

## MASSACHUSETTS STATE INCOME TAX CREDIT FOR LAND CONSERVATION

Approved in State Environmental Bond, August 2008; slightly revised and re-approved in Jan. 2009; amended in January 2011 to be refundable (i.e., State can purchase credit from taxpayer in first year); **Available beginning in January 2011; State must still issue guidelines.**

First time in history of Massachusetts there is a state tax credit for voluntary land conservation

There are at least 14 other states that have this type of tax credit.

The tax credit is non-transferable (that is, it is specific to the donors/taxpayers; in some states, you can sell your tax credit to others to use on their state income tax!)

There is no sunset provision for this credit; it applies indefinitely for qualified land donations (or unless state legislature rescinds it as a tax provision in the future, but that would not affect those who have already given.)

Does not apply to all land conservation transactions:

- Must be a perpetual conveyance
- Land must be certified by Secretary of Energy and Environmental Affairs as worthy
- Donee must be an incorporated land trust, or government agency or town

Includes fee simple (land donations), conservation restrictions, bargain sales of land, life estate, etc.

How to take the credit:

- Landowner(s) must be Mass. income tax payer(s)
- Need an appraisal by qualified appraiser
- Need certification by state that land is eligible; a pre-qualification process is expected
- Can be in addition to claim for federal income tax deduction for land gift
- Tax credit applied to the applicant's state tax liability during the year of the donation and if credit is larger than the liability the State will issue a check for the remainder of the approved credit. With refundability, the credit cannot be carried into future tax years.
- Can be spread out in proportion to each owner's interest in the deed

Limitations on taxpayer:

- Credit limited to 50% of fair market value of land or interest, as appraised, or \$50,000 maximum credit, whichever is less
- Refunded credit from state is taxable for donor's federal income tax purposes
- If married, must file joint return with spouse

Limitations on State:

- Cannot exceed \$2,000,000 in total revenues lost each year (the total of reduced tax liability and refund checks)

How will we know if land is eligible to be certified?

- Energy & Environmental Affairs and Admin. & Finance Secretaries will advise Dept. of Revenue; DOR and EEA will write rules in 2011
- Land must be determined by EEA to be protected in perpetuity and in the public interest for "natural resource protection," including drinking water supplies, wildlife habitat and biological diversity, agricultural and forestry production, recreational opportunities, or scenic and cultural values.