

Tax Benefits of Conservation Easements

A conservation easement (also called a conservation covenant or restriction) is an encumbrance on privately held real estate that prohibits the development of that property in perpetuity. The landowner enters into an agreement with the easement holder--either a qualified charitable organization (referred to as a land trust) or a government agency (federal, state, or local). The agreement imposes specific restrictions on the use of the property, and it remains legally binding even when the property is subsequently passed on to heirs or sold to another private owner.

Property owners who grant conservation easements not only conserve their land for future generations, but they may also conserve their wealth for their heirs due to the many tax benefits that are available.

Federal income tax deduction

A gift of a conservation easement is considered a charitable donation that can be deducted on the donor's federal income tax return, if the easement meets all of the following IRS requirements:

- The easement is permanent
- It is donated to a qualified conservation organization
- It serves a valid conservation purpose (which can only be for outdoor recreation or education, habitat protection, historic preservation, or open space protection)

Generally, the value of the easement is the difference between the land's fair market value with and without the easement. For example, if land is valued at \$1 million without restrictions and \$750,000 with the easement, then the value of the easement is \$250,000. The value must be substantiated by a qualified appraisal.

For individual taxpayers, the deduction is generally limited to 30% of adjusted gross income in the year of the gift. Any excess can be carried forward over the next 5 years. Any deduction that is not used up in that 6-year period is lost.

Note: For donations made in 2006 through 2009, the limitations were 50% (100% for qualified farms and ranches) and 15 years, respectively. There is legislation in Congress that extends this provision, retroactive to January 1, 2010.

Federal gift or estate tax deduction

A landowner can claim a federal charitable gift tax deduction (if the easement is made during his/her life) or an estate tax deduction (if made after death) for the full fair market value of the easement. The easement must satisfy the same requirements as the federal income tax deduction, except for the conservation purpose requirement.

Federal estate tax exclusion

In addition to the federal deductions, up to 40% of the after-easement value of the land can be excluded from the landowner's estate for federal estate tax purposes, up to a maximum of \$500,000, if all of the following requirements are met:

- The donation is eligible for the federal income tax deduction
- The easement must prohibit more than a de minimis use of the property for a "commercial recreational activity"
- The easement must be donated by the decedent, his/her family member, the executor of his/her estate, or the trustee of the trust in which the land is held
- The land must have been owned by the decedent or his/her family member for the entire 3-year period preceding the decedent's date of death

To be eligible for the full 40% exclusion, the easement must reduce the value of the land by at least 30%. For every percentage that falls short of the 30% threshold, the exclusion is reduced by 2%.

Further, the tax basis of the land must be carried over from the decedent to the heirs, to the extent the value of the land is excluded from the decedent's estate.

State tax and property tax benefits

Some states offer an income tax deduction and/or tax credit, and many states offer property tax incentives to conservation easement donors.

Note: A conservation easement can also be sold, but a sale will not confer the same tax benefits as a donation.

Ask the Experts: Can I Buy Gold and Silver in My IRA?

Yes, but you'll need to establish a self-directed IRA with a trustee/custodian who has experience with precious metals and is able to take physical possession of the assets. The company you purchase the metals from will generally have a relationship with a trustee/custodian who can set up a precious metals IRA for you.

Under IRS rules, holding certain collectibles, including metals, gems, or coins, in your IRA can result in a prohibited transaction. That doesn't mean you can't do it. But if you do, there can be serious tax consequences--the value of the collectible will be treated as a distribution to you, and will be subject to income tax and a 10% penalty (unless you're 59½ or another exception applies).

However, certain precious metals are specifically excluded from the definition of "collectible." The following are currently permitted as IRA investments:

- American Eagle gold, silver, and platinum bullion coins
- Coins issued by any state

Also allowed is any gold, silver, platinum, or palladium bullion, in coin form or otherwise, that meets certain purity requirements (for example, gold coins and bars must be at least 99.5% pure). Currently this includes:

- Canadian gold, silver, and platinum Maple Leaf coins
- Australian Philharmonic, Kangaroo/Nuggets, Kookaburras, and Koala coins
- Mexican Silver Libertads
- Isle of Man Noble platinum coins
- Gold, silver, platinum, and palladium bars and rounds of specific purity

Of course, you can also buy mining stocks, as well as gold and silver ETFs, in your IRA. For some, this is a more convenient way of adding this asset class to an IRA portfolio.