

# Estate Tax Incentives for Land Conservation

## Keeping Land in the Family

For some families, one of the major advantages of donating a conservation easement is that it helps pass land on to the next generation through reduced estate taxes. Estate taxes can lead to land being broken up or sold off, even when families want to keep the land intact. Estate taxes can make it especially challenging for families to hold on to working farm, ranch, and forest land.

Changes to the tax code that were made permanent in 2014 raised the threshold for estate taxes from \$1 million to \$5 million (indexed to inflation). As of 2015, estates of \$5.1 million or more are subject to estate taxes of 40%. Farm and ranch estates are four times as likely as other estates to be subject to estate taxes, putting some of the nation's most productive agricultural land at heightened risk of subdivision and development.

Estate tax incentives for land conservation give families the option to reduce their estate taxes by protecting their land, which conveys public benefit while easing the transition of land from one generation to the next.

## How Conservation Easements Can Lower Estate Taxes

A conservation easement can reduce estate taxes in two ways:

1. **It reduces the value of the estate to be taxed.** A conservation easement lowers the property value — and, correspondingly, estate taxes. In some cases, a conservation easement may drop the value of the estate below the threshold for estate taxes altogether.
2. **Heirs can exclude 40% of the value of land under conservation easement from estate taxes.** Section 2031(c) of the Internal Revenue Code provides an estate tax exclusion of up to 40% of the encumbered value of land (but not improvements) protected by a “qualified conservation easement.” That exclusion is capped at \$500,000. The cap is lower if the easement reduced the land's value by less than 30% at the time it was donated. To qualify, the easement must serve one or more of the conservation purposes recognized in Section 170(h) of the tax code. It must limit commercial recreational use to a minimum and it cannot qualify solely for the purpose of historic preservation. Only members of the original easement donor's family, including spouses and descendants, can claim this exclusion.

## Conservation Decisions in Estate Planning

Families can benefit from these estate tax advantages if the landowner donates an easement during life, or by will, or if the heirs donate a posthumous easement. However, if the easement is donated by will or posthumously, the family foregoes the opportunity for an income tax deduction.

Landowners should note that conservation easements must meet specific criteria to qualify for tax benefits and that the tax implications of their decision will depend on their specific circumstances. Anyone considering a conservation easement is advised to consult with independent, qualified financial and tax advisors.

## Improving Estate Tax Policy

The Alliance's policy advocacy led to the creation of the first estate tax incentives for land conservation in 1997. The Alliance continues working to improve estate tax laws so that they provide opportunities for conservation, rather than forcing families to sell their land, which often leads to development.

One major issue is that property values have gone up significantly since 1997, making the \$500,000 cap on the estate tax exclusion increasingly inadequate. Farmland values, in particular, have more than doubled. In many cases, the estate taxes on working farms, ranches, and forests come to many millions of dollars — so a half-million dollar exclusion isn't enough to keep the land in the family.

The Alliance supports policy solutions that include raising the cap or excluding working farm, ranch and forest lands from estate taxes altogether, as long as they remain in the family and in production.