

Donating a Land Conservation Easement

What is conservation easement?

A conservation easement is a legal agreement that limits development and subdivision, while protecting land for farming, forestry, nature and/or recreation. Landowners who donate an easement continue to own and pay taxes on the land. They can use the land for farming, forestry, recreation, education and other activities that sustain the property's resources.

Conservation easements are tied to the land, whether it is sold or remains in the family—so you can be assured that the land you cared for will be protected, even when you no longer own it.

What kind of lands are protected by Conservation Easements?

Easements conserve working farms and quality farmland, woodland, prairies, wildlife habitat and places used by communities for education and recreation. Generally, Land Trusts work with landowners who want conserve 50 acres or more. On occasion, Land Trusts will conserve smaller parcels with excellent resources, unique natural features or importance to a community.

Frequently Asked Questions

What is protected and what is allowed under a conservation easement?

Conservation easements are written to protect things like special habitat, quality farm soils, prairies and timber resources. Also considered are the landowner's future plans, identifying appropriate sites for barns, homes or other structures.

What are the costs of donating a conservation easement?

Land Trusts typically ask for a contribution towards their costs and/or a stewardship endowment. The stewardship endowment is used to make sure conservation easements are honored for generations to come. Sometimes Land Trusts are able to get funding to offset a portion of these costs. Typically, land owners will be responsible for covering their legal and appraisal expenses.

What is the income tax and estate tax benefits of donating an easement?

Landowners who donate qualified conservation easements are eligible for federal, and in some cases, state income tax deductions, which can help to offset income and capital gains taxes and reduce potential future estate taxes.

As tax rates and regulations fluctuate the IRS criteria must be followed. It is important for landowners to work with their own tax adviser.

The value of a conservation easement (and the charitable deduction) is determined by an independent appraisal. Appraisers look at the value of the land before and after conservation; the difference between these two numbers is the potential deduction.

Donors may deduct up to 50 percent of their adjusted gross income. This is deductible against federal and, in some cases, state income taxes. If the value of the gift is not used up in the first year, the unused portion may be carried forward for 15 more years. Special rules apply to the deductibility of land owned less than one year. Donating an easement can reduce estate taxes (they apply to estates over \$11.2M for one person or \$22.4M for a couple).

Donating an easement through your will can also reduce estate taxes. Please discuss testamentary gifts if you are interested in learning more about this option.

Will conserving my land reduce my property taxes?

Sometimes. A conservation easement usually reduces a property's value because it removes some landowner rights, such as the right to develop the land.

If I conserve my land do I have to let the public use it?

No. Unless a conservation easement specifies that the public has access to land, access is up to the landowner. That said, many landowners permit a degree of public access, such as allowing access for the enjoyment for fishing, hiking or hunting. Some privately owned conserved properties have trails or features that have long been enjoyed by neighbors or the public. In these cases, landowners have often included a provision in their easement to permit public use of the land.

How long does it take to donate an easement?

It can take anywhere from six months to a couple of years. Title issues and family agreements are often an important variable in this estimate.

How does the land trust know that easements are being followed?

A very important part of a Land Trust's work is to check in on the land that has been conserved to make sure that nothing is happening that is in violation of the easement. Land Trust regularly visit properties, walk the land, speak with landowners, review aerial data and follow up on any concerns. Violations are rare and most are minor, but when they do occur, Land Trusts first try to work with the landowner and/or neighbors to address them.

When an easement is donated, Land Trusts typically ask for a donation to their stewardship endowment, which is designed to fund this work for the long-term.