

# Central Virginia Land Conservancy

[www.cvalc.org](http://www.cvalc.org)



## The What and Whys of Conservation Easements

**WHAT** A conservation easement is a legal agreement between a landowner and a land trust or government agency that protects features that make the land special. The agreement is voluntary and can be tailored to the landowner's wishes regarding the future use of the land. The landowner retains ownership, use, and control of his property and can sell it or pass it on to heirs. Typically a conservation easement restricts development or uses that would destroy natural, scenic, or historic areas while at the same time allowing other traditional uses such as farming, forestry, hunting, hiking, and fishing. Easements are an excellent way to preserve our rapidly vanishing countryside. Conservation easements are permanent and are written into a conservation easement deed. The terms of the easement apply to all future landowners. The organization holding the easement is responsible for making sure the easement's terms are followed.

**WHY** Landowners donate conservation easements because they wish to:

- ensure the long-term conservation of land that contains important natural, historic, or scenic features;
- preserve the land as it is for their children and grandchildren;
- realize financial benefits.

A conservation easement may:

- Qualify as a non-cash charitable gift which may yield a deduction for federal income tax purposes and a credit for state income tax purposes.
- If state credits are not needed, they can be sold to generate cash.
- In addition, there may be local property tax reductions and federal estate tax exemptions.

**Easement donors can use the proceeds from these tax savings to buy more land, pay down debt, or save for retirement, all without having to sell a single acre of the land they love.**

A landowner who preserves property is helping the community in many ways:

- Land and water, plants and animals, farms and forests, history and heritage all benefit from conservation.
- Cost of services studies show that these lands generate a fiscal surplus which helps offset the shortfalls created by residential demand for public services, keeping taxes lower.
- Since land in easements is assessed at a lower rate, the locality gets more state funding for schools than if the land were not in easements.

**Tax Benefits** *The Central Virginia Land Conservancy is providing the following summary of the tax benefits of conservation easements for informational purposes only. Please consult your attorney and/or accountant for professional advice on the implications for your own tax situation. Congress determines applicable tax benefits for conservation easements. These are the current benefits as of the time of publication of this newsletter.* The gift of a conservation or open-space easement in perpetuity on property in Virginia may qualify as a non-cash charitable gift, providing the donor with a deduction for federal income tax purposes and a credit for state income tax purposes. In addition, there may be a reduction in the local real estate tax on the property. A qualified appraiser must establish the "before" and "after" value of the property – the first assessing the land's value before the conservation easement is in place, the second assessing its value afterwards. The difference between these two values is the easement value, which is primarily based on the value of the development rights forgone by the donor. The appraised easement value is the basis for calculating the following potential tax benefits.



## Federal Charitable Gift Deduction

Federal tax deductions for donation of qualifying open-space easements are limited to 50 percent of the taxpayer's adjusted gross income (AGI) which if not used up in the year of donation, may be carried forward at 50 percent of AGI for a period of fifteen years. In addition, a farmer or rancher who receives more than 50 percent of AGI from the trade or business of farming or ranching is eligible for a tax deduction of 100 percent of adjusted gross income. The deduction may not be transferred.

## Virginia State Tax Credit

The state of Virginia has one of the most generous preservation tax credits in the nation. The credit, valued at 40 percent of the value of the easement, can be used to offset the donor's Virginia income tax liability dollar-for-dollar. The amount of the credit that may be used by a taxpayer may not exceed \$50,000 for taxable year 2017 and each taxable year thereafter, but any unexpended portion may be carried forward for the next 13 taxable years. In addition, any unexpended portion may be transferred or sold to another Virginia taxpayer. State income tax credits under the Virginia Land Conservation Incentives Act in excess of \$1 million must be reviewed and approved by the Virginia Department of Conservation and Recreation in accordance with adopted review criteria.

## Federal Estate Tax Exemption

If certain requirements are satisfied, up to an additional 40 percent of the after-easement value of the land can be excluded from a landowner's estate for estate tax purposes. The maximum amount that may be excluded is \$500,000. Heirs might be able to retain land they otherwise would have been forced to sell in order to pay estate taxes.

## Local Property Taxes

Local property taxes may be reduced; however, if land is already assessed at "use value," in other words, enrolled in a local Land Use Assessment Taxation Program, additional reductions in taxes are unlikely

# Frequently Asked Questions

## Will I still own my land after I do a conservation easement?

Yes. The land is still yours and you may still sell it, give it away, or do most anything you want with it. What you have given up is the right to develop your land in ways that are restricted by the easement.

## Does a conservation easement give the public access to my land?

No. You still decide who visits the property. Most easement donors do not want, and therefore, do not allow, public access to their property.

## Does the easement have to cover all of the landowner's property?

No. Some easements only cover a portion of the landowner's property as long as the property meets any minimum acreage requirements of the organization holding the easement.

## Can I still leave the land to my children?

Yes. In fact, a conservation easement may reduce or eliminate inheritance taxes and keep your heirs from having to sell the land to pay the taxes on it.

## What if there is a mortgage on my land?

You can still place a conservation easement on the property, but the lender must agree.

## How long does it take to complete a conservation easement?

The process can take a few months or sometimes a year or more. This is determined by the complexity of the easement and many landowners want to proceed slowly and deliberately with such a major decision.

## What local landowners with easements say

"What do you want your legacy to be? I see what's been happening around the property and I'd rather my legacy not be that. Subdivisions are a dime a dozen but large, undisturbed tracts of land are rare."

"I've seen a lot of the Virginia I once knew fall to development. We wanted to make a small contribution to preserving what is left. I hope this land will be in my family for generations and always stay pretty much the way it is now."

"The beautiful acreage is motive enough to protect the property, but the fact that the family was able to keep it intact for over 100 years was another reason. It would be a shame to lose the integrity of the property after all this time."

"We're not giving up anything, we're preserving something."

"To me, the emphasis is the preservation of the farm land. Once you lose the farm land, I think it's going to be hard to get it back."

"Our biggest goal with it is we did not want to see it broken up and split into smaller lots and developed and destroyed. More than anything, we wanted to preserve the beauty of the mountain well past our lifetimes."

"Both of us saw what happens when development keeps moving out and moving out, and slowly swallows up the countryside. But with an easement, long after we're gone basically, it's protected forever."

"I feel that I am promoting the conservation attitudes instilled in me by my forebears, the most relevant of which to me is: take care of the land, and the land will take care of you."



## Leave a Legacy

Your land is one of the most important and valuable possessions you own. The decisions you make regarding its current and future use will have long-term consequences for both your family and community. We at the Central Virginia Land Conservancy hope you will consider a conservation easement for your property. **If a conservation easement seems like an option you would like to consider for your property, or if you would like further information please call us at 434.942.4320, visit our website at [www.cvalc.org](http://www.cvalc.org), or email [info@cvalc.org](mailto:info@cvalc.org).**