

Income Tax – Gross Conservation Easement (2007 created utilized before 2008)

A gross conservation easement credit created in 2007 must be completely utilized against Colorado tax before the donor can make another easement donation in 2008 that will qualify for the credit. What date is the credit "completely utilized" if the credit is sold on April 15, 2008 and the transferee files the 2007 return to use the credit on October 15, 2008?

The tax year is the guiding factor in this determination not the date the credit is sold or the tax return is filed. If all of the easement credit was utilized against Colorado tax and none of the credit was carried forward to the next year, then the credit generated in 2007 would be fully utilized by the transferee in tax year 2007. Therefore, the donor of the credit will qualify for a credit on a donation made any time in 2008.