

Instructions for Virginia Form LPC-1, Application for a Land Preservation Credit

Purpose of Form LPC-1

Individual and corporate taxpayers may claim a credit against their tax liability for the donation of land or an interest in land to an eligible public or private conservation agency.

The donation must be conveyed as an unconditional donation in perpetuity by the taxpayer to an eligible public or private conservation agency for conservation or preservation purposes. Additionally, the land or interest in land must be located in Virginia. Form LPC-1 is used to apply to the Virginia Department of Taxation (the Department) for a Land Preservation Tax Credit following an eligible donation. Form LPC-1 is also used by the Department of Conservation and Recreation (DCR) in their assessment of conservation value for tax credits of \$1 million or more.

If the Commonwealth or an instrumentality thereof operates a facility on a conveyance, including charging fees for the use of such facility, such operation shall not disqualify the conveyance from eligibility for the tax credit, so long as any fees are used for conservation or preservation purposes.

If the Commonwealth or an instrumentality thereof enters into an agreement with a third party to lease or manage a facility on a conveyance, the fact that such third party is operated primarily as a business with intent for profit shall not disqualify the conveyance from eligibility for the tax credit, so long as such agreement is for conservation or preservation purposes.

The Department is prohibited from issuing tax credits from a pool of tax credits attributable to a calendar year prior to the year in which the complete tax application was filed. Also, credits must be issued in the order that each complete application is filed.

DCR Pre-Filing Review

In order to facilitate successful applications for tax credits of \$1 million or more, the Director of DCR offers an optional review to verify conservation value prior to recordation of the easement. For more information, call **(804) 225-2048**.

A donation requesting a credit of \$1 million or more is not eligible for a tax credit until it has been verified by DCR. If the cap is reached before the Department receives DCR verification, the credit will be issued for the next available year. For example, if a 2019 donation is not verified by DCR before the 2019 cap is met, it will be issued as a 2020 credit.

The maximum amount of credits that may be issued in a calendar year may not exceed \$75 million. For taxable years beginning on and after January 1, 2017, the credit claim limit per taxpayer per taxable year is \$20,000 or the total tax liability, whichever is less. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed is subject a higher limitation of \$100,000 per taxpayer for each taxable year, provided that no part of the charitable contributions

deduction under IRC § 170 related to such fee simple donation is allowable by reason of a sale or exchange of property. For taxpayers affected by the credit reductions for taxable years 2009, 2010, 2011, and 2015 and thereafter, an additional 3-year carryforward will be added to the credit. Any unused credit not affected by the credit claim limitation will retain the original carryforward periods (10 years for donations originating on or after January 1, 2007).

When to Submit Form LPC-1

To avoid delays in the processing of your annual return, Form LPC-1 should be submitted to the Department within 90 days following the donation, but at least 90 days before you file your annual return to claim the credit. As a result of legislation effective July 1, 2019, applicants for tax credits of \$1 million or more should apply at least 120 days before filing an annual return. For land or interest in land conveyed before January 1, 2020, no credit is allowed unless a complete application has been filed by December 31 of the 3rd year following the calendar year of the conveyance. For land or interest in land conveyed on or after January 1, 2020, a complete application must be filed by December 31 of the 2nd year following the calendar year of the conveyance. Prior to July 1, 2019, Form LPC-1 was statutorily required to be filed by December 31 of the first year following the year of conveyance.

Upon receipt of your completed Form LPC-1, the Department will record the transaction and provide the credit holder with a letter acknowledging the credit and a receipt for any fees paid.

This acknowledgment does not constitute the Department's approval of the amount of the Land Preservation Tax Credit that may be claimed. The amount of the tax credit identified above is subject to subsequent review and audit by the Department and may ultimately be disallowed, either in whole or in part. The stated amount of the tax credit is based solely upon information supplied by the donor to establish the fair market value of the donation on which your credit is based. The value of the donation is subject to challenge by federal and state tax authorities.

The Department makes no express or implied warranties that any tax benefits will be available to the donor or to anyone to whom a Land Preservation Tax Credit is transferred or re-transferred. The Department will notify you further only if any portion of your credit is disallowed or otherwise adjusted. Such notification may be issued either before or after you file an income tax return claiming the credit, subject to the statute of limitations.

You cannot transfer credit(s) until the Department has issued you a credit for your donation. The Department is unable to guarantee that any Form LPC-1 application received in December will be processed in time to make a transfer in that year.

In addition, the sale or transfer of tax credits may have income tax consequences for the credit holder and the transferee. You are encouraged to consult your attorney, tax professional, or the Internal Revenue Service for advice.

Forms to Complete

- Do not complete a separate Form LPC-1 for each owner of the same donation.
- Complete a separate Form LPC-1 for each recorded deed of donation.
- Form LPC-1, Schedule A if there is more than one credit holder, either because of multiple donors (including spouses when both are on the deed) of the donated property or pass-through entity.
- Form LPC-1, Schedule B if the tax credit is \$1 million or more, and the donation is a less-than-fee interest in land.
- Form LPC-1, Schedule C if the tax credit is \$1 million or more and the donation is a fee simple interest in land.
- Form LPC-2, Notification of Transfer of Land Preservation Credit, for all sales or transfers of Land Preservation Tax Credits.

What to Enclose and Where to Submit Form LPC-1

VIRGINIA DEPARTMENT OF TAXATION

Applications must include the following enclosures:

- A copy of the recorded deed of donation.
- A copy of the completed and signed IRS Form 8283.
- A copy or CD of the full appraisal.
- A signed statement (made under penalty of perjury that meets the requirements under *Va. Code* § 8.01-4.3) or a notarized affidavit from the appraiser stating that the appraisal complies with *Va. Code* § 58.1-512.1(C), which states that: "Any appraisal submitted in support of an application for a credit under this article shall include an affidavit by the appraiser that to the best of his knowledge and belief the valuation complies with this section and shall set forth in the affidavit or refer to the specific portion of the appraisal setting forth the facts and basis for this knowledge and belief."
- Baseline Documentation Report.

The original Form LPC-1, schedules, and enclosures should be sent to the following address:

**Virginia Department of Taxation
Tax Credit Unit
P.O. Box 715
Richmond, VA 23218-0715**

For general assistance call **(804) 786-2992**.

DEPARTMENT OF CONSERVATION & RECREATION

The following should be sent to the address below:

- A copy of Form LPC-1
- Form LPC-1 Schedule B or C (if applicable).
- A copy of the recorded deed of donation
- A copy of the IRS Form 8283

**Department of Conservation & Recreation
Office Of Land Conservation
600 East Main Street, 24th Floor
Richmond, VA 23219**

In addition to the enclosures listed above, applications for tax credits of **\$1 million or more** must include a copy of the Baseline Documentation Report for donations of less-than-fee interest.

For assistance regarding Sections IV, V, and Form LPC-1 Schedules B and C, call **(804) 371-5218**.

Filing Procedures

If you are a pass-through entity and are not allocating any credit at the time of credit registration, please submit a statement on business letterhead indicating the credit is being retained for sale or transfer.

All business taxpayers should be registered with the Department before completing a LPC application. If you are not registered, please complete Form R-1.

If the donor is an entity that is disregarded for federal income tax purposes (e.g., a grantor trust or a single-member LLC), please provide a copy of your federal tax return that includes the donor's information.

How to Complete Form LPC-1

Lines not mentioned below are self-explanatory.

Section I – Applicant Information

Complete Section I for all applications.

A) Applicant Type – Check the box indicating the entity type of the applicant(s).

- **Individual Taxpayer** – The donation was made by a single taxpayer or married taxpayers filing joint returns in Virginia.
- **Married Donors** – The applicants are married taxpayers filing joint returns in Virginia and both are listed as donors on the deed gift of donation.
- **Multiple Donors** – The donation was made by tenants in common or joint tenants. Complete Schedule A listing each applicant and their respective credit amount(s).
- **Trust / Estate** – The applicant is a trust or estate. In addition, if the trust or estate will be passing the credit to its beneficiaries, complete Schedule A listing each person or entity and their respective credit amount(s).

- **Pass-Through Entity** – The applicant is a partnership, S corporation, limited liability company or business trust. Complete Schedule A listing each person or entity and their respective credit amount(s).
- **Corporation** – The applicant is a C corporation.
- **Nonprofit** – The applicant is a nonprofit organization.
- **Other Entity** – All other entity types. Specify the entity type in the space provided. Complete Form LPC-1, Schedule A, if applicable. If entity is considered a disregarded entity by the IRS, please provide a copy of the classification letter and a copy of your federal Form 1040, Schedule C, or IRS Form 8832.

B) Applicant Name – Enter the applicant’s name(s) as shown on the deed.

C) Applicant Identification Number – Enter each applicant’s Social Security number (SSN) or federal employer identification number (FEIN). If the donation was owned jointly by married taxpayers, complete Schedule A. The FEIN is required for pass-through entities and corporations.

E) Contact Name – Enter the name of the person, if different than the applicant, the Department should contact to answer questions regarding the information provided on Form LPC-1.

F) Phone Number – Enter the telephone number for either the applicant or the contact listed in Section I (E).

Section II – Donation Questions

A) Donations Made on or After January 1, 2007

If you, a family member, or an affiliate were granted a credit for any portion of the recorded parcel of land within the preceding 11 years, the donation must be verified by DCR when the aggregate of such credits (including the credit requested on this application) is \$1 million or more. For additional information please see *Va. Code* § 58.1-512(D)(3)(b).

B) Donations Made on or After July 1, 2010 – Complete Section II-A and Section II-B.

For credit requests of \$250,000 or more, the donation must be verified by DCR if the land that is the subject of the current donation was ever partitioned from or part of another parcel of land and the other portion of the original parcel was granted a Land Preservation Credit or has an application pending within 3 years of this donation. For additional information please see *Va. Code* § 58.1-512(D)(3)(c).

Section III – Property and Credit Information

Complete Section III for all applications.

A) Type of Donation – Check the appropriate box to indicate the type of donation.

Fee Simple – Provides full rights and title to the land.

Less-Than-Fee Simple – Provides partial rights to a parcel of land.

B) Bargain Sale – Check the appropriate box to indicate if the transaction was a bargain sale, that is, part donation and part sale. If yes, also enter the amount received and provide proof of sale.

You should deduct this amount from the appraised value of the donation (Section III (N)).

C) Number of Acres – Enter the number of acres of donated land or interest in land.

D) Date Acquired – Enter the date that the donated land was acquired by the applicant. If property acquired within one year of recorded gift, provide a copy of the settlement statement.

E) Property Street Address – The address provided must be the physical location of the land. The land must be located in Virginia. Do not enter a post office box.

F) Property Information – Enter the current zoning, highest and best use before donation, tax map, or PIN and locality for the donated property.

G) Name(s) of Eligible Conservation Agency(ies) Receiving Donation – Enter the name(s) of the eligible conservation agency(ies) that received the donation.

H) Jurisdiction(s) Donation Was Recorded – Enter the name of the locality(ies) in Virginia where the transfer of the land or interest in land was recorded.

I) Date Recorded – Enter the date the transfer of the land, or interest in land, was recorded.

J) Appraisal Company Name – Enter the name of the company that appraised the donated land, or interest in land.

K) Company’s FEIN or SSN – Enter the FEIN or SSN of the company that appraised the donated land, or interest in land.

L) Appraisal Evaluation Date – Enter the date that the appraisal for the donated land or interest in land was finalized.

M) Appraisal Report Date – Enter the date the appraiser signed the appraisal.

N) Appraised Value of Donation – Enter the fair market value of the land or interest in land that is being donated. The fair market value is the “qualified appraisal” as prepared by a “qualified appraiser,” as those terms are defined under applicable federal law, under § 170(h) of the United States Internal Revenue Code of 1986 as amended and regulations governing charitable contributions.

O) Credit Amount Requested – For donations made after January 1, 2007, the credit is 40% of the actual appraised value of the donation.

P) Assessed Value of Land Per Acre – Enter the most recent assessed value per acre of the donated land prior to donation as determined by the real estate assessor for the locality in which the land is located. This should not include improvements (dwellings) unless it is a qualifying historic structure.

Q) Appraised Value Per Acre – Enter the appraised value per acre of the donation/gift using the qualified appraisal value recorded in Section III (N). To calculate: divide appraised value of donation by the number of acres (N/C). This should not include improvements (dwellings) unless it is a qualifying historic structure.

Section IV - Conservation Information for Reporting Purposes

Note: The phrase “conservation easement,” as used in these instructions and in Form LPC-1, includes both open-space easements pursuant to *Va. Code* § 10.1-1700 et seq. and conservation easements pursuant to *Va. Code* § 10.1-1009.

A) Conservation Purpose – For definitions of these conservation purposes, see Form LPC-1, Schedule B, Section I, and the instructions for Form LPC-1, Schedule B.

The donated land or conservation easement must be conveyed for at least one of the conservation purposes specified in *Va. Code* § 58.1-512(A). Identify the conservation purposes protected by the donation by checking the applicable boxes on Form LPC-1, Section IV, and specify the acreage of each use indicated. All identified conservation purposes must meet the Virginia Land Conservation Foundation Conservation Value Review Criteria. The criteria can be found here: dcr.virginia.gov/virginia-land-conservation-foundation/document/lptccrit08.pdf.

C) Riparian Buffers – If riparian buffers are required in the deed of easement, then indicate the total length of the water bodies (in linear feet) protected with at least a 35-foot wide buffer. If applicable, include each side of the water body.

“Forested/vegetated buffer” means a strip of land adjoining a watercourse that contains trees or other woody vegetation.

“No-plow buffer” means a strip of land adjoining a watercourse that is not plowed, but is managed to maintain non-woody vegetation (e.g. pasture, grasslands).

D) Land Currently Being Used for Agricultural and Silviculture Production – Indicate the estimated number of acres of land currently being used in agriculture and silviculture production.

“Production agriculture and silviculture” means the bona fide production or harvesting of agricultural or silvicultural products, but does not include the processing of agricultural or silvicultural products or the above ground application or storage of sewage sludge.

“Silviculture” is the commercial farming of trees.

“Agriculture” is production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; and nuts, tobacco, nursery, and floral products.

E) Onsite Operational Water Quality Best Management Practices – Indicate the type of agriculture and silviculture best management currently being practiced and if the deed requires continued practice. Also, provide the practice number for the practice name. (See agriculture and silviculture tables at the end of these instructions.)

Section V – Fee Simple Donation

A) Gift to Conservation Agency – If the donation is a gift in fee simple to a public or private conservation agency, provide the name of the agency. If the application is for \$1 million or more in tax credits, also complete Form LPC-1, Schedule C.

B) Gift to Holder – If the donation is a gift in fee simple to a “holder” as defined in *Va. Code* § 10.1-1009, indicate that documentation is enclosed showing that the organization agrees that subsequent conveyances of fee simple interest in the property will be made subject to a conservation or open-spaced easement, or made to the Commonwealth of Virginia or a federal conservation agency.

Section VI – Less-Than-Fee Simple Donation

This section should be completed by the applicant describing how the donation meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended. Describe how the donation provides conservation value: preserves wildlife, water quality, perpetual conservation and open space, scenic enjoyment, etc. Most easements are less-than-fee simple because they provide partial rights to a parcel of land. A fee simple interest provides full rights and title to the land. **The Department cannot accept any referrals to the deed of gift.**

Section VII – Declaration, Signature and Notarization

The applicant is required to sign Form LPC-1 in the presence of a Notary Public. Review the declaration carefully before signing Form LPC-1. For joint donors, each donor must sign Page 3. Enclose additional pages, if needed. If the donor is a pass-through entity, only one signature is required.

Virginia Agricultural Best Management Practices for Water Quality

For detailed definitions of each BMP, visit www.dcr.virginia.gov.

| Practice Number | Practice Name |
|-----------------|--|
| CCI-FRB-1 | Continuing Conservation Initiative Forested Riparian Buffer |
| CCI-HRB-1 | Continuing Conservation Initiative Herbaceous Riparian Buffer |
| CCI-SE-1 | Continuing Conservation Initiative Stream Exclusion |
| CP-21 | CREP Filter Strip (Rental only) |
| CP-22 | CREP Riparian Forest Buffer (Rental only) |
| CP-23 | CREP Wetland Restoration (Rental only) |
| CP-23B | CREP Wetland Restoration Bonus |
| CP-29 | CREP Wildlife Habitat Buffer (Rental only) |
| CRFR-3 | CREP Riparian Forest Buffer |
| CRLF-1 | CREP Buffer Length Recording |
| CRSL-6 | CREP Grazing Land Protection |
| CRWP-2 | CREP Streambank Protection – Fencing |
| CRWQ-1 | CREP Grass Filter Strips |
| CRWQ-6B | CREP Wetland Restoration |
| CRWQ-11 | CREP Agricultural Sinkhole Protection |
| FR-1 | Reforestation of Erodible Crop and Pastureland |
| FR-3 | Woodland Buffer Filter Area |
| FR-4 | Woodland Erosion Stabilization |
| LE-2 | Livestock Exclusion with Reduced Setback |
| LT-CNT | Long Term Continuous No Till Planting Systems |
| NM-1 | Three Year Contract for Nutrient Management Plan Writing and Revisions |
| NM-2 | Three Year Contract for Nutrient Management Plan Implementation and Record Keeping |
| NM-3 | Sidedress Application of Nitrogen on Corn |
| NM-3B | Organic Nutrient Application to Corn Using Pre-Sidedress Nitrate Test to Determine Need for Sidedress Nitrogen |
| NM-4 | Late Winter Split Application of Nitrogen on Small Grain |
| SE-1 | Vegetative Stabilization of Marsh Fringe Areas |
| SE-2 | Shoreline Stabilization |
| SL-1 (State) | Permanent Vegetative Cover on Cropland |

| Practice Number | Practice Name |
|-----------------|---|
| SL-1W | Permanent Vegetative Cover on Cropland Wildlife Option |
| SL-3 | Stripcropping Systems |
| SL-3B | Buffer Stripcropping |
| SL-3W | Buffer Stripcropping/Wildlife |
| SL-4 | Terrace System |
| SL-5 | Diversion |
| SL-6 | Grazing Land Protection |
| SL-6A | Small Acreage Grazing System |
| SL-6B | Alternative Water System |
| SL-7 | Extension of CREP Watering Systems |
| SL-8 | Protective Cover for Specialty Crops |
| SL-8B | Small Grain Cover Crop for Nutrient Management |
| SL-8H | Harvestable Cover Crop |
| SL-11 | Permanent Vegetative Cover on Critical Areas |
| SL-11B | Farm Road or Heavy Traffic Animal Travel lane Stabilization |
| SL-15A | Continuous No-Till System |
| SL-15B | Continuous No-Till Forage Production System |
| WL-1 | Field Borders /Wildlife Option |
| WL-2 | Idle Land / Wildlife Option |
| WL-3 | Fescue Conversion /Wildlife Option |
| WP-1 | Sediment Retention, Erosion or Water Control Structures |
| WP-2 | Stream Protection |
| WP-2A | Streambank Stabilization |
| WP-2B | Stream Crossings & Hardened Access |
| WP-2C | Stream Channel Stabilization |
| WP-2D | Maintenance of Stream Exclusion Fencing |
| WP-2W | Vegetation Establishment for Stream Protection /Wildlife Option |
| WP-3 | Sod Waterway |
| WP-4 | Animal Waste Control Facility |
| WP-4B | Loafing Lot Management System |

Virginia Agricultural Best Management Practices for Water Quality

For detailed definitions of each BMP, visit www.dcr.virginia.gov.

| Practice Number | Practice Name |
|-----------------|--|
| WP-4C | Composting Facilities |
| WP-4D | Soil Test in Support of Nutrient Management Plan |
| WP-4E | Animal Waste Structure Pumping Equipment |
| WP-4F | Animal Mortality Incinerator Facility |
| WP-5 | Stormwater Retention Pond |
| WP-6 | Agricultural Chemical & Fertilizer Handling Facility |
| WP-7 | Surface Water Runoff Impoundment for Water Quality |
| WP-8 | Relocation of Confined Feeding Operations from Environmentally Sensitive Areas |
| WQ-1 | Grass Filter Strips |

| Practice Number | Practice Name |
|-----------------|-------------------------------------|
| WQ-1W | Filter Strips /Wildlife Option |
| WQ-4 | Legume Cover Crop |
| WQ-5 | Water Table Control Structure |
| WQ-6 | Constructed Wetlands |
| WQ-6B | Wetland Restoration |
| WQ-7 | Irrigation Water Recycling System |
| WQ-8 | Fuel Storage Treatment |
| WQ-9 | Capping/Plugging of Abandoned Wells |
| WQ-10 | Integrated Pest Management |
| WQ-11 | Agricultural Sinkhole Protection |

Virginia Silviculture Best Management Practices for Water Quality

For detailed definitions of each BMP, visit www.dof.virginia.gov.

| Practice Number | Practice Name |
|-----------------|---|
| FO-1 | Forest Roads |
| F O-2 | Skid Trails |
| F O-3 | Wing (Lead Off) Ditches |
| F O-4 | Culvert Sizes for Cross-Drainage of Roads |
| F O-5 | Broad Based Dip |
| F O-6 | Rolling Dip |
| F O-7 | Water Bar |
| F O-8 | Temporary Fill Diversion |
| F O-9 | Temporary Slope Drain |
| F O-10 | Level Spreader |
| F O-11 | Temporary Sediment Trap |

| Practice Number | Practice Name |
|-----------------|---|
| F O-12 | Rock Check Dams |
| F O-13 | Mulching |
| F O-14 | Soil Stabilization Blankets and Matting |
| F O-15 | Straw Bale Barrier |
| F O-16 | Silt Fence |
| F O-17 | Brush Barriers |
| F O-18 | Surface Roughening |
| F O-19 | Geotextile |
| F O-20 | Geo Web® |
| F O-21 | Logging Entrance |