were provided for example only. Easement donors may qualify for greater tax incentives with Colorado state tax credit system (see next section). Potential donors should rely on legal counsel and professional tax advice to maximize their tax advantages