



Tax Incentives for Landowners to Preserve Open Space

FACT SHEET

New Farm Bill renews a powerful tax incentive for landowners preserving their property with conservation easements

On May 23, 2008, Congress enacted the new Farm Bill that renews a powerful tax incentive which has helped to conserve nearly one million acres of wildlife habitat, farmland, and other open land across the US. The incentive had expired January 1, 2008, but is now retroactive to the beginning of the year and will last through 2009.

If you own land with important natural or historic resources—including farmland and scenic views—donating a “conservation easement” (explained below) can be one of the smartest ways to conserve the land you love and protect Lake County’s natural heritage, while maintaining your private property rights and possibly realizing significant federal and state tax benefits.

When a conservation easement benefits the public by permanently protecting important natural resources and meets other federal tax code requirements, it can qualify as a tax-deductible charitable donation. The amount of the donation, and in turn the potential tax deduction, is the difference between the land's value with the easement and its value without the easement.

The renewed incentives make it easier for average Americans, including working family farmers, to use this tax deduction to reduce income taxes by allowing:

- **Conservation easement donors to deduct up to 50% of their adjusted gross income in any year (previously 30%)**
- **Qualifying farmers who donate an easement to deduct up to 100% of their adjusted gross income (previously 30%)**
- **Conservation easement donors to carry over deductions for their donation for as many as 15 years (previously five years)**

These changes allow many modest-income landowners to deduct much more than they could under the former rules.

What do you need to know to consider a conservation easement? Here is a brief overview:

- **A conservation easement is a legal agreement between a landowner and a qualifying organization such as a nonprofit land trust** (a conservation organization that protects open space) or government agency that permanently

limits uses of the land in order to protect important conservation values. It allows you to continue to own and use your land, and to sell it or pass it on to heirs. You also retain your privacy.

- **When you enter into a conservation easement with a land trust, you give up some, but not all, of the rights associated with the land.** For example, you might give up the right to subdivide your land or build additional houses, but retain the full right to grow crops. Future owners will be bound by the agreement's terms, no matter how many times the land changes hands. The land trust is responsible for making sure the terms of the agreement are followed in perpetuity.
- **Conservation easements are tailored to each property and vary widely, depending on the land's characteristics and the landowner's desires.** An easement to protect rare wildlife habitat might prohibit any development, for example, while one on a farm might allow continued farming and the construction of additional agricultural structures. An agreement may apply to just a portion of the property, and need not require public access.
- **A conservation easement donation requires not only a willing donor, but a qualified conservation organization to accept the donation.** If that organization is a non-profit, it needs to be able to show that the donation closely fits its particular charitable mission. A land trust will not accept a donation that does not fit its mission and purposes. Liberty Prairie Conservancy is a qualified conservation organization.
- **A conservation easement can help a landowner pass land on to the next generation. How?** By limiting the land's development potential, the easement lowers its market value, which in turn lowers the estate tax. In addition, up to 40% of the remaining market value (with a \$500,000 cap) may be exempt from estate tax. Whether the easement is donated during the landowner's life or by will, it can make a critical difference in the heirs' ability to keep the land.
- **We encourage landowners to get professional financial planning and legal advice before making any decisions about their properties.**

Conservation easements are now the nation's most frequently used tool for land preservation. They have protected over five million acres across the nation, including 4,800 acres in Lake County.

To learn more about protecting your land with a conservation easement, call our Director of Land Preservation at 847.548.5989 extension 32 or email at tim@libertyprairie.org.

Established in 1995, the Liberty Prairie Conservancy is a non-profit organization that preserves open space throughout Lake County. Our work is based on the strict standards and practices of the Land Trust Alliance, a national association of non-profit organizations that together preserve over 800,000 acres per year.