

Rulings of the Tax Commissioner

Document Number: 02-97
Tax Type: General Provisions; Property Tax
Brief Description: Virginia Land Conservation Incentives Act of 1999
Topics: Basis of Tax; Exemptions
Date Issued: 06/25/2002

Superseded by PD 03-55

June 25, 2002

Re: Request for Ruling: Income Tax

Dear *****:

This will reply to your letter in which you request a ruling on behalf of ***** (the "Organization") regarding the Virginia Land Conservation Incentives Act of 1999 (the "Act"). I apologize for the delay in the department's response.

FACTS

The Organization was formed to create an endowment to hold and administer conservation easements that secure fragile lands from development and provide funding for future conservation programs. You request a ruling as to whether taxpayers that donate land to the Organization would qualify for the income tax credit provided by the Act.

RULING

The Act, codified at Code of Virginia § 58.1-510, *et al.*, provides a credit for 50% of the value of real property or an interest in real property donated to an eligible charitable organization or instrumentality of the Commonwealth for qualifying land conservation purposes.

In order to qualify for the credit, a donation of land must qualify as a charitable deduction under Internal Revenue Code ("IRC") § 170(h). This section of the IRC requires that each contribution of a qualified real property interest be made exclusively for conservation purposes to a qualified organization. See Code of Virginia § 58.1-512(B)(2).

The Act further requires that the donee organization must be the Commonwealth of Virginia, an instrumentality of the Commonwealth, or a qualified charitable organization. To be a qualified charitable organization for purposes of this credit, the organization must be a tax exempt organization under the provisions of IRC § 501(c)(3). Further, the organization must also be classified as a private foundation under IRC § 509(a)(2) or § 509(a)(3) and be controlled by a § 509(a)(2) organization. See Code of Virginia § 58.1-512(B)(3).

Based on documentation provided, the Organization is not an eligible donee. While the Organization is tax exempt under IRC § 501(c)(3), the information available does not show it to be classified as, or controlled by an organization under IRC § 509(a)(2) as is required by the statute. Consequently, donations of qualified land to the Organization would not qualify for the Land Preservation Tax Credit provided under Code of Virginia § 58.1-512.

This ruling has been made subject to the facts presented to the department as summarized above. Any change in these facts or the introduction of facts by another party may lead to a different result. 📄

Copies of the Code of Virginia sections cited have been included for reference purposes. These and other reference documents are also available online in the Tax Policy Library section of the Department of Taxation's web site, located at www.tax.state.va.us. If you have any additional questions regarding this ruling, please contact ***** in the Office of Policy and Administration, Appeals and Rulings, at *****.

Sincerely,

Kenneth W. Thorson
Tax Commissioner

AR/33949

Related Policy Documents: PD 03-55