

Conservation Easement Credit Limits

In response to requests from stakeholders, the Division of Conservation (“Division”) and the Department of Revenue are issuing this guidance to clarify certain limits imposed upon the issuance and use of conservation easement tax credit certificates. The purpose of this guidance is to provide the agencies’ views on the applicability of specific limits in section 39-22-522, C.R.S. Nothing in this publication modifies or is intended to modify the requirements of Colorado’s statutes and regulations. Taxpayers are encouraged to consult their tax advisors for guidance regarding specific situations.

Credit Basics

A conservation easement is a voluntary legal agreement to restrict the use of a property. Typically, development is limited or prohibited to forever protect and preserve conservation values, such as natural habitat, open space scenic views and agriculture, and outdoor recreation and education. The conservation easement is recorded in the public record and is enforced by the holder of the conservation easement.

A taxpayer who donates a conservation easement to a qualifying governmental entity or charitable organization may qualify for a state income tax credit, subject to approval by the Division. An income tax credit offsets a taxpayer’s Colorado income tax liability. Refer to section 39-22-522, C.R.S., and related statutes and rules, for further conditions and information.

Subject to certain limitations, the credit is a percentage of the fair market value (FMV) of the donation, excluding any amount received by the donor as part of a bargain sale for the easement. The credit percentage depends on the year in which the qualifying donation is made.

- For qualifying donations made on or after January 1, 2021, but before January 1, 2027, the credit is generally 90% of the FMV of the donation.
- For qualifying donations made on or after January 1, 2027, but before January 1, 2032, the credit is generally 80% of the FMV of the donation.

To claim a conservation easement credit, a taxpayer must apply for a tax credit certificate issued by the Division. The tax credit certificate application process ensures that conservation easement donations meet all statutory requirements and are supported by a qualified appraisal prepared by a qualified appraiser. The authority to approve or deny tax credit certificate applications is vested with the Conservation Easement Oversight Commission and the Director of the Division.

Credit Limits

Like most tax credits, the conservation easement credit is subject to several limits. The credit allowed for each donation is limited to \$5 million. Tax credit certificates issued by the Division may not exceed \$1.5 million. Finally, state statute imposes an overall limit on the conservation easement credit by limiting the aggregate amount of tax credit certificates the Division is authorized to issue per year. For calendar years 2025 through 2031, the Division is authorized to issue up to \$50 million in tax credit certificates per year.

Credits in Excess of Limits

The Division does not have the authority to exceed the \$5 million per-donation limit. If the FMV (reduced by the applicable percentage described above) of the easement exceeds \$5 million, the excess is not allowed as a state income tax credit.

Example 1: Taxpayer T donates an approved conservation easement to a qualifying charitable organization on March 1, 2027. The FMV of the donation is \$6.5 million. Applying the 80% credit ratio

results in a gross credit of \$5.2 million. However, the maximum credit allowed to Taxpayer T is \$5 million.

The maximum amount for which the Division is authorized to issue a tax credit certificate is \$1.5 million. Tax credit certificates for credits in excess of this limit are issued at \$1.5 million per year (up to the amount of credit allowed) for use in the next year for which the Division has not issued credit certificates in excess of the aggregate annual limit discussed above.

Example 2: Using the facts from example 1, assume that the aggregate annual cap has not been reached for 2027 or any year thereafter. Taxpayer T will be issued a tax credit certificate of \$1.5 million for 2027, a tax credit certificate of \$1.5 million for 2028, a tax credit certificate of \$1.5 million for 2029, and a tax credit certificate of \$500,000 for 2030.

When the aggregate annual limit of \$50 million is reached, the Division must issue tax credit certificates for use in the next year for which the Division has not issued credit certificates in excess of the aggregate annual limit. The Division must prioritize tax credit applications in the order received. As a result of the aggregate annual limit, a taxpayer may not be able to use the credit allowed for a donation until a future tax year. The Division may issue a tax credit certificate for less than the full \$1.5 million per-certificate limit if issuing a tax credit certificate for the full \$1.5 million allowed would exceed the aggregate annual limit for the year.

Example 3: Using the facts from examples 1 and 2, assume that the Division had already issued tax credit certificates totaling \$49 million for 2027. Taxpayer T will be issued a tax credit certificate of \$1 million for 2027, a tax credit certificate of \$1.5 million for 2028, a tax credit certificate of \$1.5 million for 2029, and a tax credit certificate of \$1 million for 2030.

The Division does not have the authority to issue tax credit certificates for calendar years after 2031. When the Division issues \$50 million in tax credits certificates for calendar year 2031, no further certificates will be issued, and the Division will stop accepting applications for tax credit certificates. Tax credit certificates will be issued in priority order pursuant to section 12-15-105(2), C.R.S., up to the aggregate annual limit for each year through 2031, subject to the additional limits discussed above.

Importantly, the aggregate annual limit may necessitate the Division's issuance of a tax credit certificate for less than the full amount that would have been allowed but for the aggregate annual limit. Part of the credit may also be disallowed by the application of the \$1.5 million per-certificate limit. Furthermore, some donations made prior to January 1, 2032, may be ineligible for any tax credit if the program is fully subscribed for all calendar years.

Example 4: Using the facts from example 1, assume that the Division already issued tax credit certificates totaling \$50 million for 2027 through 2029, \$40 million for 2030, and \$20 million for 2031. Taxpayer T will be issued a tax credit certificate of \$1.5 million for 2030, and a tax credit certificate of \$1.5 million for 2031.

Additional Resources

Statutes

- Section 12-15-105, C.R.S. Conservation easement tax credit certificates.
- Section 12-15-106, C.R.S. Conservation easement tax credit certificate application process.
- Section 39-22-522, C.R.S. Credit against tax – conservation easements.

Websites and Guidance Publications

- Division of Conservation website ([Conservation.Colorado.gov](https://www.Conservation.Colorado.gov)).
- Department of Revenue website ([Tax.Colorado.gov](https://www.Tax.Colorado.gov))
- [Income Tax Topics: Conservation Easement Credit](#)