

Federal Tax Benefits for the Donation of Value for Conservation Easements

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Often, a landowner recording a conservation easement may not receive full value for the easement purchase through cash proceeds. If cash is received for a portion of the easement purchase, the remaining value must be accounted for through the donation of value by the landowner. This donated value is eligible for tax incentives.

The donation of easement purchase value can be a charitable donation eligible to be deducted from Federal income taxes. The value of the donation (also called the easement purchase value) is determined by a qualified appraiser. It is equal to the value of the property before the easement is imposed minus the value once the easement restrictions are in place, less any cash considerations received for the easement value.

If this value is 50% or less of the landowner's adjusted gross income, it may be entirely deducted in one year. If the value is greater, it may be spread over as many as 15 years.

Specifically, Federal law provides for a deduction of 50% of adjusted gross income in the year of the donation and for 15 years forward, or until the value of the donation is reached. For an IRS "qualified farmer or rancher," this maximum increases to 100% of adjusted gross income.

Donors of conservation easements may claim an income tax deduction under § 170 of the Internal Revenue Code. The IRS requires that the donation be "exclusively for conservation purposes." The IRS specifies that to qualify for the deduction, the easement be conveyed to a governmental unit or a "qualified organization" that is a §501(c)(3) charitable organization with the commitment and resources to enforce the easement's restrictions.

The exact amount of tax savings depends on several factors, including but not limited to:

- How long the donor has owned the property (benefits are generally greater if owned for more than one year);
- How the donor has used the property (residence, investment, agricultural);
- The income of the donor (the higher one's income, the more one will save on taxes);
- The value of the donated property (the more valuable the property, the bigger the deduction).

If you plan to take a federal income tax deduction for the easement donation, IRS Form 8283 must be attached to your federal income tax return. As a conservation easement donor, you must obtain a qualified appraisal to determine the value of the gift and fill out part of Form 8283.

The appraiser must meet the definitions of such set forth in U.S. Public Law 109-280 (<https://www.govinfo.gov/content/pkg/PLAW-109publ280/html/PLAW-109publ280.htm>).

These definitions include, but are not limited to:

- Appraisers must be state-certified general appraisers with current registrations.
- Appraisers must provide documentation of completion of a valuation of conservation easements or eminent domain appraisal course.
- Appraisers must be familiar with conducting appraisals of rural and agricultural properties of the requested type.

Based on the funding partnerships, the following types of appraisals shall be used to determine the effect of the conservation easement on the subject property:

- Uniform Standards of Professional Appraisal Practice (USPAP)
- Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or "Yellow Book") appraisal

The appraisal must reflect the value of the donation as of the "valuation effective date" rather than the contribution date and must be completed no earlier than 60 days before the date of the contribution and no later than the due date for the tax return on which the deduction is first claimed.

For the purposes of updating the values of the conservation easements for the federal permanent conservation easement tax incentive, supplemental appraisals, updates, or recertification letters may be submitted within 60 to 32 days before a potential closing date, pending the approval of all funding partners. No appraisals, supplemental appraisals, updated opinion letters, or reaffirmation letters by the appraiser for the original appraisal will be accepted 30 days before a potential closing date or end of a contract.

If the donor or a family member owns the contiguous property, the appraisal addresses the entire contiguous property. If the donor or a related person owns any property nearby or contiguous, the appraisal addresses the impact of the easement on the value of the other property (enhancement).

The Form 8283 instructions also require that conservation easement donors attach a statement that:

- Identifies the conservation purposes furthered by your donation,
- Shows the fair market value of the underlying property before and after the gift;
- States whether you donated to get a permit or other approval from a local or other governing authority and whether a contract required the donation, and;
- If you or a related person has any interest in other property nearby, describe that interest.

After Form 8283 and the statement are complete, the forms must be sent to the qualifying entity for the donee acknowledgment signature.

If the value of your donation exceeds \$500,000, you will also need to provide a copy of the appraisal with the form to the IRS. Please see the IRS website for the most current version of this form.

The landowner is solely responsible for meeting all IRS substantiation and legal requirements.

Donors should seek advice from a tax professional to determine how a donation will impact their taxes.

FOR EXAMPLE:

A landowner with an AGI of \$50,000 a year who donated a \$400,000 conservation easement could take:

- A federal income tax deduction of \$25,000 in the year of the donation and \$25,000 per year for the next fifteen years. The total deduction would be \$400,000.

A farmer with an AGI of \$50,000 a year who donated a \$400,000 conservation easement could take:

- A federal income tax deduction of \$50,000 in the year of the donation and \$50,000 per year for the next eight years. The total deduction would be \$400,000.

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