

STATEMENT FOR THE RECORD
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HOUSE WAYS AND MEANS COMMITTEE
SUBCOMMITTEE ON SELECT REVENUE MEASURES
“HEARING ON CERTAIN EXPIRING TAX PROVISIONS”
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Chairman Tiberi, Ranking Member Neal, and distinguished members of the Subcommittee on Select Revenue Measures, thank you for holding a hearing on the extension of short-term tax provisions. The Land Trust Alliance represents 1,700 land conservation nonprofits across the country, many of whom work with landowners who would benefit from the now-expired enhanced deduction for contributions of capital gain property made for qualified conservation purposes (secs. 170(b)(1)(E) and 170(b)(2)(B)). We also work closely with a large coalition of sportsmen’s, conservation, agriculture and forestry organizations that support renewing that incentive and making it a permanent part of the tax code.

Landowners can retire development rights on their land by donating a conservation easement to keep farm, ranch and forest lands in productive use, protect important fish and wildlife habitat, and conserve our scenic and historic heritage. Under previous law, landowners with modest incomes – such as most family farmers – received little or no tax benefit from donating what is often their family’s most valuable asset. The limit on charitable deductions to 30% of a donor’s Adjusted Gross Income simply did not allow modest-income landowners to take a deduction truly reflective of the value of their gift. By allowing such donors to deduct a larger portion of their income over a longer period of time, the enhanced deduction enables thousands of landowners to be able to afford conservation.

First passed in 2006, and renewed in 2008 and 2010, the enhanced tax deduction for conservation easement donations has helped us boost such donations by one-third, enabling landowners to voluntarily conserve more than a million acres a year of forest, farm and rangelands. It has even greater potential – but that potential can only be realized by making the incentive a long-term part of the tax law.

The lapse of this incentive for most of 2010 led to the loss of hundreds of potential donations to protect lands with important natural, agricultural and historic values – and we face this same situation in 2012. An on-again, off-again incentive makes it very difficult to educate potential donors. In addition, donating a conservation easement is a lengthy and expensive process for a landowner, often taking multiple years and tens of thousands of dollars to complete. Understandably, many landowners will simply not begin that process without knowing the incentive will be in place at the end.

We are proud of the broad bipartisan support for H.R. 1964, the bill to make this incentive permanent introduced by Representatives Jim Gerlach (R-PA) and Mike Thompson (D-CA). It now has a total of 304 co-sponsors in the House, including majorities of both parties’ caucuses. We urge the House to act soon to reinstate this common-sense conservation legislation.

We also strongly support continuation of the basis adjustment to stock of S corporations making charitable contributions of property (sec. 1367(a)). This provision removes a limit to the size of charitable deductions an S corporation can take, so that donations from S corporations are treated the same as donations from partnerships. It has enabled extremely valuable charitable contributions of land and conservation easements to be made by S corporations that simply would not have been possible without this provision.

Lastly, we would like to point out that amongst other measures expiring at the end of this year are reforms (secs. 2031(c)(2) and (c)(8)(A)(i)) that clarified sec. 2031(c), an estate tax exclusion for property protected by a conservation easement and eliminated obscure and difficult to administer geographic limitations for the exclusion. This change was a simplification and a reform – letting it expire would be a step in backwards in tax reform.

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