

SIGNIFICANT CHANGES MADE TO MASSACHUSETTS ESTATE TAX LAW, FEDERAL TAX LAW, AND M.G.L. CHAPTERS 61, 61A, & 61B

Since the publication of the *Fifth Revised Edition of Land Conservation Options*, some significant changes have been made in the state and federal tax laws related to conservation giving as addressed in *Land Conservation Options*. In 2003, the Massachusetts legislature substantially revised the Massachusetts estate tax, and in 2006 the U.S. Congress made very significant changes to the federal tax code related to the deductibility of certain conservation gifts. Also in 2006, the Massachusetts legislature made a set of changes to the Chapter 61, 61A and 61B programs. This Addendum is intended to summarize those changes for readers of *Land Conservation Options*, but readers are, as always, cautioned and advised to consult a qualified tax professional before making any decisions related to tax or estate planning.

- The Massachusetts Estate Tax Law was revised in 2003 to “decouple” Massachusetts Estate Tax from the federal estate tax. From 1997 to 2003, Massachusetts employed a so-called “sponge tax”, whereby Massachusetts would collect an estate tax equal to the maximum credit for state estate taxes allowed under the federal tax code. When the Federal estate tax was revised in 2001 to effectively phase out the estate tax by 2010, the Massachusetts legislature created separate filing thresholds and exemption amounts, as a means of preserving the estate tax. Please refer to your tax or estate planner to understand the implications of this change for your estate.
- In August 2006, Congress passed changes to the federal income tax code that significantly enhance the deductibility of conservation restriction gifts and bargain sales. Specifically, the period over which CR gifts and bargain sales can be deducted was extended from six years (year of the gift and five years thereafter) to sixteen years (year of the gift and 15 years thereafter). In addition, the caps on deductibility were raised from 30% of Adjusted

Gross Income (AGI) to 50% of AGI. Unfortunately, these provisions expired on December 31, 2007, and do not apply to transactions completed after that date. While legislation has been filed that would make these changes permanent, and the land trust community is working hard to support it, there is no assurance as of this writing (February, 2008), that the legislation will pass. At this time, conservative planners must assume that the 2007 tax benefit will not apply to transactions completed after December 31, 2007.

- As part of the 2006 legislation, Congress also tightened the appraisal and substantiation requirements for conservation gifts. We recommend that all donors confirm that their advisors are aware of these new requirements
- In 2006, the Massachusetts legislature passed a bill significantly revising the Chapter 61, 61A and 61B current use taxation programs. These changes were a long-term legislative priority for the land conservation community, and clarify many of the provisions of these programs. A summary of these changes may be found at www.massland.org, the website for the Massachusetts Land Trust Coalition.

The co-publishers of *Land Conservation Options*, the Trustees of Reservations and the Essex County Greenbelt Association, are planning a comprehensive re-write once the fate of the federal legislation is known. Please contact the Trustees at (978) 840-4446 or Greenbelt at (978) 768-7241 with questions relating to the revision.

