

Land Preservation Tax Credit

Individuals and corporations may take a credit for conveying land located in Virginia for such purposes as historical or conservation preservation, agricultural use, forest use, open space, and natural resource conservation.

To the extent a credit is taken, no subtraction for the gain on the sale of land dedicated to open space use (58.1-322 [22]) shall be allowed for three years following the year in which the credit is taken.

The maximum credit that can be claimed for tax years 2002-2008 is \$100,000 and for tax years 2009-2010 is \$50,000.

Individual filers complete Schedule CR, Part XXII, and corporate filers complete Form 500CR, Part XXII, to claim this credit.

[For Donations Recorded Prior to January 1, 2007](#)

The credit is 50% of the fair market value of the land or interest in land. The credit is not refundable, but it can be carried forward for up to five years. The fair market value is determined by a "qualified appraisal" as prepared by a "qualified appraiser" as those terms are defined under applicable federal law and IRS regulations governing charitable contributions.

For purposes of this credit, any qualified appraiser must be licensed in the Commonwealth. Should the appraiser falsely or fraudulently overstate the value of the contributed property, the Department of Taxation (TAX) is authorized to disallow further appraisals signed by that appraiser and refer the appraiser to the Real Estate Appraisal Board for appropriate disciplinary action. In addition, if TAX determines that an appraisal was false or fraudulent, the agency may disregard the appraisal in determining the fair market value of the property and the allowable tax credit.

The value of the donated interest in the land must be reduced by the amount of gain that would not have been a long term capital gain if the property had been sold by the taxpayer at its fair market value. Also, any open space land, dedicated to fulfill density requirements, is excluded from the Land Preservation Credit.

This credit may be transferred to another taxpayer for use on Virginia income tax returns if the qualified donation was made on or after January 1, 2002. The transfer of the credit must be completed before the end of the tax year in order to use the credit for that year.

The donation or transfer must be registered with the Department of Taxation to be valid. You must use Form LPC-1 to notify the Department of the creation of a new Land Preservation Credit (LPC) donation or of a transfer to another taxpayer of an existing

LPC. Form LPC should be submitted to the Department within 60 days of the credit's origination or transfer, or at least 90 days before you file your annual return claiming the credit. The Department will deny any LPC credits that have not been pre-registered.

[For Donations Recorded On or After January 1, 2007](#)

Legislation enacted by the 2006 General Assembly made significant changes to the requirements for qualifying for and receiving the Land Preservation Credit (LPC). These changes apply only to donations recorded on or after January 1, 2007.

General Information: The LPC is available to taxpayers that convey land or interest in land located in Virginia to a public or private agency eligible to hold such land or interests therein for conservation or preservation purposes. The conveyance must be held in perpetuity.

Standards for Appraisals: When placing a value on a donation, appraisers must follow the Uniform Standard of Professional Appraisal Practice (USPAP) for all LPC donations. In addition, less-than-fee donations must comply with Section 170(h) of US Internal Revenue Code of 1986. The Commonwealth will use these two documents as their [appraisal guidelines](#).

Annual Cap on Credits Granted: The Department of Taxation (TAX) is authorized to acknowledge no more than \$106,647,000 in LPC credits for tax year 2009. Taxpayers must file Form LPC-1 to register a donation. The credits will be issued on a "first-come, first-serve basis." A credit will not be allocated from the current year's credit pool until a completed Form LPC-1 application and all supporting documents are received by TAX. This includes the approval from the Department of Conservation and Recreation (DCR) for donations requesting a credit of \$1 million or more. Once the annual CAP limit is met, any subsequent credit requests will be issued for the next available calendar year.

Increase in Annual Cap. The amount of the annual limit for each year will be increased by an amount equal to \$100 million multiplied by the percentage that the consumer price index (CPI-U) published by the U.S. Department of Commerce, for the 12 month period ending August 31 of the previous year exceeds the CPI-U as of August 31, 2006.

Dual Basis Prohibited. Any building that serves as a basis for the Historic Rehabilitation Credit cannot serve as a basis for the LPC credit nor vice versa for a period of 5 years.

No more than 25% of the total LPC credit allowed shall be for a reduction in value to any structure and other improvements to land.

Amount of Credit. Effective for donations made on or after January 1, 2007, the credit amount is reduced to 40% of the appraised value of the land donation.

Carry Forward. Land Preservation Credits may be carried forward for ten (10) years from the year in which they are issued.

LPC Application and Certification Process

File Form LPC. Form LPC-1 "Application for a Land Preservation Credit" must be completed by the taxpayer and submitted to TAX in order to establish the credit. A copy of Form LPC-1 must also be submitted to the Department of Conservation and Recreation (DCR). The credit must be established and acknowledged by TAX before the taxpayer can transfer the credit or claim the credit on their tax return. If a taxpayer files a return claiming a credit before the credit is acknowledged, processing of the return will be significantly delayed.

All credit requests of \$1 million or more must be submitted to both DCR and TAX for review. TAX must receive approval from DCR before the application is considered complete. Once the completed application is reviewed by TAX, an LPC number will be assigned and an acknowledgment letter will be sent to the taxpayer.

Additionally, if a donation is made by the same or related party (immediate family member or an affiliated entity) on any remaining portion of a recorded parcel which has already been used as the basis for an existing LPC within the past eleven (11) years, the existing LPC must be aggregated with the new request to determine if the total credit for that property exceeds \$1 million, thus requiring DCR approval.

LPC Transfer Fee

New Fee on Transfers. Effective January 1, 2007, a fee will be imposed on any transfer arising from the sale of land preservation credits and on all pass-through allocations. The fee does not apply to transfers and allocations on donations made prior to January 1, 2007, even though the actual transfer may not occur until after January 1, 2007. Only transfers of donations recorded on or after January 1, 2007 are impacted by this fee.

The fee will be 2% of the appraised value of the donated interest. Because the statute relates the 2% fee to the donated interest and the credit is 40% of that figure, the fee is equal to 5% of the credit amount being transferred or allocated, as shown in the sample calculation below:

Scenario presented in [Code of Virginia Section 58.1-513](#)

\$10,000 (donated interest being transferred/allocated)
x ____ .02 (fee multiplier imposed by statute)
\$200 (fee dollars collected by statute)
Calculation of Credit Value

\$10,000 (donated interest being transferred/allocated)
x ____ .40 (credit multiplier imposed by statute)
\$4,000 (credit value of the donated interest)

If \$200 is the amount of fee collected at the donated interest level, what percentage of the credit value generates the same fee amount?

$\$4,000(x) = 200$

$x = 200/4000$

$x = .05$ or 5%

The fee is capped at \$10,000 per taxpayer per donation. So if you are transferring or allocating credits derived from more than one donation, your fee may exceed \$10,000.

Contact Information

Tax Credit Unit

Virginia Department of Taxation

PO Box 715

Richmond, VA 23218

804-786-2992

Tax Credit Program

Department of Conservation & Recreation

203 Governor Street, Suite 302

Richmond, VA 23219

804-371-5218

Reference: [Virginia Code 58.1 - 512](#).and [513](#)

LPC Comparison

The 2006 General Assembly passed HB 5019, which made significant changes to the Land Preservation Credit. Below is a table that shows the comparative changes resulting from this legislation. Note that these changes apply only to donations recorded in 2007 and beyond.

LPC Comparison Category For Donations Recorded in 2006 & Prior Donations

Recorded in 2007 and beyond

Percentage of Credit 50% 40%

Carry Forward 5 Years 10 Years

CAP None 2007 = \$100 Million

2008 = \$102,287,081

2009 = \$106,647,000

Applications To TAX ONLY Tax & DCR

Transfer Fee Not Applicable Calculation is 2% of the donated interest or 5% of the credit amount transferred/allocated

Who Pays Fee Not Applicable Transferor; Pass-through Entity

Fee CAP Not Applicable \$10,000 per taxpayer per donation

To register a donation, use Form LPC-1 (PDF 810Kb). To transfer a credit, use Form

LPC-2 (PDF 30 Kb). For instructions on applying or transferring credits, see the LPC Application and Transfer Procedures (PDF 30Kb).