

Garden State Preservation Trust Annual Report

Special Section Conservation Tax Benefits



4. HR-4 Conservation Tax Benefits Seminars

Public seminars to spread the word about conservation tax deductions in the Pension Protection Act of 2006

The fiscal year began on the bright note in terms of federal policy as President Bush on August 17, 2006, signed the Pension Protection Act of 2006, better known by its house bill number, HR-4.

It was a large piece of legislation reforming many parts of the federal tax code regarding IRAs and pension funds. These changes included a dramatic but temporary expansion of the tax deductions permitted for conservation donations and bargain sales.

Here are highlights of the changes brought about by HR-4:

- Existing tax deductions permitted land owners who made a full or partial donation of a conservation or agricultural easement on their land to deduct up the value of this donation of an amount up to 30% of the value of their adjusted gross income. HR-4 increased this deduction amount to 50%.
 - Example: A landowner with adjusted gross income of \$100,000 had been permitted to deduction 30%, or \$30,000. HR-4 increased that deduction to 50%, or \$50,000
- Existing tax deductions gave qualified farmers who made a full or partial donation of an agricultural easement the same treatment was other landowners; that is, they could deduct the value of this donation of an amount up to 30% of the value of their adjusted gross income. HR-4 increased this deduction amount to 100%.
 - Example: A farmer with adjusted gross income of \$100,000 had been permitted to deduction 30%, or \$30,000. HR-4 increased that deduction to 100%, or the full \$100,000 of income. In other words, the qualified farmer whose donation was large enough could deduct the entire sum from his income and as a result would pay no taxes at all.
- Existing tax deductions permitted land owners who made large donations which exceeded the value of the tax deduction to carry forward the deduction for the next five years. HR-4 increased this carry-forward period to 15 years.

- Example: A landowner whose annual 30% deduction is worth on \$30,000 could carry forward the deduction for an additional five years, reaching a total deduction of \$180,000. HR-4 increased that deduction to \$50,000 and also allowed it to be carried forward for 15 years, reaching a total deduction of \$800,000.

HR-4 had significant shortcomings, including the strange fact that fee-simple sales or donations – outright gifts of land without the entanglements of an easement – did not qualify for the enhanced tax deduction benefits.

But the most significant shortcoming was the fact that HR-4's enhancements expire on Dec. 31, 2007. On Jan. 1, 2008, the tax deduction benefits for conservation donations revert to the status quo unless Congress acts to extend the provisions or to make them permanent.

Despite the shortcomings, HR-4 represented a significant enhancement of the tax benefits for conservation.

The federal government has never played a major financial role comparable to the State, counties and municipalities in funding land conservation in New Jersey. HR-4 represented an indirect but potentially enormous federal subsidy to New Jersey's land conservation efforts by providing tax deductions for landowners who were willing to donate conservation easements and agricultural easements, or who were willing to make partial donations of these easements in the form of discounts or "bargain sales."

No one could be certain that HR-4 would bring about reduced State and local costs for any land preservation deal in New Jersey. All land deals are done on a case-by-case basis. All potential sellers have unique family and financial circumstances.

But everyone agreed it would be an unforgivable shame if HR-4 tax benefits could have been used to advantage to lower the costs of a land deal but were not used because the parties involved in the transaction – land owners as well as preservation agencies – were simply unaware of the HR-4 provisions and how they might be applied.

In consultation with Chairman Michael Murphy, the Executive Director undertook an educational campaign to make the land conservation community and land owners aware of HR-4 through the preparation and dissemination of educational materials and scheduling of a series of public seminars to educate the public about conservation tax benefits and how HR-4 improved the available deductions.

The Garden State Preservation Trust had from time to time participated in public events and conferences, and in 2005 a statewide conference was organized on the matter of Installment Purchase Agreements, or IPAs, a unique financing instrument available only to conservation agencies that enables landowners to receive payments for land acquisitions in installments over time in order to avoid the federal tax impact of a single lump-sum payment.,

But the Garden State Preservation Trust had never initiated and undertaken a continuing program of public appearances and training seminars. It was an important and appropriate role of the Trust to undertake an HR-4 training program because tax deductions could help preservation agencies leverage the funds they received from the Garden State Preservation Trust. The hope was that a larger tax deduction would encourage land sellers to make at least a partial donation and in doing so accept a lower price. Lower costs for land transactions would offset the escalation in real estate costs

being experienced statewide and would allow agencies to move the dollars they saved to the next conservation project.

First the Executive Director attending an HR-4 training program conducted by the Piedmont Environmental Council in Fauquier County, Virginia. The PEC had played a major role in lobbying for the HR-4 legislation in Washington and its principle officers were on hand when the legislation was signed. The PEC and the national Land Trust Alliance generously shared their educational materials with the Garden State Preservation Trust as we prepared our own materials and seminar program.

A slideshow presentation and public seminar was prepared to bring the HR-4 message home to New Jersey. It was intended to be a temporary program to run for six or seven months through the middle of 2007.

The kickoff for the seminars was a series of three evening programs on three consecutive nights in central, northern and southern New Jersey. Executive Director Ralph Siegel conducted all of the presentations with the assistance of Daniel Patrick O'Connell of Evergreen Capital Advisers as Financial Advisor, plus volunteer attorneys with expertise in tax law and representatives of nonprofit agencies experienced in land conservation deals.

- Tuesday, Dec. 5, 2006, at the Johnson Education Center in Princeton, co-hosted by the D&R Greenway Land Trust. Joining Mr. Siegel and Mr. O'Connell at the seminar were Megan Thomas, Esq., and Linda Mead, executive director of the D&R Greenway Land Trust.
- Wednesday, Dec. 6, 2006, at the Salem County Agricultural Center in Woodstown, co-hosted by the Salem County Agriculture Development Board. Joining Mr. Siegel and Mr. O'Connell at the seminar was Janet Eisenhower of the New Jersey Conservation Foundation and Upper Pittsgrove Mayor Jack Cimprich to provide both the nonprofit and municipal perspectives.
- Thursday, Dec. 7, 2006, at the Lewis Morris County Park Cultural Center in Mendham. Joining Mr. Siegel and Mr. O'Connell at the seminar were Michael Catania, Esq., of Conservation Resources Inc., to provide both the tax law and nonprofit perspectives.

The Garden State Preservation Trust Web site was expanded to include brochures, handouts and other information related to HR-4, including a version of the slideshow presentation used at the seminars for Web site visitors to view or download.

The seminars continued in the spring as conservation agencies invited the Garden State Preservation Trust to participate in pre-scheduled programs to make the HR-4 presentation.

- February 6, 2007, at the Rutgers Eco-Complex in Florence, hosted by Burlington County Agriculture Development Board.
- March 2, 2007, at the Rutgers University Cook College in New Brunswick, hosted by the State Agriculture Development Committee as part of the "Farmland Preservation Summit" daytime conference. Joining Mr. Siegel and Mr. O'Connell at the seminar was Michael Catania, Esq.

- March 29, 2007, at the Johnson Education Center in Princeton, hosted by the D&R Greenway Land Trust. Joining Mr. Siegel and Mr. O'Connell at the seminar were Megan Thomas, Esq., and Isabel Miranda, Esq.
- April 18, 2007, at the Upper Freehold firehouse in Upper Freehold, hosted by the Monmouth Conservation Foundation.
- June 13, 2007, at the Upper Pittsgrove Municipal Building in Upper Pittsgrove, co-hosted by the Garden State Preservation Trust and Upper Pittsgrove Township. Joining Mr. Siegel and Mr. O'Connell at the seminar was Isabel Miranda, Esq. Also attending was former GSPT board member and chairman William Brooks, the owner of a farm that he had preserved, and current GSPT board member Herbert Wegner, also the owner of a preserved farm and an activist in promoting local farmland preservation.

These eight seminar presentations were intended to function as informational sessions for landowners, preservation agency officials and others not familiar with the basics of HR-4.

Throughout this period it was intended that the public education effort would culminate with the daytime workshop program that would provide a deeper examination and discussion of conservation tax benefits in general and HR-4 in particular. This workshop was conducted on June 18 at the Johnson Education Center in Princeton with a conference book prepared and published by the Garden State Preservation Trust. Seminar presenters and panel discussion participants included Mr. Siegel, Mr. O'Connell, Ms. Mead, Ms. Thomas, Ms. Miranda, David Springsteen CPA of Withum Smith & Brown CPAs, Wade Martin of UBS Financial Services, Richard Goldman, chairman of the D&R Greenway Board, and Bill Rawlyk, preservation director of the D&R Greenway.

Following the successful seminar and workshop effort, the Executive Director proposed to the Trust board establishment of a permanent Conservation Tax Benefits seminar program to make sure land owners and preservation agency officials are fully aware of the tax deduction and tax avoidance benefits associated with land conservation regarding such tax topics as estate taxes, gift taxes and capital gains taxes.

It was seen as an appropriate role for the Garden State Preservation Trust as a financing authority to conduct a public awareness and education campaign aimed at leveraging GSPT dollars by encouraging sellers to consider donations and bargain sales in order to make use of available tax deduction benefits.