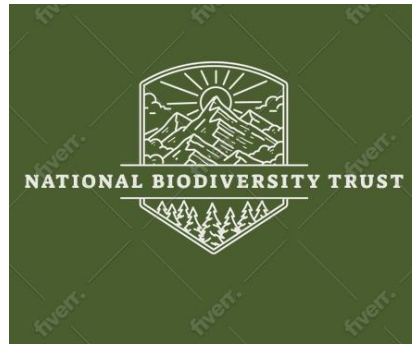




ANSWERS TO COMMON QUESTIONS ABOUT CONSERVATION EASEMENTS

INTRODUCTION

If you are considering a conservation easement for your private or commercial property, some of your initial questions may be answered in this document. Note that this is a summary on conservation easements. You should consult your tax advisor for details related to your property and your tax situation.

A conservation easement, explained in more detail below, is a perpetual (permanent) legal agreement that attaches to your property deed, by which landowners or corporate stakeholders place restrictions on the future use and/or development of their property. Land protected by a conservation easement remains in your private or corporate ownership, and may be sold or left to heirs. Depending on your situation, you may also receive significant income tax deductions, a reduction in estate taxes, and an adjustment of property taxes by participating in this conservation effort. A qualified non-profit organization will be the holder of the conservation easement; and National Biodiversity Trust can be that organization for you. National Biodiversity Trust can accept conservation easement donations on properties that meet the terms of the mission statement of the organization. The mission of National Biodiversity Trust is “To bring together a balance of conservation, biodiversity, and alliances, for the land, resources, and water all life needs to survive.”

CONSERVATION EASEMENTS

A conservation easement is a tool to protect land forever. Conservation easements are legal agreements attached to the deed of the property by which landowners or corporate stakeholders place restrictions on the future use or development of their property in order to protect specific conservation values such as agricultural land, forests, wetlands, wildlife habitat, scenic landscapes, and the land around certified historic sites or structures. These easements are in perpetuity, and are donated to a tax-exempt organization such as National Biodiversity Trust.

Below are the answers to some of the most commonly asked questions regarding conservation easements:

How does a conservation easement affect my property rights?

Land ownership can be viewed as owning a bundle of rights. These rights may include but are not limited to:

1. The right to build on the land.
2. The right to farm and cut timber.
3. The right to mine or sell soil.
4. The right to subdivide the property and put houses on each parcel.

A landowner who conveys a conservation easement retains all rights to use the land in ways that do not interfere with the conservation purpose and the terms of the easement.

The landowner usually retains, but is not limited to, the following rights:

1. The right to sell the property. The new owner(s) must conform to all terms of the conservation easement.
2. The right to farm or manage timber.
3. The right to hunt or to restrict hunting.

4. The right to transfer the land to heirs.
5. The right to restrict public access.
6. The right to add a minimum number of additional structures, roads, or trails.

The landowner typically restricts the right to subdivide and develop the property because of tax benefits (Development is usually the highest and best use of the land) and the requirement of the preservation of conservation values for the easement. It is possible, however, to stipulate in the easement that a limited number of structures may be built in the future. The important point is that each easement is tailored to meet individual ownership, family or corporate stakeholders, and conservation interests.

How does my land qualify for protection through a conservation easement?

As the property owner, you see important natural or historic features of your land that should be protected, and you are willing to give up development rights in order to achieve their protection and to gain tax benefits. In order to give up your development rights and be eligible for tax benefits, the IRS requires that *one* of these “qualified conservation purposes” are met:

1. Preservation of open space, including farm and forest, for scenic enjoyment.
2. The protection of natural habitats of fish, wildlife or plants.
3. The protection of historically important land, buildings or other structures.
4. Preservation of large tracts and areas for greenspace.

Of course, you will need to have your own legal and financial advisors help you determine if this is the best solution for your tax purposes and conservation interests.

What rights does the National Biodiversity Trust have on my land?

The National Biodiversity Trust designated to oversee the easement’s terms and conditions will do so permanently. In order to do that, they will inspect the property once a year to ensure that the agreement is being upheld. These visits are customarily scheduled with the landowner. The National Biodiversity Trust will also be advised of any reserved rights being exercised by the landowner, and anytime the property is gifted to an heir or sold.

Are there tax benefits to protecting my land with a conservation easement?

Beyond the great satisfaction of knowing that you are preserving your special land, you may also be eligible for certain tax benefits. A conservation easement may reduce:

1. Federal income and capital gains taxes.
2. State income tax
3. Local property taxes.
4. Estate taxes.

How are tax benefits determined?

The rights that a property owner relinquishes, and those that are retained, are set forth in the conservation easement held by National Biodiversity Trust, and is considered a charitable contribution. In general, a charitable deduction includes any charitable contribution made during the tax year of owning all rights and interest of the property contributed, subject to certain limitations. When the document is signed and recorded at the county courthouse in the county in which the property resides, the property’s current and future owners can no longer exercise the rights that have been given up. Those rights have a financial value. To determine that value, an appraisal is conducted. This appraisal must be performed in accordance with guidelines stipulated by the IRS.

Here is an example.

Let us say that the appraised, fair market value of your 200-acre tract of land is \$5,000 per acre, or \$1,000,000. You wish to limit its future use solely to forestland and its natural river frontage, by placing a conservation easement on the land. The appraisal shows that the land’s value without being able to develop it is reduced to \$2,000 per acre, or \$400,000. The difference of \$600,000 can be claimed by the donor, as a \$600,000 charitable contribution to the donee, National Biodiversity Trust, designated to hold the conservation easement.

Your tax attorney and accountant will tell you all of your specific tax benefits, but generally, you may expect the following:

Federal Income and Capital Gains Tax Benefits

The value of the donation of a qualified conservation easement by an individual or family currently can be deducted at an amount up to 50 percent of the donor's adjusted gross income in the year of the gift. If the easement's value exceeds 50 percent of the donor's income, the excess can be carried forward and deducted over all or part of the next 15 years. A corporation can deduct up to 10% of its taxable income (computed without regard to the charitable contribution deduction, net operating loss carryback, and certain other deductions). This is the general limit for charitable contributions by C corporations. Any unused portion of the deduction can be carried forward for up to five years thereafter.

State Tax Benefits, Georgia

If you donate a conservation easement in Georgia, you can qualify for a state income tax deduction. Donations of conservation easements meeting state conservation purposes qualifies donors for a state income tax credit up to \$250K (individual), \$500K (corporation), or 1M (partnership), and the donor has 10 years to use the tax credit. The law provides for a credit on Georgia state income tax of 25% of the property value donated for qualifying lands. And with the passing of House Bill 346, those credits are now transferrable to a third party for monetary compensation. So, you can sell your credits to a willing buyer. Other states that offer the sale of tax credits includes Colorado, Virginia, and South Carolina.

State Tax Benefits, Florida

Florida law reduces property taxes on land that is forty acres or greater and is under a permanent conservation easement. There are also two classes of property tax exemptions: A 100% exemption, for those lands protected with an irrevocable easement, (dedicated in perpetuity), provided that any income generated from the land be returned to the land in land management activities, (e.g. no net profit made from the land), and a 50%, exemption, the same rules apply, but there is no restriction on the profits made from the land. Agriculture is generally an allowed commercial use on conservation easements, and that the exemption does not apply to non-conservation uses on the land (such as a home, which will be assessed separately and taxed per usual). Also, for parcels less than 40 contiguous acres, in order to qualify for either of these exemptions, the conservation easement must be approved by the Florida Acquisition and Restoration Council (ARC), who will evaluate such lands utilizing a set of conservation-based criteria established by the Legislature. If over 40 acres, or approved by ARC, these exemptions become effective once the land owner has submitted form DR-418 (and renewed annually with DR-418CR) to their County Property Appraiser's office. Applying for the exemption (or reduction) is the taxpayer's responsibility.

Other states may have a state tax benefit as well, however Alabama does not.

Estate Tax Benefits

The donation of a conservation easement during the landowner's life or by bequest, can reduce the value of the land upon which estate taxes are calculated. This benefit can often mean the difference between heirs having to sell or develop the property to pay estate taxes, or being able to keep the property in the family. The new property value after an easement is placed on the land will be the estate tax taxable value, which is usually much less than the original value.

STEPS TO SETTING UP A CONSERVATION EASEMENT

Step 1. Tour your property with a National Biodiversity Trust representative.

You and a staff member will have the opportunity to see the property, to discuss your conservation values, and to address conservation and reserved rights options.

Step 2. National Biodiversity Trust reviews your property and determines if it meets the organization mission statement, and to identify the property's official conservation purpose and values.

All nonprofits have mission statements, and National Biodiversity Trust will accept conservation easement donations that meet the organizations mission. If the property meets that criteria, then the property is reviewed for its

main conservation purpose, and all associated conservation values that are possible conservation easement values to be written in the conservation easement document.

Step 3. National Biodiversity Trust advises you to consult your legal and tax advisors.

It is the property owner's responsibility to review the legal and financial implications and benefits of a conservation easement. You will want advice on income and estate tax issues, and the way in which to take maximum advantage of the benefits possible through a conservation easement. You may also want to have an informal consultation with a qualified appraiser; doing this early in the process will help you to gain a general understanding of the value of the easement restrictions under discussion.

Step 4. A baseline documentation report of the property is completed.

Basic documentation needs to be completed for every conservation easement since it is the "present condition of the land" that gives background for continued annual monitoring by National Biodiversity Trust and to the IRS. To comply with IRS regulations, a record of the condition of the property at the time of the conservation easement is required. It will include descriptions of the conservation values, property photographs, maps, surveys and other important information to represent fully the property and its special features.

Step 5. You provide survey and title information to National Biodiversity Trust.

National Biodiversity Trust will need a current survey and title information to identify legally the owner(s) of the property and the legal description of the land to be included in the conservation easement. You will also provide information on any liens or mortgages that may exist on the property. These affect the donation of the conservation easement to National Biodiversity Trust.

Step 6. You obtain mortgage subordination for the property.

If your property is subject to a pre-existing mortgage, you are responsible for obtaining subordination from the lender in order for the conservation easement to be placed on the property. National Biodiversity Trust will assist you in explaining to the lender the benefit of the easement to the community-at-large and the charitable purpose of the donation.

Step 7. Negotiate the donations and restrictions, draft the easement, and agree on an endowment.

Through the steps listed above, you and National Biodiversity Trust will have developed a good idea of what type of activities will be restricted by this conservation easement as well as continued uses of the land. At this time, the draft conservation easement will be prepared by National Biodiversity Trust. The property owner's legal advisors and National Biodiversity Trust will review the document to be sure that both interests are served. As this is a legal document, and one that will be attached to the property forever, *careful discussion and scrutiny is vital to ensure mutual satisfaction with the long-term implications of the easement*. Because National Biodiversity Trust is a nonprofit organization, fund raising and grants are the primary means of income to keep the organization's financial stability. An endowment gift by the donor of the conservation easement is requested to help pay for National Biodiversity Trust's time to develop the conservation easement, monitor it in perpetuity, and pay for legal costs. The endowment is also a tax-deductible donation to National Biodiversity Trust. Endowments are highly variable, but National Biodiversity Trust requests a minimum \$5,000 endowment. Larger endowments are gratefully accepted.

Step 8. Obtain a qualified appraisal.

An accurate appraisal is key to understanding what the conservation easement is worth and what the tax benefits may be to you and your family, or corporate interests if it is commercial land. With the conservation easement, the appraisal of the property is solely the responsibility of the property owner. The final appraisal will be based on the restrictions placed on the property in the conservation easement document. However, the property owner may want to consult informally with his or her qualified appraiser early in this process to get a general understanding of the value of the restrictions under discussion.

Step 9. Sign and record the easement.

When all parties have agreed to all the terms and the wording of the easement, it is time for all parties to sign the document. The owner will sign it, as will the Director of National Biodiversity Trust. The conservation easement is recorded by the attorney at the county courthouse, becoming part of the recorded deed to the land. This conservation easement is in perpetuity. It will be part of every sale or transfer of this property from the day of signing forward.

Step 10. Monitoring of the conservation easement.

National Biodiversity Trust is responsible for monitoring the rights conveyed and the reserved rights of the conservation easement in perpetuity after the recording of the conservation easement. This usually means an annual visit and review of the property with the landowner. Also, at each transfer of the property's ownership, National Biodiversity Trust will contact the new property owner to review the terms of the conservation easement.

Step 11. IRS Form 8283

National Biodiversity Trust will assist later with IRS Form 8283, Noncash Charitable Contributions.

COSTS OF PROTECTING LAND THROUGH A CONSERVATION EASEMENT

The costs for placing a conservation easement include organization time, legal fees for attorney review of the legal documents, accountant advice, surveyor costs if a new survey is required, appraiser costs for determining your tax-deductible property value, and an endowment.

Your peace of mind knowing your land is conserved forever and the tax benefits will greatly outweigh the costs of the conservation easement.

LAND CONSERVED FOREVER, AND FINANCIAL BENEFITS TO YOU.