

CONSERVATION EASEMENTS

A conservation easement is a very important method for a landowner to permanently protect the significant conservation values of his or her property: wetlands, farmland, woodlands, endangered species habitat, scenic, historic areas, and more.

It is a legal agreement between a landowner and a qualified conservation recipient, such as the Merrill W. Linn Land and Waterways Conservancy, which restricts the type and amount of development that may take place on the landowner's property. Easement restrictions are tailored to the particular property and the interests of the owner.

The specific rights the property owner gives up and the responsibility to enforce the restrictions are conveyed to a qualified conservation organization or public agency in the easement agreement. Once the easement is imposed and recorded in the county land records, it binds current and future landowners to abide by its terms. The conservation easement ensures the historic, scenic, natural, agricultural, or open space characteristics that make the property significant are protected forever.

The donation of a conservation easement is a tax-deductible charitable gift provided the easement is perpetual and is donated exclusively for conservation purposes to a qualified conservation organization, such as the Linn Conservancy, or public agency.

To determine the value of the easement donation, the owner has the property appraised both at fair market value without the easement restrictions and at fair market value with the easement restrictions. The difference between these two appraised values is the easement value. The appraisal that determines the easement value must meet strict standards set by the IRS. The Conservancy has material available on such appraisals for use by a qualified appraiser of the donor's choice.

In general, the federal income tax deduction for charitable donations of appreciated property cannot exceed 50% of the taxpayer's adjusted gross income, although any excess amount may be carried forward and deducted over the fifteen (15) succeeding years. Under some circumstances, the donor may be subject to the alternative minimum tax (AMT), and alternate income tax required of taxpayers whose deductions and tax shelters might otherwise eliminate or vastly reduce their tax obligation.

Conservation easements can also reduce estate taxes. Estate taxes reflect the value of the property's "highest and best use" -- the most profitable use at the time of the owner's death. If a property owner donates a perpetual easement during his or her lifetime, the uses to which the property can be put are limited forever. Thus the "highest and best use" for which the property can be valued in an estate is limited. This usually reduces the estate's value and thus reduces estate taxes.

By donating an easement during his or her lifetime, the owner may realize the income tax savings of a charitable gift as well as lower estate taxes for the heirs. Furthermore, conservation easements may also lower property taxes. Property tax assessments usually are based on the property's market value, which reflects the property's development potential. If a conservation easement substantially reduces the development potential of the property, it may reduce the level of assessment and the amount of the owner's property taxes.

Conservation easements also can reduce or eliminate gift tax on gifts of property made during a property owner's lifetime. By granting an easement to a qualified organization before giving the property, the value of the property may be reduced so the gift tax is substantially less or even eliminated.

Each donor's tax situation is unique. Therefore, the donor should seek professional counsel in this regard.

Also, every property is unique. Particular uses and its effect on conservation values need to be considered. The Linn Conservancy will help you evaluate and make the necessary decisions to protect the conservation values of the property.

In summary, the donation of a conservation easement to a qualified organization like the Merrill W. Linn Land and Waterways Conservancy or a public agency is an important tool used by landowners to achieve conservation goals in one's lifetime, which are legally guaranteed in the future. There is a great deal of flexibility in the development of a conservation easement. The Linn Conservancy welcomes the opportunity to assist you in creating a conservation easement that accomplishes your goals.