



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.

The tax benefits are based on the fair market value of the conservation as established by means of an appraisal. In order to qualify for a tax benefit, 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 work that we will perform 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;
 - 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.

Federal Tax Benefits: If your land qualifies for federal IRS benefits for a donation of a conservation easement you may be eligible for the following tax benefits:

- 1) A charitable income tax deduction for the donated value of the conservation easement. **The following has been approved for 2008 and 2009 only.**
 - a) The value of the conservation easement donation can be deducted up to 50% of an individual's Adjusted Gross Income (AGI) for the year of the gift.
 - b) There is a 15-year carryforward on any unused deduction amount.
 - c) If the donor is a "qualifying farmer or rancher", in certain cases the the deduction can be taken up to 100% of the donor's AGI for the year of the gift, again with a 15-year carryforward.
- 2) An estate tax reduction, removing the value of the conservation easement from the taxable estate.
- 3) In limited circumstances, a partial exclusion from estate taxes for the residual value of the land subject to the conservation easement.

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.

****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.***