



Making a Conservation Easement Work for You

What is a Conservation Easement?

A conservation easement (CE) is a legal agreement between a landowner and a non-profit (land trust) or government agency to *permanently* protect this property from development in order to conserve the values of the land.

When you donate a conservation easement, you still retain ownership of the land and enjoy many of the current uses such as agriculture, forestry, residential and recreational. What is generally given up is the right to subdivide the land or develop it for commercial and industrial uses.

Conservation easements are flexible and vary widely. An agreement to protect rare wildlife habitat might prohibit any development while a CE on a farm may encourage continued farming. An agreement may apply to just a portion of the property. Public access is not required.

Future owners are bound by a conservation easement's terms *forever*. The land trust that accepts the CE is responsible for monitoring the agreement and enforcing its terms.

“Conservation Purposes”

A CE must meet one of four conservation purposes to qualify for a federal tax deduction.

- Preservation of land for outdoor recreation or education
- Protection of important habitat for flora or fauna
- Preservation of open space that has been identified by government as worthy of protection
- Preservation of historic property

The more significant the land, the more it adds to the public good, the more likely it is that it will qualify for the deduction.

What are the benefits from a CE?

The primary reason landowners place a CE on their land is to ensure that the character of their land will be available for future generations. There are also substantial tax benefits for the donation of a conservation easement.

• Federal Tax Deduction

The value of the CE is determined by an appraisal that calculates the potential highest and best use of the land before the easement is in place and the value after the CE. For example:

100 acres valued at highest and best use:

\$300,000

Land value after a CE is in place:

\$200,000

Amount of federal tax deduction:

\$100,000

Landowners are allowed to deduct 50% of their adjusted gross income while using up the CE deduction over 16 years. Qualified farmers, and ranchers can deduct 100% of their taxable income over this period.

• SC Income Tax Deduction

If the donation meets the federal guidelines, it will qualify for state tax credits up to 25% of the federal deduction with a limit of \$250 per acre of land under easement (whichever is less). The tax credits are capped at \$52,500 per year but they are good forever and can be assigned, transferred, and even sold. For example:

Federal tax deduction; same 100 acres as above:

\$100,000

25% of the federal tax deduction:

\$25,000

Tax credit; cap of \$250 per acre:

\$25,000 (100 acres x \$250)

- **Reduction - Estate tax**

A CE reduces the value of the land, thereby reducing the taxable amount of the estate. This reduction in the estate may allow heirs to retain ownership of the property rather than being forced to sell to pay estate taxes. For example:

Original value of land/estate without CE:
\$300,000
Reduction to taxable estate with CE:
\$100,000
Taxable value of the estate after CE:
\$200,000

- **Property tax benefit**

Since a CE affects a property's fair market value, the easement must be taken into consideration for assessment and taxation. Unimproved property subject to an easement is classified as agricultural real property subject to satisfactory proof to the assessor.

What is the process for donating a conservation easement?

- Having talked this over with family or partners, call Upper Savannah Land Trust to begin the discussion.
- Upper Savannah Land Trust representatives will perform a limited inspection of the land and find out what activities you want to allow.
- If both landowner and land trust want to move forward, an easement is drafted and negotiated.
- Landowner should consult with attorney and accountant or tax advisor.
- If a tax deduction is sought, IRS regulations require an appraisal of the value of the land.
- A survey may or may not be needed; a title opinion from your attorney may be required.
- A baseline assessment of the property will be made to document the state of the land at the time of the gift. Yearly monitoring of the easement by the land trust will compare the baseline with current conditions.
- It is customary for the landowner to make a donation to the stewardship endowment of the trust to help defray monitoring and enforcement costs.

After the CE is in place, what happens?

You and successive owners continue to own, manage and pay taxes on the land. You can continue the uses of the land that you agreed to retain. Your property is still private property. You can pass the property on to the next generation or sell it, content in the knowledge that the conservation values you hold dear will be permanently protected.

Trust for Public Lands

Upper Savannah Land Trust
PO Box 918
Greenwood, SC 29648
864-333-2393

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