

OSU EXTENSION

PROTECTING AMERICANS FROM TAX HIKES (PATH) ACT RESTORES HIGHER DEDUCTION FOR DONATION OF QUALIFIED CONSERVATION EASEMENTS

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On December 18, 2015, Congress passed and the President signed into law an agreement on tax extenders and numerous other tax provisions in the “Protecting Americans from Tax Hikes (PATH) of 2015” (the Act). Tax extenders are the 50+ tax provisions that are routinely extended by Congress on a one- or two-year basis. The Act makes permanent many of the individual and business extenders. One provision of the PATH Act restores the higher charitable deduction for donations of qualified conservation easements for farmers and ranchers.

QUALIFIED CONSERVATION CONTRIBUTIONS

A taxpayer's aggregate qualified conservation contributions (i.e., contributions of appreciated real property for conservation purposes) were, for tax years beginning before Jan. 1, 2015, allowed up to the excess of 50% of the taxpayer's contribution base over the amount of all other allowable charitable contributions (100% for qualified farmers and ranchers), with a 15-year carryover of such contributions in excess of the applicable limitation.

Under pre-Act law, these rules didn't apply to any contribution made in a tax year beginning after Dec. 31, 2014, and contributions made thereafter were to be subject to the otherwise applicable 30% limit for capital gain property (50% limit for qualified farmers and ranchers).

New law. Effective for contributions made in tax years beginning after Dec. 31, 2014, the Act retroactively revives and permanently extends the charitable deduction for contributions of real property for conservation purposes and the enhanced deduction for certain individual and corporate farmers and ranchers. (**Code Sec. 170(b)(1)(E)** and **Code Sec. 170(b)(2)(B)**), as amended by Act Sec. 111(a).

A “qualified farmer or rancher” is a taxpayer more than 50% of whose gross income for the tax year is from the trade or business of farming.

Any contribution of property which is used in agriculture or livestock production (or available for such production) must remain available for production for the deduction to apply.

Therefore, there must be a restriction that the property remains in agriculture.