

TAX BENEFITS OF

conservation easements

WHAT IS A CONSERVATION EASEMENT?

In use for over 100 years, conservation easements—sometimes called private land protection agreements—are legal agreements private landowners can use to protect their open, natural lands in perpetuity. Legally binding, conservation easements permanently retire certain development rights of a property, as agreed upon by the property owner and a land trust. Each conservation easement is unique in that it restricts and protects specific values that the owner wishes to conserve on their particular piece of property. These conservation values may be agricultural, scenic, historic, ecological, or recreational. The land trust holds the easement in perpetuity, taking on the responsibility of ensuring that the terms of the easement are met, regardless of who owns the property in future. Conservation easements ride with the property, not the landowner. A landowner who places a conservation easement on their property still retains ownership and may sell, mortgage, or bequeath their land as usual. However, because it retires certain development rights, a conservation easement often significantly reduces a land's potential monetary value. This figure, as determined by a special appraisal, is considered a charitable gift by both the federal and state government, qualifying the landowner for a federal tax deduction, and—since 2008—a transferable (saleable) state tax credit.

WHAT IS THE FEDERAL TAX DEDUCTION?

The value of an easement may be deducted from Federal income taxes as a charitable gift. For donations made in 2008 and 2009, an easement donor may deduct the full value of the easement up to 50% of adjusted gross income (qualified farmers may be able to deduct up to 100% of AGI). Donors may carry this deduction forward up to 15 years until the value of the charitable gift is spent in tax savings. (Note: we anticipate Congress will re-authorize these same levels for 2010—check with your tax advisor for the most up to date information).

WHAT IS THE NEW MEXICO LAND CONSERVATION TAX CREDIT?

The New Mexico Land Conservation Tax Credit is a state tax credit designed to encourage the conservation of New Mexico's private open lands. Landowners who donate land or conservation easements on or after January 2008 may receive a tax credit of 50% of the easement's value, up to \$250,000, that can be used as a dollar-for dollar write-off of state income taxes. The tax credit is also transferable, allowing sale of the tax credit to a third party for cash—an attractive option for landowners whose state tax bills are relatively low.

HOW CAN I EARN AND USE A TAX CREDIT?

To earn a tax credit, a landowner must donate a conservation easement to a qualified land trust or government entity. Prior to the donation, the state's Energy, Minerals, and Natural Resources Department reviews the easement agreement to ensure that it meets state standards. After donating the easement, the owner submits an application to the state, which then issues the credit. Once earned, a landowner may either:

- Use their credit to reduce state income tax liability (and carry forward unused credits for up to 20 years), or
- Receive immediate cash compensation for the credit by transferring all or a portion of it to a third party.

TAX BENEFITS OF

conservation easements

CALCULATING A CREDIT:

As an example, if a landowner donates a conservation easement valued at \$600,000 to a qualified land trust, that landowner is eligible to receive a tax credit of \$250,000 (50% of \$600,000 is \$300,000, but the credit is limited to \$250,000). If there are listed co-owners of the property (for example, a husband and wife, each of whose names must be on the deed), each would be entitled to earn the maximum \$250,000 credit. In this example, the two co-owners would split the \$300,000 credit, each receiving \$150,000 for a total of \$300,000.

ONCE EARNED, HOW DO I TRANSFER MY CREDIT?

Once you earn a tax credit, you may transfer it to a third party. This offers you immediate compensation, and offers third parties the opportunity to reduce their tax liability. You're free to attempt to locate your own third party purchaser, but you may find it beneficial to use a credit facilitator instead. We can help you with this. Landowners who transfer their credit should expect to receive approximately 80% of the value of their donation.

HOW CAN I LEARN MORE ABOUT PROTECTING MY LAND WITH A CONSERVATION EASEMENT?

The Santa Fe Conservation Trust is a qualified New Mexico land trust. We work with you every step of the way to ensure the easement donation process moves smoothly and your goals and needs are met. To learn more about donating a conservation easement, please contact the Trust at info@sfct.org, or use the information at the bottom of this sheet—and thank you for considering protecting your land.

Disclaimer: While SFCT is pleased to provide landowners with this service, our staff are not attorneys, financial planners and geologists or appraisers. As such, the SFCT staff is not qualified to dispense specific numbers and information regarding these fields of expertise. We urge you to hire experienced consultants to complete your conservation team.