

Common Features of State Conservation Tax Credits

Ten states have conservation tax credits (CA, CO, CN, DE, MD, MS, NM, NC, SC, & VA)

1. Types of preservation

Open space, agricultural, natural resources, water-related conservation (beach access, watersheds, stream banks, public waters)

4 states include historic preservation (Delaware, MD, NM and VA)

2. Types of interest

Conservation easement is most popular; then rights compliant with IRC § 170 (h)

3. Size of credit

From 25% of the federal charitable deduction value up to FMV of property minus payments received for easement

50% of FMV is most popular

4. Credit cap

Only 2 of the 10 states do NOT have a credit cap (California and Connecticut)

5. Carry Forward

Beginning with 5 years up to unlimited time (with 5, 15, and 20 year periods being most popular)

6. Refundability

Only Colorado allows the credit to be refunded (up to \$50,000 and only if state revenues are sufficient)

7. Transferability

Only 3 states allow transfers (Colorado - one time transfer; VA and SC unlimited)

8. Certification

Five of the 10 require an agency (other than Tax or Revenue) to approve the donation for which the credit is sought

9. Recipient of the easement/interest in the land

Only Mississippi has NO restrictions regarding who is the recipient

Most restrict it to a government or charitable/nonprofit entity