

Conservation Easement Donations & Tax Deductions

Protecting the forests, farms, rural heritage, & water quality of the Cacapon and Lost Rivers Watershed

This sheet is intended to help you understand conservation easement valuation, donation, and associated tax benefits. While we will help wherever we can, the Cacapon & Lost Rivers Land Trust does not specialize in and is not legally permitted to provide legal, tax, or financial advice. We therefore recommend that you consult your own legal, tax, and financial counsel.

Frequently Asked Questions

What does it mean to donate a conservation easement?

Usually, the restrictions of a conservation easement reduce a property's market value. Donating an easement means that you are not compensated (paid) for this change in your property's value.

How is the value of the easement donation determined?

The value of the conservation easement is the difference between the fair market "before" value of the property without the easement and the "after" value of the property with the easement.

EXAMPLE:

- Fair market value of the property *without the easement* ("before") = \$300,000
- Fair market value of the property *with the easement* ("after") = \$120,000
- Easement value (donation value) = \$180,000

The easement value is determined by an independent, specially qualified appraiser.

The easement value ranges from 20-60% of the property's fair market value and depends on the property's location, ease of being developed, value of nearby lands, and other factors.

What should I know about appraisals?

- To claim a federal income tax deduction for your donation, the IRS requires a "qualified appraiser" to prepare a "qualified appraisal" according to the Uniform Standards of Professional Appraisal Practice (USPAP) and US Treasury Dept. regulations.
- IRS/US Treasury require the appraisal to be completed no earlier than 60 days prior to the date the easement is signed (donation date) and no later than the filing deadline for that tax year.
- You or your tax preparer will need to fill out IRS Form 8283 with the appraisal information, have it signed by the necessary parties, and file it with your income tax return.

Conservation Easement Donations & Tax Deductions

If I donate a conservation easement, what is deducted?

If all IRS requirements are met, the conservation easement value can be deducted from your federal income tax, up to 50% of your adjusted gross income (AGI) in the year of the donation. Remaining value may be deducted in future years (up to 15 years). Qualifying farmers and ranchers may deduct up to 100% of their AGI.

EXAMPLE: A landowner donates an easement worth \$180,000 and has an AGI of \$50,000. The landowner can deduct \$25,000 (50% of AGI) in the year of the donation and can carry-over the remaining \$155,000 in easement value, deducting another \$25,000 each year until the full easement value is used or the 15 year limit is reached.

Do carry-over deductions have to be taken consecutively?

Yes, *unless* in a given year you have no adjusted gross income or your other charitable gifts fully use the allowable charitable deduction for that year.

Are there other requirements?

- Only "qualified appraisers" who have completed certain training are authorized to appraise conservation easements and provide you with a qualified appraisal.
- The entire appraisal report and IRS Form 8283 must be received by the landowner on/before the due date (including extensions) of the tax return on which the deduction is claimed.
- In keeping with national standards for land trusts, Cacapon & Lost Rivers Land Trust must review the appraisal and completed Form 8283 before it can sign the Form 8283.
- According to law, determination of the donation value is ultimately the tax payer's responsibility.

Note: To help prevent tax fraud, Cacapon & Lost Rivers Land Trust will not participate in projects where we have concerns about the easement serving proper conservation purposes, and we will not sign the Form 8283 if we have concerns about the easement value stated on the Form 8283.

Are there estate tax benefits?

As of 2019, an individual can leave beneficiaries up to \$11.4 million (a couple up to \$22.8 million) and not pay any federal estate or gift tax. For those with estates valued above these caps, a conservation easement may reduce estate taxes or even exclude the property from estate taxation. When conservation property is left to heirs, estate tax is based on the after-easement value of the land. The property may be eligible for an exclusion from the gross estate of up to 40% of the remaining value of the property, but not more than \$500,000.

Note: These limits can change, so please consult a tax advisor for current information.

Are there other tax benefits of putting a conservation easement on my property?

- Conservation easements can reduce property taxes by reducing the property's market value.
- In West Virginia, conservation easement property is assessed at the agricultural tax rate (usually the lowest rate), even if the landowner is not engaged in agriculture.
- There is currently no West Virginia income tax deduction or credit for a conservation easement, but there may be in other states.