



The Potential Tax Benefits – All about Appraisals

The donation of a conservation easement often qualifies as a charitable contribution, allowing the donor to take a federal income tax deduction for the value of the contribution. The following summarizes some specific Internal Revenue Service rules governing these contributions.

Tax Incentive to Help You Conserve Your Land

If you own land with important natural or historic resources, donating a voluntary conservation agreement can be one of the smartest ways to conserve the land you love, allowing you to retain ownership while possibly realizing federal tax benefits.

These incentives make it easier for average Americans, including working family farmers and ranchers, to donate the development rights on their land. The incentive allows:

- The maximum deduction you can take for donating a voluntary conservation agreement is **50%** of your adjusted gross income (AGI);
- Allows the deductions to be carried up to 15 years.

What is the purpose of an appraisal?

A conservation easement appraisal may have several uses. For charitable gift purposes, the appraised value of the easement is used to determine the value of the contribution. In this case, the appraisal procedure and report must conform to specific IRS standards noted below. An appraisal may also be important for estate planning or in reviewing value for property tax purposes. Additionally, an appraisal may be used to substantiate the purchase price of a purchased or partially-funded easement.

Is an appraisal required?

No, not always. However, a landowner is required to obtain a qualified appraisal if the landowner intends to seek a federal charitable income tax deduction for the gift. A landowner may also need an appraisal to obtain a mortgage subordination, to support a request for a property tax adjustment or to receive payment in exchange for the easement.

How does an appraiser estimate value of an easement?

The appraiser determines the value of the easement, most frequently based on the value of the land before and after being encumbered by the conservation easement. The difference is the value of the conservation easement and the amount that may be taken as a tax deduction. This procedure is typically known as the “before and after approach.”

As a simple example:

Value of the land before the conservation easement:	\$500,000
Value of the land after the conservation easement:	<u>\$350,000</u>
Difference = value of the conservation easement:	\$150,000
Proportionate value of the conservation easement example:	30%

Generally, a more restrictive easement will result in a higher proportionate easement value. But each parcel of land and each set of conservation restrictions are unique. *Therefore, no set or average percentage of value can be attributed to the rights relinquished in an easement.*

What does an appraiser consider in estimating the value?

An appraiser will look at a variety of factors concerning both the specific property subject to the easement and the surrounding area. Relevant factors will include:

- Location and character of the property,
- Existing zoning regulations and other laws or contracts that affect the property, and
- Development potential and future land use trends
- Specific restrictions placed on the land
- Specific rights reserved by the landowner
- Existence of contiguous or other property owned by the landowner or the landowner's family and the potential of the easement to enhance the value of the other property.

When should the appraisal be completed?

For charitable deduction purposes, the effective date of the appraisal must be no earlier than *60 days* before the date of the gift (the date on which the conservation easement is recorded) and no later than the date on which the tax return for that year is due. For other non-tax purposes, timelines may vary. Conservation easement appraisals are complex and time consuming. *As such, landowners should contact an appraiser early in the process.*

Is it necessary to be concerned about the integrity of the appraisal?

YES. The IRS views this issue very seriously and may impose substantial penalties on both the landowner and the appraiser for gifts that are overvalued for tax purposes. Congress recently created new thresholds and penalties for donors and appraisers who artificially inflate the value of an easement for tax purposes. Landowners are well advised to choose an appraiser carefully and to work with the appraiser, a tax advisor and the Land Trust throughout the process of completing a conservation easement.