State and Local Tax credits
Summary of IRS and Treasury Department Rule

What’s the background? In June 2019, the IRS issued a final regulation regarding contributions in exchange for State and Local Tax credits. The regulation is intended to prevent states from bypassing a cap on the federal deduction for state and local taxes that was included in the tax bill signed into law in December 2017. However, it also impacts other tax credits, including those for conservation. It will erode state tax incentives for landowners who donate land or conservation easements to land trusts.

What’s the issue? The finalized rule directly undermines state tax credits created to provide an incentive for donations of land and conservation easements. Our analysis shows the regulation will impact Arkansas, California, Colorado, Delaware, Georgia, Iowa, Maryland, Massachusetts, Mississippi, New Mexico, New York, South Carolina, Virginia and Puerto Rico. In addition, many local governments have created tax incentives that will also be undermined.

The regulation does not impact federal wetland or mitigation credits; it is solely focused on state and local tax credits.

Now that the regulation is permanent, how exactly will people be affected? Under the regulation, a donor who takes a federal tax deduction for the value of the gift and also receives a state tax credit now has to reduce their federal tax deduction by the amount of the state credit. The impact of the regulation will vary depending on the state or local tax credit.

What else do I need to know? Conservation donations are not donations in lieu of a state tax bill; they are entirely voluntary donations. Moreover, these deductions are for real property interests, not cash. We are very concerned that the unnecessary breadth of the regulation will result in fewer conservation donations. Additionally, the regulation will make any state tax credit for a charitable donation a “quid pro quo” that must be deducted from the donor’s federal deduction. This means it will undermine State and Local Tax credits even if Congress repeals the SALT limitation.

Is congressional action necessary? Yes. The uncertainty created by the release of this rule is already harming conservation donations. We know that federal and state tax incentives for land conservation are important tools that can often mean the difference between lands being conserved or being converted to another use. It’s important that we ensure these incentives are not undermined.

Urge Congress to introduce and pass legislation to exempt conservation donations from the state and local tax limitation.