

Land Conservation Incentives tax credit

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About this credit: Beginning in tax year 2004, persons who donate land to private-nonprofit or public conservation agencies for conservation purposes may receive a personal, corporate or fiduciary income tax credit. The Energy, Minerals and Natural Resources Department (EMNRD) certifies donations for eligibility when the purpose is for open space, natural resource or biodiversity conservation, agricultural preservation, or watershed or historic preservation, and the donation is unconditional and in perpetuity. The credit equals 50% of the fair market value of the land transferred up to \$100,000 for donations made prior to January 1, 2008. For a conveyance made on or after January 1, 2008, the maximum amount for a donation increases to \$250,000*. A taxpayer may be granted only one tax credit per year.

The credit claimed may not exceed the amount of income tax due, and may be carried forward for 20 consecutive years following the date of the qualified donation. Additionally, for a conveyance made on or after January 1, 2008, the credit may be sold, exchanged or otherwise transferred in increments of \$10,000 or more. Credits must be transferred by qualified intermediaries. A tax credit or increment of the credit may only be sold, exchanged or transferred once. The new holder may use the credit in the tax year in which the credit was sold, exchanged or transferred and may carry forward unused credits to succeeding tax years to a maximum of 20 consecutive tax years following the tax year in which the original qualified donation occurred.

*New legislation passed in 2007, modifying the provisions of the land conservation incentives tax credit.

To receive the credit, a taxpayer must apply for a certificate of eligibility from EMNRD. After obtaining the certificate, the taxpayer must apply for the credit to the Taxation and Revenue Department (TRD) using Form RPD-41335, *Land Conservation Incentives Tax Credit Application*. The certificate of eligibility from EMNRD must be attached to the application. If a transfer of the credit is requested, the transfer must be made through a qualified intermediary. The qualified intermediary must notify TRD of the transfer within 10 days of the transaction by completing Form RPD-41336, *Notice of Transfer of Land Conservation Incentives Tax Credit*. Notary is required.

For information on obtaining the certificate of eligibil-

ity, contact the Forestry Division of EMNRD at (505) 476-3347.

A credit for land donated by a pass-through entity may be claimed by either a pass-through tax entity, if the entity is the taxpayer, or the member, manager, partner, shareholder or beneficiary in proportion to his interest in the entity, but only when the income, deductions and tax liability pass through the entity to the member, manager, partner, shareholder or beneficiary. Tax credits may not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

Completing Form RPD-41335, *Land Conservation Incentives Tax Credit Application*.

Complete the name and address block of the eligible donor. The eligible donor is the taxpayer who applied for and received a certificate of eligibility from EMNRD for a qualified donation. Complete the next section if the taxpayer who receives certification of eligibility of the land conservation incentives tax credit is a pass-through entity (Partnership, Sub-chapter, S Corporation, LLC, Trust, etc.) and wishes to pass the credit through to its members, managers, partners, shareholders or beneficiaries. The pass-through entity must complete an application for each member, manager, partner, shareholder or beneficiary establishing the new holder and the proportion of credit that each is eligible to claim. Sign and date the application and mail it to the Taxation and Revenue Department, PO Box 630, Santa Fe, New Mexico 87504-0630. For assistance completing the return or status of the application, call (505) 476-3683.

Obtaining the Certificate of Eligibility: The taxpayer must first obtain a certificate of eligibility for the land or interest in land that has been certified as eligible for treatment as a qualified donation by the Secretary of EMNRD. Contact the Forestry Division of EMNRD at (505) 476-3347 for information on obtaining the certificate of eligibility.

Once the certificate of eligibility is received, the holder uses the claim form to apply the credits to his/her personal or corporate income taxes.

Completing Form RPD-41282, *Land Conservation Incentives Tax Credit Claim Form*.

The holder completes Form RPD-41282 and attaches

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the form to his/her personal, corporate or fiduciary income tax return. Only a holder registered with TRD may claim the claim credit. The holder completes the address block.

The “Worksheet to calculate the total unused credit available for carry forward.” Attach a separate schedule in the same format if additional space is needed.

(a) Credit number. Enter the credit number for each land conservation incentives tax credit granted or transferred to the holder. The credit numbers are issued by TRD. If all or a portion of the credit has been transferred to a new holder, the credit number will have a three digit suffix issued by the qualified intermediary. The claim form must reference both numbers. Do not include any credit with a “Date of qualified donation” that is more than 20 years prior to the current tax year. The credit may be carried forward for a maximum of 20 consecutive tax years following the tax year in which the qualified donation occurred. The credit number and date of qualified donation are found on the approved Form RPD-41335, *Land Conservation Incentives Tax Credit Application*, granted by TRD, or if transferred by the original donor, Form RPD-41336, *Notice of Transfer of Land Conservation Incentives Tax Credit*.

(b) Credit amount granted. For each land conservation incentives tax credit listed in column (a), enter the amount of credit granted, as indicated on the approved Form RPD-41335, *Land Conservation Incentives Tax Credit Application*, or the amount of land conservation incentives tax credit transferred from Form RPD-41336, *Notice of Transfer of Land Conservation Incentives Tax Credit*.

(c) Credit claimed in prior tax years or transferred out. For each credit amount listed in column (b), enter the total amount of credit claimed against prior year returns. If you transferred part of the credit to another taxpayer, add the amount of credit transferred.

(d) Unused credit available for carry forward. Subtract column (c) from column (b). This is the amount of unused credit available to be applied to the current year return or carried forward. Unused land conservation incentives tax credits with the oldest date of qualified donation should be applied first.

Line instructions.

Line 1. Using the worksheet, compute the unused credit available for carry forward, and enter the sum of

Column (d) on line 1. If schedules are attached, enter the sum of column (d), from all pages.

Line 2. Enter the portion of the credit available for carry forward from line 1, that is claimed on your New Mexico personal or corporate income tax return. The amount of the credit claimed on a return cannot exceed the personal, corporate or fiduciary income tax due on that return.

Line 3. If you claimed a charitable deduction on the federal personal income tax return for the contribution of land for which credit is claimed, enter the amount of the charitable deduction claimed on federal Form 1040, Schedule A. You will need to reduce your federal itemized deductions by the amount allowed for the contribution. Enter this amount on the line item for federal or itemized deductions, Form PIT-1, New Mexico personal income tax return.

Enter the credit claimed on the applicable line of the schedule for nonrefundable credits, for New Mexico Forms PIT-1, CIT-1, PTE or FID. The Land Conservation Incentives Credit Claim Form, RPD-41282, must be attached to the income tax return, or if electronically filed, submitted to TRD as instructed, or the claim will be denied.

About Form RPD-41336, Notice of Transfer of Land Conservation Incentives Tax Credit.

A conveyance made on or after January 1, 2008, or an increment of that tax credit may be sold, exchanged or otherwise transferred, and may be carried forward for a period of 20 taxable years following the tax year in which the credit originated until fully expended. A tax credit or increment of a tax credit may only be transferred once. The credit may be transferred to any taxpayer. In no event may the transferred credit be used more than 20 years after the date of the qualified donation. Credits transferred must be in increments of at least \$10,000.

A credit issued must be transferred through a qualified intermediary. The qualified intermediary shall complete and notarize Form RPD-41336, *Notice of Transfer of Land Conservation Incentives Tax Credit*, notifying TRD of the transfer, within 10 days of the transfer.

A qualified intermediary keeps an account of the credits and has the authority to issue sub-numbers registered with TRD. The qualified intermediary obtains the sub-

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numbers by contacting TRD at (505) 476-3683 or writing to the Taxation and Revenue Department, ARSB, PO Box 630, Santa Fe, NM 87124.

A “qualified intermediary” does not include a person who:

- has been previously convicted of a felony;
- has had a professional license revoked;
- is engaged in public practice according to the Public Accountancy Act pursuant to Section 61-28B-3 NMSA 1978;
- is identified as a Real Estate Broker or Salesman according to Section 61-29-2 NMSA 1978; and
- any entity owned wholly or in part or employing any of the foregoing persons.

Completing Form RPD-41336, *Notice of Transfer of Land Conservation Incentives Tax Credit.*

The original credit number and the date of qualified donation are taken directly from the approved Form RPD-41335, *Land Conservation Incentives Tax Credit Application*. The new credit number will include the original number plus the sub-number issued by the qualified intermediary. For example, the original credit number issued by TRD was 99199. The qualified inter-

mediary issues the sub-number -S14. The new credit number is 99199-S14. The new credit number references the original credit number for tracking purposes. The amount of land conservation incentives tax credit transferred is denoted. The amount of credit transferred cannot be less than \$10,000.

Complete the form by entering the name and identifying information of the holder from whom the credit is transferred and the name, address and identification number of the new holder to whom the credit is being passed. Enter the date of the transfer of the credit.

The qualified intermediary is required to provide their information and to affirm under penalty of perjury that the notice is true correct and complete. The statement must be notarized to be valid.

The form must be provided to TRD within 10 days of the transfer. Mail the form to the Taxation and Revenue Department, ARSB, PO Box 630, Santa Fe, New Mexico 87504-0630.

If you need assistance completing this form, call (505) 476-3683.