



An Introduction to Tax Benefits Associated with Easement Donation

The main reason landowners donate conservation easements is to preserve the natural open space, habitat and agricultural value of their land forever. A conservation easement donation also may qualify a landowner for significant estate and property tax savings and income tax deductions and credits.

Estate and Inheritance Tax: For landowners who will leave sizeable estates upon their death, the most important financial impact of a conservation easement may be a significant reduction in estate taxes. Estate taxes make it difficult for heirs to keep the land intact because of the high development value of land and high estate taxes of up to 55%. This makes it an unfortunate situation for heirs who have to subdivide or sell the land in order to pay the estate taxes – which may not be the desire of the deceased landowner or their heirs. A conservation easement provides significant help in several ways:

Reduction in Value of Estate: The estate will be reduced by the value of the donated conservation easement. As a result, estate taxes will be lower since the heirs will only have to pay estate taxes on the preserved value – not the full development value – of the property.

Estate Exclusion: When property has a qualified conservation easement placed upon it, up to an additional 40 percent of the land value (capped at \$500,000) may be excluded from the estate when the landowner passes away. For example, if the “before” easement value is \$1.5 million and the “after” easement value is \$1 million, an additional \$400,000 (40 percent of the “after” easement value) can be subtracted from the taxable estate. The descendant or a member of his family must have been the easement donor and owned the land for at least three years prior to the descendant’s death.

Post-Mortem or After Death Easement: Heirs may receive these benefits by choosing to donate a conservation easement after the landowner’s death. The representative of the estate must decide whether to elect the exclusion on or before the due date of the estate tax return.

Property Tax Credit: Properties protected by a qualified conservation easement in Maryland are eligible for a 15-year property tax credit. A qualified landowner will pay no property tax on the unimproved land subject to a donated easement for 15 years from the date of donation. At the end of this period, unimproved land under donated easement will be assessed at the highest agricultural rate if the property is not actively farmed.

If the property is in agricultural use, it will be assessed at the appropriate agricultural level. The tax credit and assessment rate will not apply to any residential improvements or to a minimum of one acre around these improvements.

Federal Income Tax Deduction: Donation of a qualified conservation easement constitutes a charitable gift that may be deductible by the landowner for federal and state income tax purposes. The value of the easement gift, as determined by a qualified appraiser, equals the difference between the fair market value of the property before and after the easement takes effect. To qualify for this income tax deduction, the easement must be perpetual, held by a “qualified conservation organization,” such as TMC and serve a valid “conservation purpose”. This means the property must have significant natural, scenic, historic, scientific, recreational or open space value. If a landowner donates an easement that meets IRS rules, they may be able to claim a charitable donation of up to 50 percent of their adjusted gross income. Excess deductible amounts can be carried forward for 15 additional years or until the appraised amount of the easement has been used up –whichever comes first.

State Income Tax Credit: Maryland law allows a tax credit to be taken against state income taxes by an individual who donates a conservation easement after July 1, 2001. The credit is capped at \$5,000 yearly for each individual owner of the property upon which the easement is donated. Tax advantages may differ between individual landowners, institutions, and other legal entities.

This credit can be carried forward 15 years after the initial year it was taken or until the easement value has been exhausted – whichever comes first. Each owner of an undivided interest in the property may be eligible to take this state income tax credit. To qualify for this credit, the easement must be perpetual and conveyed to the Maryland Environmental Trust (MET) or co-held by MET and a local land trust such as TMC , the fair market value of the easement must be substantiated by an appraisal and the landowner may not claim a state income tax deduction and a state income tax credit for the same easement donation.

The information contained in this document is only an overview of the major Internal Revenue Code requirements, Treasury Regulation and associated guidance documents as they relate to easement valuations and appraisals. This is not a comprehensive listing or explanation of all requirements for obtaining a Federal Income tax deduction. The explanation of complex tax issues provided in this fact sheet has been greatly simplified. For more detailed information, you should seek professional council from your attorney and accountant. TMC cannot ensure the deductibility of a conservation easement donation.