



Bayfield Regional Conservancy

Tax Benefits

The driving force behind most donations of land or money to a land trust is a landowner's love for the land and a wish to see that land preserved for future generations to enjoy. However, the tax benefits can be substantial and add value for those deciding to participate in a land protection program. Leaving a priceless legacy can benefit both the land and the landowner.

Here is a brief summary of tax-saving gift arrangements and ideas that conservation-minded landowners should consider as they make financial and estate plans. An attorney or tax planner can furnish more complete details.

Outright Gifts

Gifts of Cash or Other Financial Assets - Outright gifts of cash are the simplest way to support a land trust and gain a tax deduction. However, donations of other assets, like securities, stocks, life insurance, or valuables such as artwork or coin collections, also may be given to help a land trust's conservation efforts.

Gifts of Land

Real estate that meets a land trust's acquisition criteria will be protected in its natural state or according to terms and conditions outlined in a conservation easement document. Other donated real estate like homes, vacant lots, or commercial and industrial properties - may be sold (with development restrictions, if appropriate), with proceeds used to further the goals of the land trust. Gifts of appreciated real estate held long-term may entitle the landowner to an income tax deduction for its full-market value, subject to certain limitations.

Donations of Conservation Easements

In December of 2015 Congress made permanent a federal tax incentive for conservation easement donations that can help thousands of landowners conserve their land:

- Raises the deduction a donor can take for donating a conservation easement from 30 percent of his or her income in any year to 50 percent;
- Allows qualifying farmers and ranchers to deduct up to 100 percent of their income; and
- Extends the carry-forward period for a donor to take tax deductions for a voluntary conservation agreement from 5 to 15 years.

If a conservation easement is voluntarily donated to a land trust or government agency, and if it benefits the public by permanently protecting important conservation resources, it can qualify as a charitable tax deduction on the donor's federal income tax return. Potential federal income tax benefits vary with the particulars of each donation. To qualify for a deduction, gifts of land or conservation easements must:

- Be in partnership with a qualified conservation organization. The Bayfield Regional Conservancy is an accredited land trust recognized in the U.S. and Wisconsin.
- Should be made for conservation purposes. This can cover preservation of natural habitats or resource lands, historic sites, unique scenic landscapes, wildlife corridors or connections to other preserved parcels, areas of concern for public education or recreation, or open spaces in vicinity of intense land development. In general, the maximum allowable deductions arise from conservation easements donated over large tracts of open space in areas where development pressures are intense.
- Be permanent - The easement must be granted in perpetuity.
- Secure supported by a proper appraisal. The appraisal that determines the easement value must meet strict federal substantiation requirements as specified in federal tax law regarding conservation easements.
- Be reported correctly if seeking a tax deduction. Deductions for donations are calculated differently, and one can never deduct more than the fair market value of the gift. The amount a property owner can deduct for a donated easement generally equals the reduction in the property's value due to the easement or the difference

between the property's independently appraised value before the easement is granted and after the easement's restrictions take effect. The easement donor must complete Form 8283 including the value of the donation, and have the recipient organization and appraiser sign the form to acknowledge receipt of the easement.

Estate Taxes

Many heirs to large estates, including those with substantial land holdings, may face substantial estate taxes, which can lead to the break-up, sale and development of family-owned farm, ranch and forest lands, even when landowners would prefer to keep these lands intact. For some families, one of the major advantages of donating a conservation easement is that it helps pass land on to the next generation, by reducing estate taxes. Estate tax incentives for land conservation give families the option to reduce their estate taxes by protecting their land, which conveys public benefit while easing the transition of land from one generation to the next.

A conservation easement can reduce estate taxes in two ways:

- **It reduces the value of the estate to be taxed.** A conservation easement lowers the property value and, correspondingly, estate taxes. In some cases, a conservation easement may drop the value of the estate below the threshold for estate taxes altogether.
- **Heirs can exclude 40% of the value of land under conservation easement from estate taxes.** Section 2031(c) of the Internal Revenue Code provides an estate tax exclusion of up to 40% of the encumbered value of land (but not improvements) protected by a “qualified conservation easement.” That exclusion is capped at \$500,000. The cap is lower if the easement reduced the land’s value by less than 30% at the time it was donated. To qualify, the easement must serve one or more of the conservation purposes recognized in Section 170(h) of the tax code. It must limit commercial recreational use to a minimum and it cannot qualify solely for the purpose of historic preservation. Only members of the original easement donor’s family, including spouses and descendants, can claim this exclusion.

Changes to the tax code that were made permanent in 2014 raised the threshold for estate taxes from \$1 million to \$5 million (indexed to inflation). As of 2015, estates of \$5.1 million or more are subject to estate taxes of 40%. Farm and ranch estates are four times as likely as other estates to be subject to estate taxes, putting some of the nation’s most productive agricultural land at heightened risk of subdivision and development.

The most broadly applicable estate tax benefit of a conservation easement is the federal recognition that property encumbered by a conservation easement is valued for estate tax purposes as restricted, rather than at its unrestricted value. While this may seem common sense, it’s helpful that Section 2055(f) of the Internal Revenue Code explicitly recognizes this to be the case. That section relates to donations by will, but the reduction has also been recognized for existing easements and post-mortem donations. In most cases, the reduction will apply even if the easement was sold or donated by a previous owner, without regard to qualification under section 170(h).

Land Protection Value Example:

Appraised full, fair market value of property BEFORE easement = \$300,000
Appraised full, fair market value of property WITH easement in place = \$230,000
Value of conservation easement as a charitable contribution = \$70,000