



## OPEN SPACE LANDS PRESERVATION TRUST FUND

*The Virginia Outdoors Foundation (VOF) does not provide tax advice to landowners. Please consult your tax advisor for advice related to your personal financial situation. The following information is provided to facilitate that discussion.*

The Open Space Lands Preservation Trust Fund (the PTF Fund) was created to provide monetary assistance to landowners related to the costs associated with the conveyance of an open-space or conservation easement, which can be prohibitive for some landowners. These costs may include legal costs, appraisal costs or all or part of the value of the easement. The Fund is administered by VOF.

VOF treats an easement donation that includes cash assistance to the landowner from the Fund as a “bargain sale” transaction. Accordingly, VOF will report PTF payments made to landowners on IRS Form 1099-S, Proceeds from Real Estate Transactions. The payment will also be reported by the landowner on IRS Form 8283, Noncash Charitable Contributions if such form is filed by or on behalf of the landowner. In addition, the receipt of a payment in partial exchange for an easement will reduce the value of the related gift by the amount of the payment and concomitantly the tax credit available to the landowner. Both the income from the sale of tax credits and PTF assistance funds may be subject to taxation.

VOF will report the transaction in the year that the easement donation is recorded, regardless of when the payment is made. Payment to the landowner can only be made after recordation of an easement and submission of eligible expenses to VOF. It may be advantageous for the landowner to coordinate the recordation of the easement with receipt of the PTF payment and payment of eligible expenses.

VOF will not sign a Form 8283 for a landowner until all bills have been submitted for payment. In any event, submission of eligible bills must be complete by January 25<sup>th</sup> of the year following recordation of the easement.

## Hypothetical Scenarios for Calculating Preservation Trust Fund (PTF) Cost/Benefit

### **SCENARIO A: WITHOUT PTF ASSISTANCE:**

Fair Market Value of Property (FMV) considered for Easement (as determined by an appraiser)	\$300,000
*Easement Value (as determined by an appraiser)	\$100,000
State Tax Credit Potential (40% of easement value)	\$40,000
“Bottom Line” benefit for Landowner	\$40,000

### **SCENARIO B: WITH PTF ASSISTANCE:**

FMV of Property considered for Easement (as determined by an appraiser)	\$300,000
*Easement Value (as determined by an appraiser)	\$100,000
**PTF Assistance (amount is arbitrary)	- \$5,000
***Easement Value (after PTF funds subtracted)	\$95,000
State Tax Credit Potential (40% of easement value)	\$38,000
<u>Add in PTF Assistance provided to landowner</u>	<u>\$5,000</u>
“Bottom Line” benefit for Landowner	\$43,000

\* Also known as “donation value”. This particular scenario is calculated at a 33.3% easement value. The average easement value in Virginia is approximately 37%.

\*\* The amount of PTF funds awarded to the landowner is dependent upon the estimated costs of the appraisal and attorney fees (in some cases survey costs are eligible) as well as the financial need of the landowner. The \$5,000 amount is used in this example as a “ball park” estimate. The actual amount could be more or less depending on the factors previously cited. The IRS refers to this as a “bargain sale” payment.

\*\*\* PTF assistance funds are subject to taxation, which may reduce the bottom line benefit depending upon the landowner’s tax bracket.

NOTE: The “Bottom Line” benefit for the landowner depends on whether the landowner chooses to use the tax credits for his/her own tax liability or if the tax credits are sold. If the tax credits are sold, they generally bring anywhere from 50-80 cents on the dollar. The income from the sale of tax credits may be subject to taxation. Please consult your tax advisor for specific details on how the donation of an easement could affect your tax situation.