

Conservation Easements

What is a conservation easement?

A conservation easement is a voluntary legal agreement that benefits landowners and the community because it protects land while leaving it in private ownership. Conservation easements limit the uses of property to those consistent with the landowner's and the easement holder's conservation objectives.

The benefits of a conservation easement to landowners include:

- protecting features of their property that they wish to preserve;
- potentially receiving significant tax relief that sometimes help keep family land in the family; and
- maintaining private ownership of the land.

The community benefits because the easement protects and conserves natural resources such as water and unique lands.

Each conservation easement is unique and negotiated between the landowner and the easement holder. The landowner retains the property's ownership and use, while giving up certain rights in part or in full, such as the right to cut trees and develop a riparian buffer area. Conservation easements do not remove land from property tax rolls, but can sometimes reduce the amount of property taxes paid.


To qualify as a charitable contribution for federal and state income tax purposes, an easement must be perpetual and made to a qualified grantee (a nonprofit organization or public agency) for the public benefit. The easement must meet one or more of the following conservation purposes:

- **protection of relatively natural habitats of fish, wildlife or plants;**
- preservation of land for public outdoor recreation or education;
- preservation of historically important land or buildings or other conservation purpose;
- scenic enjoyment of the general public.

Conservation easements can protect family farms, coastal beaches, mountaintops, river corridors, working forests, undeveloped scenic land and habitats of many animals and plants, and may include other community benefits.

Facts about conservation easements...

- The landowner retains ownership, and in the case of farmland or other productive land, usually continues using the land for farming or forestry.
- The land provides benefits to society by conserving open lands, farms, forests and other natural resources.
- If reserved rights limit development, property taxes can be significantly reduced on the land included in the easement.
- Conservation easements are individually tailored. Some allow for limited land subdivision, selective timbering, agricultural use, hunting and fishing and limited construction of homes or other buildings. Others are more restrictive.
- Landowners can restrict public access to land. The conservation easement holder arranges with the landowner to visit the property, usually once a year, to document that the land is being protected as agreed.



More benefits
listed on back!

For more information about conservation easements held by the local Soil & Water Conservation Districts in the upper Hiwassee River watershed, contact:

Hiwassee River Watershed Coalition
87 Upper Peachtree Road
Murphy, NC 28906
(828) 837-5414
<http://www.hrwc.net>

This document is based on two publications about Conservation Easements published by the French Broad Training Center of the NCSU Water Quality Group and the NC Wetlands Restoration Program.

What economic benefits may I gain from a conservation easement?

There are several economic benefits of placing a conservation easement on your property. Some of these benefits are listed below. You are advised to consult an attorney and a financial advisor/estate planner concerning about tax benefits.

North Carolina Income Tax Credits

The landowner may apply for a state conservation tax credit on lands put under easement. A landowner may receive a tax credit up to 25 percent of the value of the donated interest in the land (up to a maximum credit of \$250,000 for individuals and \$500,000 for corporations). The credit may be carried for five succeeding years on their state income taxes until it is used up.²

Federal Income Tax Deductions

A landowner may claim a federal tax deduction dedicating a conservation easement on his/her land. The value of the easement is considered a charitable contribution that may be deducted from federal income taxes by attaching a Form 8283 to an income tax return. The federal tax deduction can be used against 30 percent of the landowners adjusted gross income³ that may be used for six consecutive years (until the value of the easement is used up).⁴

Federal Estate Tax Deduction

Landowners may also use the value of the donated conservation easement against their estate taxes.⁵ For estates valued at more than \$650,000 (for 1999) where land is the major asset, this tax deduction can lead to a major reduction or elimination of estate taxes.⁶

Additional estate tax savings provisions are available under I.R.C. 2031(c) that afford additional tax relief with land under conservation easements (up to \$200,000 for 1999). See your accountant for more details.

County Tax Reductions

Although every county has a different taxing system, some county property tax relief may be expected for the portion of land under conservation easement. The conservation from open land to forest in perpetuity may reduce the taxable fair market value of the land. Each person should contact his or her local tax office for more details.

Endnotes

- 2 N.C.G.S. 105-151.12 and G.S. 105-130.34
- 3 26 U.S.C. 170(b)(1)(C)(1)
- 4 26 U.S.C. 170(b)(1)(C)(ii)
- 5 26 U.S.C. 170(h);2055(a)
- 6 How to profit from the Taxpayer Relief Act of 1997. 1997 Investor's Spectrum Vol. 19(9):4.