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AGRICULTURAL LAW AND TAXATION BRIEFS

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Conservation Easements: Act Quickly to Take Advantage of 2006 Tax Law

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Synopsis: Farmers and ranchers can protect their land from urban sprawl and qualify for an enhanced federal tax deduction. However, they must act quickly as the federal law granting the enhanced deduction is set to expire December 31, 2007.

Farmers and ranchers can protect their land from urban sprawl and qualify for an enhanced federal tax deduction. However, they must act quickly as the federal law granting the enhanced deduction is set to expire December 31, 2007.

The law, signed by President Bush in August 2006, enables landowners who protect their land using voluntary conservation easements to earn increased tax deductions and a longer time to recover the donation of their conservation easements. The law increased the tax deduction for conservation easement donations from 30 to 50 percent of a qualified donor's yearly income. For qualified working farmers and ranchers, the 2006 law allows them to deduct up to 100 percent of their income. For all landowners, the law tripled the carry-forward period for deductions from 5 to 15 years.

Landowners can use the conservation easements to protect their land from urban sprawl and other non-farm uses. Landowners continue to own the land and can farm or ranch it with the comfort of knowing that it is protected.

The enhanced tax incentive applies only to transactions made in 2006 and 2007 and completed before December 31, 2007, when eligibility for the enhanced incentive expires. The Land Trust Alliance and other groups are encouraging Congress to make the enhanced tax incentive permanent, but there's no guarantee they will be successful.

How the Incentive Could Help You

<u>Example</u>: A farmer wants to permanently protect his farmland from urban sprawl. To do this, he decides to donate his farm's development rights to a land trust through a voluntary conservation agreement (also known as a conservation easement). The donation is valued at $700,000. (The value of the development rights was determined by an appraisal of the land that calculated the difference between the land's value with the easement in place and its value without the easement.) His annual taxable income is $50,000.

<u>Under Old Law:</u> Farmer is allowed to deduct only up to 30 percent of his taxable income and only has 6 years total to use up the deduction:

Total value of gift = $700,000

Farmer's annual tax deduction = $15,000 (30% of his $50,000 taxable income)

Eligible time period = 6 years (year of the gift + 5-year carry-forward)

Tax deduction claimed = $90,000 ($15,000/year x 6 years).

Tax deduction lost = $610,000 ($700,000 value - $90,000 deduction)

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Under the 2006 Law: As a qualified farmer, he is allowed to deduct up to 100 percent of his taxable income and has 16 years to use up the deduction:

Total value of gift = $700,000

Farmer's annual tax deduction = $50,000 (100% of his $50,000 taxable income)

Eligible time period = 16 years (year of the gift + 15-year carry-forward)

Tax deduction claimed = $700,000 ($50,000/year over first 14 years).

Tax deduction lost = $0 ($700,000 value - $700,000 deduction)

In summary, by donating conservation easements to qualified land trusts and taking timely advantage of the 2006 federal tax incentive, ranchers and farmers can keep their land in ranching and farming, and within the family if they want, and receive greater credit for these very valuable donations while still retaining title to their land. Most importantly, they can have the satisfaction of keeping good land that they have cared for and worked so hard to build up from being taken out of production.

For more information on the 2006 conservation tax law, consult your tax or estate planning advisors, call toll-free 1-877-992-Land, or visit the Land Trust Alliance Website at www.lta.org/farmersandranchers. Information on this Website includes the helpful *Conservation Tax Law Update*, which you can download as a PDF.

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