



## **CO Tax Form Filing – New Information About Tax Form Filing**

The 1300s – that’s what we call them: CO Forms 1303, 1304 and 1305. Until recently, it was our understanding (and what the instructions to the forms say), that the 1300s needed to be filed for the tax year in which the conservation easement donation was made. Pretty simple, right? Well, not always. We have learned that it is the position of the CO Dept. of Revenue that if a donation is made in one year, but a Tax Credit Certificate is issued for the following year (that is, the cap had been met when the donation was made), then the donor should wait and file the forms in the tax year of the Tax Credit Certificate.

Okay, that seems simple too. But wait, what about the IRS Form 8283 (the federal version of Colorado’s 1303)? IRS Form 8283 should still be filed with the return for the tax year in which the donation was made (along with any other required federal forms). And finally, we consulted with the CO Division of Real Estate, and they believe that land trusts should continue to file their CO Form 1299 as they always have and the Dept. of Revenue’s position on the 1300s does not impact the timing of filing Form 1299.

It is unclear whether the State will issue new forms with updated instructions to reflect this new position. If new forms are issued, we will issue another Tax Credit Update on this topic.

## **Implications to the State’s Position on Timing – The Tempel Holding Period**

Because the 2012 tax credit cap was met relatively early in 2012 (August), many donors will find themselves in the position of having a 2012 donation date and a 2012 Tax Credit Certificate issuance date, but a 2013 Tax Credit Certificate. The CO Dept. of Revenue has also taken the position that credits with a 2013 Tax Credit Certificate (even if they were earned from a 2012 donation) don’t actually exist until January 1, 2013. Therefore, if a donor with a 2013 Tax Credit Certificate wants to hold the tax credits for one year before they sell them (for capital gains treatment of the proceeds), and if the IRS adopts the State’s position, the one year holding period would start on January 1, 2013. Given this evolving tax landscape, early consultation with tax and legal professionals is highly advised.

## **Questions?**

Call us:  
303.544.1044

Email us:  
[tina@taxcreditexchange.com](mailto:tina@taxcreditexchange.com)

As always, we’d like to point out that the Conservation Resource Center is Colorado’s only nonprofit organization that specializes in the transfer of tax credits. As a nonprofit, CRC depends on your referrals of landowners interested in transferring their tax credits. We continue to appreciate your support.