



**TAX BENEFITS FOR
DONATING A
CONSERVATION EASEMENT
ON YOUR PROPERTY**

Maryland State Estate Tax Benefit

For estate-tax purposes, land is generally valued at its maximum development potential, often generating very high estate taxes. A conservation easement limits the amount of development that can occur, thus lowering the appraised value of the land and reducing the taxable estate.

For the direct Annotated Code of Maryland reference to determining Maryland estate taxes see Title 7-309 of the Tax-General Article.

Maryland Property Tax Credit

A landowner will pay no property tax on land that is subject to a donated Maryland Environmental Trust easement for 15 years from date of donation. The tax credit, however, will not apply to any residential improvements, or to a minimum of one acre around these improvements.

At the end of the 15-year period unimproved land under donated easement will be assessed at the highest agricultural rate. This rate is currently \$500 per acre. Property will qualify for this assessment rate even if the property is not actively farmed. If the property is in agricultural use it will be assessed at the appropriate agricultural level (See Annotated Code of Maryland Title 8-209.1 of the Tax-Property Article). However, the tax credit and assessment rate will not apply to any residential improvements, or to a minimum of one acre around these improvements.

This property tax credit only applies to conservation easements donated to us. For the direct Annotated Code of Maryland reference to this property tax credit see Title 9-107 of the Tax-Property Article.

See MET website to download the [Conservation Property Tax Credit Application](#).

The application form for the Conservation Property Tax Credit may be filed for the fiscal tax year with the County Office of the Maryland Department of Assessments and Taxation. A copy of the recorded Deed of Conservation Easement and the Board of Public Works approval letter must be attached to the application.



Hinebaugh Easement

FEDERAL TAX BENEFITS

Current Federal Income Tax Deduction for Donations

The gift of an easement is a charitable donation that may be deducted from Federal income taxes. The value of the donation is determined by an appraisal. If this value is 50% or less of the landowner's adjusted gross income, it may be entirely deducted in one year. If the value is greater, it may be spread over as many as 15 years.

Specifically, Federal law provides for a deduction of 50% of adjusted gross income in the year of the donation and for 15 years forward, or until the value of the donation is reached. For an IRS "qualified farmer or rancher," this maximum increases to 100% of adjusted gross income. The value of the donation (also called the easement value) is equal to the value of the property before the easement is imposed, minus the value once the easement restrictions are in place.

Donors of conservation easements may claim an income tax deduction under § 170 of the Internal Revenue Code. The IRS requires that the donation be "exclusively for conservation purposes". The IRS specifies that to qualify for the de-

duction, the easement be conveyed to a governmental unit or a “qualified organization” that is a §501(c)(3) charitable organization with the commitment and resources to enforce the easement’s restrictions. MET is a governmental unit with the commitment and resources to enforce conservation easement restrictions.

The exact amount of tax savings depends on several factors:

- How long the donor has owned the property (benefits are generally greater if owned for more than one year);
- How the donor has used the property (residence, investment, agricultural);
- The income of the donor (the higher one’s income, the more one will save on taxes); and
- The value of the donated property (the more valuable the property, the bigger the deduction).

INCOME TAX EXAMPLE

Value of land pre-donation	\$1,000,000
Value of land post-donation	\$ 700,000
Value of easement	\$ 300,000

Calculation of Deduction

Value of Easement	\$ 300,000
Taxpayers adjusted gross income	\$ 145,000
Multiply annual limit on deductions	x 50%
	\$ 72,500
Multiply number of years deduction allowed	x 16
	\$300,000

Calculation of tax savings

Assumed federal bracket	31%
Assumed state bracket	5.75%
Combined tax rates	36.75%
Rates applied to allowed deduction of	\$300,000
Tax Savings	\$110,250

*\$1,160,000 would be allowed but cannot exceed the value of the easement

How to claim a federal income tax deduction for an easement donation

If you plan to take a federal income tax deduction for the easement donation IRS Form 8283 must be attached to your federal income tax return. As a conservation easement donor you will need to obtain a qualified appraiser to determine the value of the gift and to fill out part of the Form 8283. Please have your appraiser complete the form to include, at a minimum, the name, identification number and description of the donated property (Page 2, Section B, Line 5, Column a) and complete Part III. The Form 8283 instructions also require that conservation easement donors attach a statement that:

- Identifies the conservation purposes furthered by your donation,
- Shows, if before and after valuation is used, the fair market value of the underlying property before and after the gift;
- States whether you made the donation in order to get a permit or other approval from a local or other governmental authority and whether the donation was required by a contract, and
- If you or a related person has any interest in other property nearby, describes that interest.

After Form 8283 and statement are complete, they should be sent to us for the donee acknowledgement signature. We request a copy of the appraisal for our review. Please allow a minimum of 10 business days for us to review. We will return the form for your submission to the IRS. The appraisal will be kept confidential. Any reference to donated easement values will not include reference to any individual property.

If the value of your donation exceeds \$500,000, you will also need to provide a copy of the appraisal with the form to the IRS.

For the Internal Revenue Code text that creates a federal income tax deduction for qualified conservation easements see [US Code Section 26 170\(h\)](#).

For the U.S. Treasury Regulations text on Qualified Conservation Contributions text see [U.S. Treasury Regulations on Qualified Conservation Contributions](#).

For IRS guidance regarding appraisal requirements for conservation easement donations see IRS Notice 2006-96 "[Guidance Regarding Appraisal Requirements for Noncash Charitable Contributions](#)."

****MET does not require an appraisal to accept a conservation easement donation and is not involved in the appraisal process; however, if you plan to take a federal tax deduction and/or claim a state income tax credit for a non-cash charitable gift you will need to obtain a qualified appraiser to determine the value of the gift.

Federal Estate Taxes Benefit

For estate-tax purposes, land is generally valued at its maximum development potential, often generating very high estate taxes. A conservation easement limits the amount of development that can occur, thus lowering the appraised value of the land and reducing the taxable estate. This makes conservation easements effective tools for reducing estate taxes. In addition, there is estate tax exclusion (40% of land value up to \$500,000 per owner), for certain land that is subject to a donated easement. This allows the land to be partially shielded from estate taxes.

For more information on the role of easements in estate planning, please see [Conservation Options for Heirs to Land a fact sheet](#) prepared by the Land Trust Alliance.

For Internal Revenue Code text that provides a partial exclusion from federal estate tax for land subject to a conservation easement see 26 United States Code section.



Lambert easement

MARYLAND TAX BENEFITS

Maryland Income Tax Credit

The Maryland General Assembly passed legislation in 2001 allowing a State income tax credit for donations of conservation easements to the Maryland Environmental Trust. Further legislation passed in 2016 allows for pass-through entities to claim the credit as well. The maximum credit per individual or per pass-through entity is \$5,000 per year. The remainder of the credit (based on the appraised value of the easement) may be carried forward for up to 15 years for a maximum credit of \$80,000.

The credit is in addition to the Federal income tax deduction, estate tax savings, and the Maryland property tax credit. The details are:

- The easement must be perpetual, conveyed to Maryland Environmental Trust, Maryland Department of Natural Resources or the Maryland Agricultural Land Preservation Foundation (MALPF), and approved by the Board of Public Works.
- The total credit taken cannot exceed the appraised value of the easement; payment received for an easement must be deducted from the credit.
- The maximum credit that an individual or pass-through entity may take per year is \$5,000, or the amount of State income taxes owed for that year, whichever is smaller. An individual or pass-through entity may take the credit for the year in which he or she conveyed the conservation easement, and continue, at a maximum of \$5000 per year, for an additional 15 years, for a total of up to \$80,000. In most cases, a taxpayer may not claim a State income tax deduction and a State income tax credit for the same conservation easement donation.
- When multiple individuals (owners) jointly donate an easement, each one is separately entitled to the tax credit of up to \$5,000 per year. For example, spouses, even if filing jointly, may take up to a \$10,000 credit per year, though each spouse must calculate their own state tax liability. To calculate the total credit which an individual may take, multiply the appraised easement value by the individual's percentage ownership of the property.
- For a taxable year the total aggregate amount of credits claimed by members of pass-through entities cannot exceed \$200,000. For further information, see Md. Ann. Code Tax-General 10-723.
- Easements donated before July 1, 2001 do not qualify for this credit. However, a second easement, or amendment, that materially strengthens the conservation restrictions of the original easement may create a tax credit.

Form 502CR is used to claim the conservation easement tax credit and must be attached to your Maryland tax return. If you plan to claim a state income tax credit for a non-cash charitable gift you will need to obtain a qualified appraiser to determine the value of the gift. For the direct Annotated Code of Maryland reference to this income tax credit see Title 10-723 of the Tax-General Article. *For more information and for forms, see the Maryland Environmental Trust website.*

Maryland State Income Tax Deduction

State law allows, with some limitations, an individual who itemizes deductions on their federal income tax return to itemize deductions on their Maryland income tax return. One of the limitations is that an individual cannot deduct a conservation easement donation if they claimed the Maryland income tax credit for donating the conservation easement.

For the direct Annotated Code of Maryland references see Title 10-218 and 10-219 of the Tax-General Article.



Marshy Hope Easement

Federal Estate Tax Examples

Example #1

Pre easement value of land	\$1,000,000
Post easement value of land	\$ 700,000
Difference	\$ 300,000

Percent calculation $\$300,000/\$700,000=30\%$
 Application of exclusion 40% times \$700,000=\$280,000 Tax savings (assume 50% rate):

50% of \$300,000	\$150,000
50% of \$280,000 \$140,000	\$290,000

Example #2

Pre easement value of land	\$1,000,000
Post easement value of land	\$ 800,000
Difference	\$ 200,000

Percentage decrease 20%

Exclusion adjustment	30% less 20% equals 10%
10% times 2 equals 20%	40% less 20% equals 20%
Resulting exclusion is	20%

Example #3 (STEPPED UP BASIS)

Original cost of land \$ 5,000
 Construction cost of barn \$20,000
 Basis \$25,000
 Owner donates easement That meets 30% requirement Prior to death

FMV date of death - land	\$7,500,000
FMV date of death - barn	\$250,000

Post easement value of land

for purposes of exclusion	\$525,000
Exclusion 40% of \$525,000	\$210,000

\$210,000 is 28% of \$750,000

28% times basis of land (\$5,000)	\$ 1,400
72% times \$750,000	540,000
100% FMV barn	\$250,000
Basis	\$791,400
Sale at	\$1,000,000
Less basis	\$ 791,400
	\$ 208,600

Capital gain tax (22% state/fed) \$ 45,892
 Value of exclusion

50% times \$210,000	\$ 105,000
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See MET website for appraisal policies, further information and forms.

ALL INFORMATION IN THIS DOCUMENT IS FROM THE MARYLAND ENVIRONMENTAL TRUST WEBSITE AS OF 7-16-2018.



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