



Benefits

Completing a conservation easement on your property has several benefits. Foremost is the knowledge that your land will be preserved and protected.

Conservation easements can also be an important financial and estate planning tool. The IRS recognizes the donation of the value of conservation easements. All tax benefits hinge on the value of your conservation easement and whether or not the Internal Revenue Service (IRS) and the Colorado Department of Revenue (CDOR) determine that your property qualifies for tax benefits. Your financial advisor can initiate the proper forms needed to claim these benefits.

Federal or state tax benefits and state tax credits are available for the donation of a conservation easement only if it constitutes a "**qualified conservation contribution**," as defined by Internal Revenue Code 170(h), and as interpreted by Treasury Regulation 1.170A-14. A conservation easement must meet the following requirements:

- The donation of the conservation easement must be made either to a governmental entity or to a charitable organization that is exempt under section 501(c)(3) of the Internal Revenue Code, is a public charity, and that has been in operation for a minimum of two years. The organization must be able to monitor the conservation easement and if necessary take any enforcement action that may be required.
- The donation of the conservation easement must qualify as a charitable contribution for federal income tax purposes and meet the requirements of the Internal Revenue Code section 170(h). The due diligence that RiGHT performs as we work on your conservation easement is designed to meet these requirements. This work will include the following tasks:
 - An appraisal in accordance with the IRS requirements (For more information on appraisal requirements, see *Conservation Easements: The Process*);
 - An environmental baseline report;
 - If the mineral ownership is severed from the ownership of the surface of the land, a mineral remoteness report to verify that the likelihood of the development of minerals on your property is so remote as to be negligible;
 - Identification and documentation of conservation values; and
 - Identification of governmental policies supporting the implementation of your conservation easement.

RiGHT will not knowingly participate in any project where we have concerns about the tax deduction.

Federal Tax Benefits: The previous enhanced tax incentive for a conservation easement donation has expired*. As of January 1, 2010, you may be eligible for the following tax benefits if your land qualifies for federal IRS benefits for a donation of a conservation easement:

- 1) A charitable income tax deduction for the donated value of the conservation easement.
 - a) The value of the conservation easement donation can be deducted up to 30% of an individual's Adjusted Gross Income (AGI) for the year of the gift. Deductions by C-corporations are limited to 10% of AGI.
 - b) There is a 5-year carryforward on any unused deduction amount.

* It is possible that Congress will reinstate the previous enhanced tax incentive and the estate tax benefits for conservation easement donations and make the incentives retroactive to January 1st. More information is available from the Land Trust Alliance (<http://www.landtrustalliance.org/>) or by contacting your financial advisor.

Colorado Tax Benefits: If the federal government recognizes your donation, the State of Colorado also offers these potential benefits, if you qualify:

- 1) A State income tax credit. For a qualifying donation a landowner can receive a 50% tax credit of the value of their donation up to \$750,000. (Example: for a donation worth \$500,000 a landowner could receive \$250,000; for a donation worth \$750,000 a landowner could receive \$375,000).

The credit can be carried forward for 20 years or transferred once to a third party who can then claim the credit. This enables people who cannot use the tax credit to receive cash by selling their credits at a reduced rate to a party that can use the credits. However, the entire credit must be used before a new credit can be claimed for an additional conservation easement donation.

For more information on the current Colorado Tax Incentives see the Colorado Department of Revenue website at www.revenue.state.co.us/fyi/pdf/income39.pdf.

- 2) A charitable income tax deduction for the value of the conservation easement in excess of \$750,000.
- 3) Properties larger than 80 acres will remain taxed as agricultural. For non-agricultural land, there may be a property tax retention.

NOTE: The above potential benefits apply only to conservation easements donated in 2010 or earlier. For more information on the proposed changes to this state tax credit, contact RiGHT or your financial advisor.

***The Rio Grande Headwaters Land Trust (RiGHT) in no way claims to be a financial advisor and urges you to seek professional advice with someone who has experience with both estate planning and conservation easements.**

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