Other views

Tax incentives will boost conservation

The new law will make the donation more appealing to landowners of modest income.

By Brad Wyche and Dana Leavitt

Congress recently passed the most dramatic changes in the tax code for conservation in over 25 years. Many landowners will now receive a far greater financial benefit from the federal tax deduction for protecting properties that have significant conservation values.

Under the new law, conservation donors can deduct up to 50 percent of their adjusted gross income (the previous limit was 30 percent), and if most of their income is from farming, ranching or forestry, they can deduct all of their income. Also, if the value of the donation exceeds these limits in the year of the gift, they can "carry forward" the deduction for up to 15 years (the prior law allowed only five years).

The deduction is available for conservation easements, a wonderful "win-win" tool where the property continues to be privately owned and enjoyed but its conservation values are protected through restrictions on how the land can be used and developed in the future. The typical conservation easement prohibits any industrial or commercial development of the property, but it is not unusual for the landowner to reserve the right to build a limited number of single-family residences. Most easements also allow landowners to continue farming or timbering the property in accordance with best management practices.

Conservation easements typically do not allow public access to the property; thus, the easement must result in "significant public benefits" as defined in the IRS regulations in order to qualify for the income tax deduction.

This simple example illustrates why the new changes in the tax code are so important. Assume that someone we will call "Mr. Land" has an adjusted gross income of $50,000, that he wants to grant a conservation easement on his property, and that protection of the property will meet the "public benefit test."

The appraiser determines that the easement will result in a reduction in the fair market value of the property of $400,000 — this is the value of Mr. Land's gift.

Under the previous law, Mr. Land can deduct only $15,000 per year for six years, for a total deduction of $90,000; thus, $310,000 of the deduction cannot be used and is lost. Under the new law, he can deduct $25,000 per year for 16 years, thus using the entire deduction.

The deduction is also available for donations of title where, for example, the landowner gives the land for a public park. In such cases, the public benefit is obvious, and the owner is entitled to deduct the entire fair market value of the property.

The best thing about the new law is that it makes the tax incentives much more available to modest-income landowners who, under the old rules, received credit for only a small portion of their donations. These limited tax benefits have often been the reason that many conservation projects were not successful. With passage of the new law, this should now change.

Some bad news is that the expanded incentives will expire at the end of 2007. But efforts are already under way to convince Congress to make the incentives permanent.

For the Upstate, the new law could not come at a better time. A study just completed by the Strom Thurmond Institute documents the shocking rate at which we are paving over our region. In just 15 years (1985 to 2000), we have developed over 360,000 acres in the eight-county Upstate region — a staggering rate of 66 acres per day. Greenville County accounts for about one-fourth of the total: 90,000 acres paved over in only 15 years, or 16 acres per day.

Certainly some land needs to be developed, but the "pave-over rate" is far beyond what is reasonably needed to accommodate our population growth. The Upstate needs to come to grips with this problem quickly — otherwise, we will end up looking a lot like Atlanta 25 years from now.

We need better land use plans, more effective controls on where roads, utilities and schools are built, more funding for parks and green spaces, stronger rules on protecting natural resources, and improved tax incentives for conservation. At least the last one is now a reality.

GUEST COLUMN

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