

Instructions for Form LPC-2, Notification of Transfer of Land Preservation Credit

Purpose of Form LPC-2

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

Credits derived from qualified donations made on or after January 1, 2002, may be transferred to another taxpayer. Form LPC-2 is used to notify the Virginia Department of Taxation (the Department) of an existing Land Preservation Credit that has been sold or otherwise transferred to another taxpayer. It is also used when the transferee is a pass-through entity (partnership, limited liability company, S corporation, estate, or trust) to notify the Department of the allocation of credits among the partners, members, shareholders, or beneficiaries of the pass-through entity. The transfer must be completed before the end of a taxable year in order for the recipient to use the credit for that taxable year.

For credits derived from donations made on or after January 1, 2007, transfers for consideration and allocations among pass-through entities owners are subject to a fee. This fee is computed on Form LPC-2 and must be paid with the form.

For deaths of the credit holder who originally earned the credit occurring on or after July 1, 2018, unused credits may be transferred to a designated beneficiary through a will, bequest, or other instrument of transfer. If the original credit holder dies without a will, the unused credits will be transferred to the next person who is eligible to receive the credit, according to the rules of intestate succession as described in *Va. Code* § 64.2-200. If two or more persons are eligible to receive the credit, the administrator of the credit holder's estate may choose one eligible person to whom to transfer the unused credit. The carryover period for the transferred credits is not extended; instead the transferred credits are subject to the original carryover period. These transfers are exempt from the 2% transfer fee.

When to Submit Form LPC-2

For original donations made on or after January 1, 2008, you cannot transfer credit(s) until the Department has issued the 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.

To avoid delays in the processing of your annual return, Form LPC-2 should be submitted to the Department within 90 days of the credit transfer, but at least 90 days before you file your annual return and claim the credit.

Upon receipt of your Form LPC-2, the Department will record the transaction and provide the transferee with a letter acknowledging the credit. The transferor will receive a receipt for fees paid.

Please note that 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 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 by the Department. Notification may be issued either before or after you file an income tax return claiming the credit, subject to the statute of limitations.

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.

Filing Procedure

- Multiple transfers for the same donation and credit holder can be filed on Form LPC-2, Schedule A (enclose additional pages if needed).
- For married taxpayers, where each spouse is purchasing a credit, each spouse must be listed separately in Section III of Form LPC-2, Schedule A.
- If any of the transferees are pass-through entities, a separate Schedule A must be completed for each entity.
- If you are transferring to more than 15 transferees, please contact the Tax Credit Unit at **(804) 786-2992** for the required spreadsheet format.
- Payments should be paid with a certified check or money order. Include the Land Preservation Credit transaction number on your check/money order. Payments returned by the bank will be subject to a returned payment fee in addition to any other penalties that may be incurred.

Mail your completed Form LPC-2 and payment, if applicable, to:

**Virginia Department of Taxation
Tax Credit Unit
P.O. Box 26544
Richmond, VA 23261-6544**

For assistance, call the Tax Credit Unit at **(804) 786-2992**.

How to Complete Form LPC-2

A separate Form LPC-2 should be filed for each credit holder per donation.

Lines not mentioned below are self-explanatory.

Section I – Current Credit Holder Information

Section I must always be completed.

- A) Credit Holder Name** – Enter the name of the current credit holder. If the donated land, or credit, was owned jointly by married taxpayers, enter the name of each taxpayer.
- B) Credit Holder Identification Number** – Enter the credit holder's Social Security Number (SSN) or, Federal Employer Identification Number (FEIN). The FEIN is required for pass-through entities and corporations. If the donated land, or credit, was owned jointly by married taxpayers, enter the SSN of each taxpayer.
- C) Street Address** – Enter the address for the current credit holder.
- D) Contact Name** – Enter the name of the person, if different than the current credit holder, who the Department should contact to answer questions regarding the information provided on Form LPC-2.

Section II – Declaration, Signature, and Notarization

The current credit holder who is notifying the Department of a transfer is required to sign Form LPC-2. Review the declaration carefully before signing Form LPC-2. Form LPC-2 must be signed in the presence of a notary.

If Form LPC-2 is being submitted to notify the Department of the transfer of an existing credit and the transfer of the credit was a brokered transaction, the broker or credit holder's representative who handled the transaction for the credit holder is required to sign the Form LPC-2.

How to Complete Form LPC-2 Schedule A

General Instructions

- For a donation made on or before December 31, 2006, complete Sections I, II (if applicable), and III.
- For a donation made on or after January 1, 2007, complete Sections I, II (if applicable), III and IV (if applicable).
- Enclose additional pages, if needed. If the allocation is to more than 15 persons/entities, we recommend submitting a CD or disc. Please call **(804) 786-2992** for the required spreadsheet format.
- If the credit holder is a pass-through entity, provide the information for each person or entity to which any portion of the credit is distributed. If one of the recipients is itself a pass-through entity, then another Form LPC-2, Schedule A must be filed by that pass-through entity to report the distribution of credits among its owners.
- If you are married and each spouse is purchasing a credit, each spouse must be listed separately in Section III of Form LPC-2, Schedule A.

Section I – Credit Information

This section should be completed for all transfers.

Section II – Pass-Through Entity Information

A pass-through tax entity may appoint a Tax Matters Representative whom the Tax Commissioner may consult with regarding credits that have been allocated or transferred. This representative may be a general partner, a member, a manager or a shareholder. If a Tax Matters Representative has been appointed, check the "yes" box and enter the representative's name and phone number in the appropriate boxes.

Section III – Transferee Information

Credits will be granted to one taxpayer per line per SSN/FEIN. All business taxpayers should be registered with the Department before completing Form LPC-2. If not registered, please complete Form R-1.

Section IV – Calculation of Fee

General Information

This section should be completed for a transfer, or allocation made by a pass-through entity of a credit derived from a donation made on or after January 1, 2007.

A 2% fee of the appraised value of the donated interest is imposed on transfers arising from the sale of credits and on pass-through allocations. A pass-through entity is exempt from the 2% fee to the extent credits are distributed to nonresident owners and the pass-through entity applies such credits to the pass-through entity withholding tax. Credits distributed to resident owners and nonresident owners who are not subject to the pass-through entity withholding tax remain subject to the transfer fee. Because the statute relates the 2% fee to the donated interest and the credit is 40% of that figure, when calculating the fee at the credit level it equates to 5% of the credit amount being transferred or allocated.

For donations recorded from January 1, 2007 - June 30, 2010, the fee is capped at \$10,000 per credit holder per donation. For donations recorded on or after July 1, 2010, the fee cap has been removed. If you are transferring/allocating credits derived from more than one donation, you must file a separate Form LPC-2.

For deaths of credit holders who originally earned the credit that occur on or after July 1, 2018, the 2% transfer fee does not apply to credits transferred to a designated beneficiary or the next person who is eligible to receive the credit, according to the rules of intestate succession as described in *Va. Code* § 64.2-200. In Section IV, check the box to indicate that the transfer fee does not apply and enclose a death certificate, will, bequest, or other instrument of transfer with Form LPC-2.

The Department recommends that you pay with a certified check or money order. Personal checks may delay the processing of your transfers/allocations.

An example of the calculation is on Page 3.

Example of Calculation

Scenario Presented in Va. Code § 58.1-513

\$10,000 (donated interest being transferred/allocated)
x **.02** (fee multiplier imposed by statute)

\$200 (fee dollars collected by statute)

Calculation of Credit Value

\$10,000 (donated interest being transferred/allocated)
x **.40** (credit multiplier imposed by statute)

\$4,000 (credit value of the donated interest)

If \$200 is the amount of fee collected at the donated interest level, what percentage of the credit value generates the same fee amount?

Same Scenario Based on Credit Value

\$4,000(x) = \$200
x = \$200 / \$4,000
x = .05 or 5%