

# *Tax Trends: Update on Current Tax Legislation and Planning Opportunities*



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# 2016 Outlook



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# State of the IRS

- Shrinking Workforce
  - Customer Service
- Enforcement
  - Overall decline
  - Shift to correspondence audits
  - Shift to business return audits
- Identify Theft

# 2016 Outlook

- Small business \$2,500 de minimus cap under the repair regulations
- Obamacare penalties
- Depreciation limits
  - Permanent Sec 179 limits
  - Bonus depreciation

# Shared Responsibility Payment

- MFJ (\$695)
- \$125,000 Income
- 3 children(\$347.50)
- % penalty= \$2,610
- Flat penalty= \$2,433
  - Capped at \$2,085

# Cost Segregation



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# Fundamental Concepts

- Depreciable life
- Time Value of Money
- Target properties
- Example



# Dirt Cost Segregation

- Can taxpayer amortize residual fertilizer left on land purchased (or inherited)
- Technical Advice Memorandum (TAM 9211007) 1992
- [www.fertiledirt.com](http://www.fertiledirt.com)
- IRS Position

# Dirt Cost Segregation

1. Establish the presence and extent of the fertilizer.
2. Show the level of soil fertility attributable to application by prior owner.
3. Provide a base to measure the increase.
4. Provide evidence of period for which residual will be exhausted.

# Presidential Election May Bring



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# Democratic Proposals

- Capped itemized deductions
- Buffet rule
- Estate tax increase
- Capital gain rates

# Republican Proposals

- Tax bracket changes
- Capital gain rates
- Eliminate
  - Estate tax
  - Obamacare
  - Deductions to offset rate decreases

# Conservation Easement



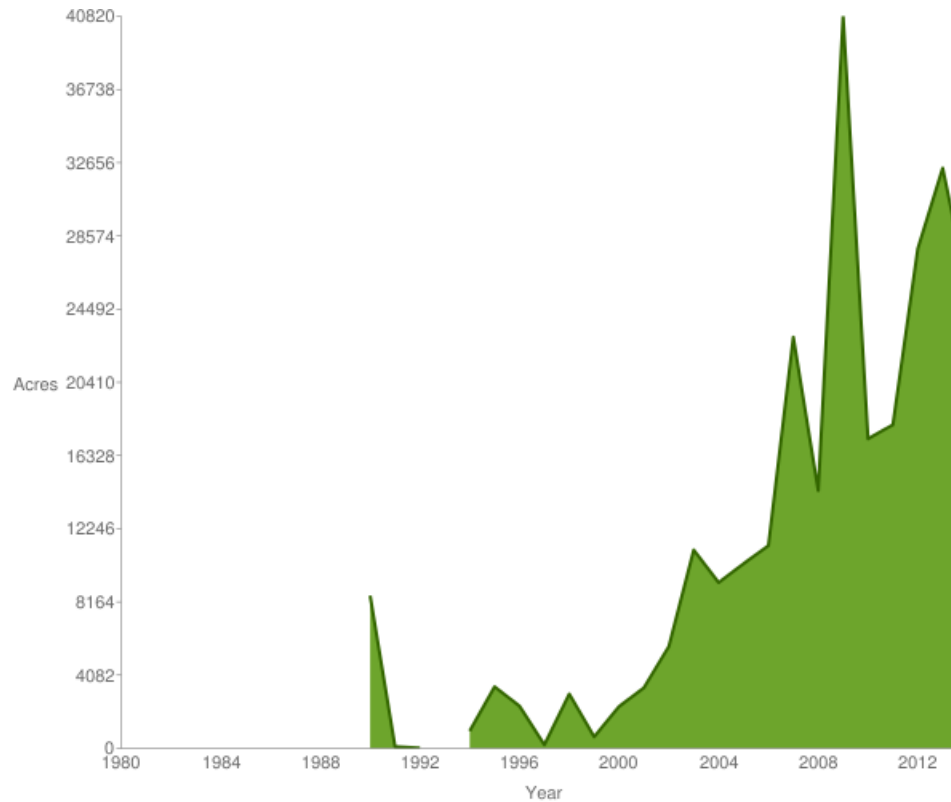
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# Conservation Easements

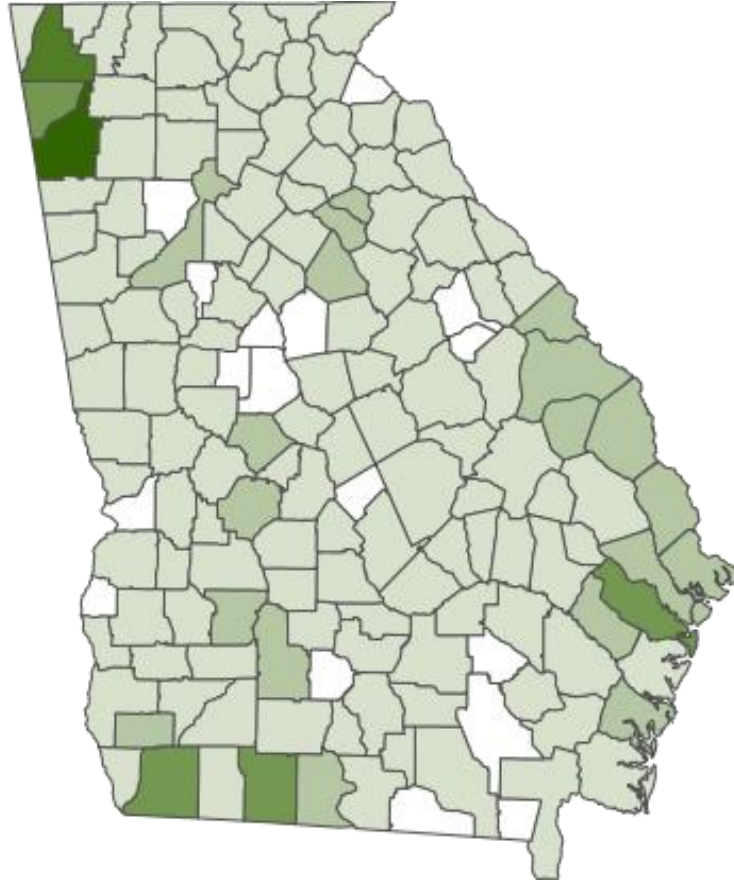
- Not conservation use valuation for property taxes.
- Permanent provision in the tax code
- Valid deductions yield
  - Estate and income tax savings

# Georgia's Conservation Easements





# Georgia's Conservation Easements



# Georgia Conservation Easements

County	# Easements	Acres
Ben Hill	1	154
Tift	0	0
Irwin	1	611
Turner	3	1,064
Wheeler	9	6,474
Worth	22	11,748
Liberty	31	39,920

# What is a Conservation Easement

- Restriction (granted in perpetuity) on the use which may be made of real property
- Granted to a qualified organization
- Exclusively for one of more of the four conservation purposes provided in the statute
- Protected for perpetuity

# Conservation Purposes

- Outdoor recreation or education -for the general public
- Habitat protection- protection of a relatively natural habitat of fish, wildlife, plants, or similar ecosystem
- Historic preservation
- Open space protection- includes farmland and forestland

# What are the tax benefits?

- Income
  - Charitable donation deduction
- Gift
  - Charitable gift tax deduction
- Estate
  - Exclusion from taxable estate
  - Charitable estate deduction

# Easement Basics

- Runs with the land
- Donated development rights have monetary value
- Landowner rights:
  - Remains owner of the property
  - Manages property
  - Retains all rights not conveyed in the easement
  - Public access not generally required
  - Land may be sold, leased, or mortgaged

# Easement Basics

- Grantee Rights and Obligations
  - Monitors conservation easement
  - Enforces restrictions of easement over time
  - Has all rights granted in the easement
    - “Rights” generally considered extinguished and held for safekeeping by grantee.

# Case Study

- Undivided  $\frac{1}{2}$  interest in 1,189 acres within three tracts
- Loss of value at \$1,040,000 or \$874/acre on average
- Donation of \$520,000
- Georgia credit of \$130,000
- No add back required to Georgia for donation since pre 2013



# Case Study

- Easement restricted
  - Clear cutting of timberland
  - Subdivision of property
  - All non agricultural development rights were transferred
  - Conservation best practices required
  - No new farm support housing
  - No new dwellings

# Georgia Tax Benefits

- 25% of the FMV of donated interest
- \$250,000 individual/\$500,000 corporate credit limit.
- 10 year carryforward
- Transferrable
- May be able to reduce property tax assessment values

# Georgia Tax Benefits

- House Bill 464 passed during 2015 session
  - Limits award amount to \$30 million
  - Eliminates the credit on 12/31/16.

## TODAY'S PRESENTERS

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