

Tax Incentives of Conservation Easement Donations

There are benefits associated with the donation of conservation easements. These benefits are detailed below. The Land Conservancy of West Michigan does not provide legal and tax advice and strongly encourages conservation easement donors to seek professional legal and tax advice.

Federal Income Tax Benefits

Qualified donors of conservation easements may be able to take a charitable deduction for the value of their conservation easement on their federal income tax return. This value is determined by an independent appraisal of the land and conservation easement.

NEW - As of December 2015, there are increased federal income tax incentives for conservation easement donations. The maximum annual deduction for an easement donation has increased to 50% (up from 30% maximum) of a donor's adjusted gross income. Any unused portion of the value of the conservation easement donation can be "carried forward" and used as a deduction for up to an additional 15 years. Previously, this was limited to a 5-year carry-forward. Qualified farmers, ranchers, or forest landowners who derive a majority of their income from these sources can deduct the value of the conservation easement against 100% of their income.

Property Tax Benefits

Increases in property taxes on conservation easement land are limited by the provisions of Michigan Public Act 446. This 2006 law exempts conservation easement land from the "pop-up" tax. This means that when the property transfers to a family member or to a new owner it is exempt from the usual re-assessment of the land in which the taxable value is brought in line with the property's fair market value. Additional information on PA 446 is on back.

Unfortunately, in Michigan there is no guarantee of property tax reduction with a conservation easement. A landowner can request a reduction in property taxes from the local assessor and the Land Conservancy can provide materials from the Michigan Department of Treasury and Michigan Tax Tribunal to support such a request. Additionally, the Land Conservancy can be present when a conservation easement landowner makes this request to the local taxing authority.

Estate Tax Benefits

A conservation easement's restrictions usually reduce a property's fair market value, which will also lower the estate taxes due on the property. In addition, under Internal Revenue Code 2031 (c), the decedent's executor is allowed to exclude 40 percent of the value of the easement land as restricted by the conservation easement, up to a maximum of \$500,000 for estate tax purposes.

Capping Property Taxes With A Conservation Easement:

A Powerful New Incentive for Private Land Conservation Michigan Public Act 446 of 2006

What does Public Act 446 do?

Under current Michigan law, the taxable value of a parcel of property may not increase from one year to the next by more than 5% or the increase in the consumer price index, whichever is lower, until there is a transfer of ownership. When the property is sold or transferred to anyone who is not a first-degree blood relative, the assessment is “uncapped” and the parcel is taxed upon its state equalized value (SEV: 50% of its true cash value). This reassessment upon transfer creates a “pop-up” property tax.

P.A. 446, introduced as Senate Bill 1004, eliminates the “pop-up” property tax on the transfer of lands enrolled in a voluntary conservation agreement (also known as “conservation easement”).*

How does this benefit conservation?

Until the signing of Senate Bill 1004 on December 7, 2006, property taxes on conservation lands, like developed lands, jumped dramatically upon their sale or transfer. Property taxes on conservation lands rose significantly even though their development is permanently limited.

This provided a disincentive for landowners to enter into conservation agreements. To afford the higher taxes, new landowners needed the option of developing the land. The elimination of the pop-up tax on conservation lands means that both current and future landowners have a strong incentive to keep the affected lands intact with habitat, environmental and scenic benefits. This law gives protected conservation property the same tax treatment as protected farmland.

How does this benefit private landowners?

The Act prevents the taxable value of conservation property from "popping-up" to the state equalized value when it is transferred. This means a potential direct tax savings of hundreds or thousands of dollars per year for new owners of the land.

What's an example of how the new law works?

An 80-acre non-farm property with a current taxable value of \$43,000 and a state equalized value of \$252,000 would have been subject to \$4,395 in annual property tax payments after transfer. Under PA 446, if the 80 acres are all enrolled in a conservation agreement, annual property taxes will remain at their current level after transfer -- \$750 per year.

This means **an annual savings of \$3,645**. Over a 50-year span, the new landowner will realize an estimated \$149,131 in value from the change.

How do I find out more?

Contact the Land Conservancy of West Michigan at (616) 451-9476, and your accountant and tax advisor to learn how the new law could benefit you.

This information was provided by Heart of the Lakes Center for Land Conservation Policy, www.heartofthelakes.org.