

# CONSERVATION EASEMENTS

*Conserving working ag lands for future generations*



WYOMING

**STOCK GROWERS  
LAND TRUST**



Wyoming's agricultural working lands provide many public benefits, from food and fiber production to environmental benefits such as open spaces and wildlife habitat. Agricultural conservation easements provide a voluntary, perpetual mechanism for landowners to permanently restrict certain uses while meeting objectives for their land and livelihoods. Conservation easements provide certainty of purpose and place for future generations while protecting the intrinsic natural values.

## WE CAN ASSIST YOU IN MEETING YOUR CONSERVATION GOALS.

The Wyoming Stock Growers Land Trust (land trust) is the only land trust in the state whose primary focus is to keep ag lands intact and productive for future generations.

We are able to partner with conservation organizations and governmental entities to purchase a portion of the conservation easement value. This provides the landowner with financial and, potentially, tax benefits to protect their property.

## CONTACT US

 307.772.8751

 STEWARDSHIP@WSGLT.ORG  
WSGLT.ORG

## FREQUENTLY ASKED QUESTIONS

**What are conservation easements?** Voluntary, perpetual, individually tailored agreements that limit the amount and type of development on a property.

**What are the benefits of placing a conservation easement on my land?** In addition to potential tax benefits, landowners enjoy the assurance that their land will remain intact, preserving their hard work and legacy. Landowners may also be paid for a portion of the conservation easement value, which can support the financial health of the ranch. The general public benefits from open space, wildlife habitat, and other ecological benefits that are protected by working agricultural lands.

**Is public access required?** No.

**What restrictions come with a conservation easement?** Generally, subdivision and residential development are restricted, in addition to other uses that are not compatible with agricultural and conservation values. All other uses (including grazing, recreation, leasing, agricultural improvements, etc.) of the property are kept by the landowner.

**Do I still own my ranch?** Absolutely. The conservation easement permanently restricts the use of the property for purposes not compatible with agricultural and conservation values. Ownership of the property remains with the landowner and is not transferred to the land trust.

**What does it cost to place a conservation easement on my land?** Based on the type and complexity of the project, landowners can expect to spend \$60k - \$90k. In the case of fully donated easements, funders may be able to support landowner costs.

**What is the difference between fully donated and purchased conservation easements?** Fully donated easements can be completed in less time at less cost than purchased easements. The landowner is not paid for the easement but can realize potential tax benefits from the full value of the easement.

# PURCHASED CONSERVATION EASEMENT PROJECT TIMELINE: 3-4 YEARS



<b>1 YEAR</b>	<b>PHASE 1 APPLICATION</b> <ul style="list-style-type: none"> <li>Application received and approved</li> <li>Title commitment</li> <li>Appraisal consultation</li> <li>Survey (if required)</li> </ul>
<b>1-2 YEARS</b>	<b>PHASE 2 FUNDRAISING &amp; DUE DILIGENCE</b> <ul style="list-style-type: none"> <li>Grant applications: Natural Resource Conservation Service (NRCS) Agricultural Conservation Easement Program-Agricultural Land Easements (ACEP-ALE); Wyoming Wildlife and Natural Resource Trust; and non-government entities</li> <li>Baseline documentation report</li> <li>Deed of Conservation Easement drafting</li> <li>NRCS appraisal</li> <li>Minerals assessment report</li> </ul>
<b>6-12 MONTHS</b>	<b>PHASE 3 CLOSING</b> <ul style="list-style-type: none"> <li>Final land trust Board of Directors approval</li> <li>Funder approval and invoicing</li> <li>Mortgage subordination (if necessary)</li> <li>Signing and recording of the conservation easement</li> <li>Land trust transaction fees and stewardship contribution due</li> <li>IRS appraisal</li> </ul>

## How much is a landowner paid?

In the case of purchased easements, the land trust can pay up to 75% of the appraised value of the easement. A qualifying appraisal determines the loss of value, or diminution, caused by the proposed conservation easement based on comparable before and after sales.

<b>25% DONATED</b>	Landowner makes a minimum 25% "in-kind" donation of land value	<b>HYPOTHETICAL CONSERVATION EASEMENT (CE) VALUE</b>	In a fully donated easement, the entire CE value is considered a charitable contribution and may be available for tax benefits.										
<b>75% PURCHASED</b>	For fully purchased easements, the land trust may purchase up to 75% of CE value												
<b>ENCUMBERED (after) FAIR MARKET VALUE HYPOTHETICAL</b>	<b>EXAMPLE</b> <table style="margin: auto;"> <tr> <td style="background-color: #cccccc; padding: 5px;"><b>\$3M</b> BEFORE VALUE</td> <td style="padding: 0 10px;">-</td> <td style="background-color: #cccccc; padding: 5px;"><b>\$1M</b> CONSERVATION EASEMENT VALUE \$250K - Landowner In-Kind (25%) \$750K - Purchase Price (75%)</td> <td style="padding: 0 10px;">=</td> <td style="background-color: #cccccc; padding: 5px;"><b>\$2M</b> AFTER VALUE</td> </tr> <tr> <td colspan="5" style="text-align: center;"> <b>DIMUNITION (LOSS OF VALUE)</b>                      Varies greatly depending on property                 </td> </tr> </table>			<b>\$3M</b> BEFORE VALUE	-	<b>\$1M</b> CONSERVATION EASEMENT VALUE \$250K - Landowner In-Kind (25%) \$750K - Purchase Price (75%)	=	<b>\$2M</b> AFTER VALUE	<b>DIMUNITION (LOSS OF VALUE)</b> Varies greatly depending on property				
<b>\$3M</b> BEFORE VALUE	-	<b>\$1M</b> CONSERVATION EASEMENT VALUE \$250K - Landowner In-Kind (25%) \$750K - Purchase Price (75%)	=	<b>\$2M</b> AFTER VALUE									
<b>DIMUNITION (LOSS OF VALUE)</b> Varies greatly depending on property													



“It’s amazing to stop and think about how many lives this land has touched.”

*Kevin Lund*  
**LANDOWNER**

PRICE OF THE PROPERTY  
Unencumbered (BEFORE) Fair Market Value



# Wyoming Stock Growers Land Trust Conservation Easement Information Packet

## Contents

- Introduction
- Conservation Easement Process
- Estimated Timeline
- Frequently Asked Questions

*The Wyoming Stock Growers Land Trust is dedicated to conserving Wyoming's working agricultural lands, which also provide open space, wildlife habitat, and other environmental benefits for future generations.*

## Introduction

The Wyoming Stock Growers Land Trust (land trust) is the first and only agricultural land trust in Wyoming. We work with landowners across the state to protect working lands; preserving our agricultural heritage and the multitude of public benefits that result from intact agricultural lands. Our mission is accomplished by partnering with willing landowners in voluntary, permanent agricultural conservation easements.

Farmers and ranchers across Wyoming have persisted through threats to their livelihoods and legacies – from drought and wildfire to challenging economic conditions and navigating changing policies. Responding to a growing communal need to preserve Wyoming's agricultural lands and heritage, the Wyoming Stock Growers Association founded the land trust in 2000. As an agriculturally focused land trust, we help farmers and ranchers preserve their property. Our organization has partnered with 92 families to protect over 300,000 acres across the state, supporting landowners in their vision of securing their agricultural livelihood and legacy.

If you are interested in protecting and preserving your land, we invite you to consider the land trust as a partner in achieving your goals. Please carefully consider the information provided here and consult your legal and financial advisors. When ready, please contact us to discuss how partnering with the land trust can support you as you protect your land and legacy.

# Steps and Costs Associated with Completing a Purchased Conservation Easement

## **Consultation and Approval**

All conservation easement projects begin by contacting the land trust to discuss your conservation goals and provide preliminary information about the property under consideration. Staff will also provide details and answer your questions about the conservation easement process.

The land trust asks that you consult with your family, legal counsel, and financial advisor prior to applying for a conservation easement project. After determining that a conservation easement is an appropriate tool to accomplish your goals, you must submit an official application for consideration.

### Application

Through the conservation easement application, the land trust will ask for key information about your property, agricultural operation, conservation values, and anticipated goals for the project. Specifically, you will need to provide:

- Proposed conservation easement acreage.
- Brief description of any home sites or development rights you wish to retain.
- Current uses and values of the property (agricultural, natural, scenic, historic, etc.).
- Financial expectations from sale or donation of a conservation easement.
- Your interest in pursuing a conservation easement.
- Contact information for you and your legal advisor.

It is important to provide an accurate legal description of the proposed conservation easement. The legal description you provide will be used in the initial due diligence process.

After receipt of the application, staff will determine if the project is suitable for further consideration. Staff will also schedule a tour of the property to aid in this determination and finalize the application.

### Land Trust Board Review

The Land Trust Conservation Committee reviews all suitable projects. The Conservation Committee will recommend that the Board of Directors (Board) approve the most competitive projects. The Board has ultimate decision-making authority on which conservation easement projects the land trust will proceed with. Completing a conservation easement project can take substantial time and the number of projects the land trust can accept varies depending on capacity.

You will be contacted immediately following the Board's decision. If your application is approved, you will be requested to sign a landowner agreement formally engaging us in the project. The landowner agreement outlines the timeline of the project and the responsibilities for you and the land trust during project development.

### Preliminary Title Commitment

Following your agreement to proceed with the project, the land trust will order a preliminary title commitment from a local title company. This title commitment is used to ensure there are no major issues with ownership or other burdens on the property that would compromise the conservation easement, now

or in the future. Issues that typically arise in a preliminary title search may include lack of legal access, conflicting rights of way or leases, and other real property considerations. Title issues are typically benign and will be addressed with you and your legal counsel right away.

### Appraisal

Prior to engaging in a conservation easement project, you should seek independent legal and financial counsel regarding the tax benefit qualification and valuation of conservation easements.

Following Board approval and landowner agreement, a qualified appraiser will be engaged for the conservation easement project. The land trust maintains a relationship with qualified appraisers in our region and will work with you to match the best appraiser to your project.

The appraiser will provide an initial estimate of the conservation easement's value, which is necessary as the project matures. Once fundraising is nearing completion the appraiser will provide a qualifying appraisal funding purpose. If you intend to use potential tax benefits gained from the conservation easement, a final IRS-qualified appraisal will need to be completed at closing.

All appraisal costs are paid by you. These costs will be incurred over the duration of the project as the appraiser completes their work. Appraisal costs vary based on conservation easement terms, property, and your landholdings. Generally, total appraisals costs can range from \$20,000 to \$30,000. In the case of fully donated easements, the land trust may be able to fundraise to assist landowners with this cost.

## **Due Diligence and Fundraising**

### Funding Partners

Most purchased easements are funded by the Natural Resource Conservation Service (NRCS) through its Agricultural Conservation Easement Program-Ag Land Easements (ACEP-ALE) funding program. The land trust also relies on funding from the Wyoming Wildlife Natural Resource Trust (WWNRT). Other funding partners may be brought to the project based on conservation easement value and government funding partner capacity. Every funding partner has different requirements, timelines, and funding capacity. The land trust manages all aspects of project funding, keeping you regularly updated on fundraising progress and actions you need to take.

### Deed of Conservation Easement

The land trust uses a template from which the deed of conservation easement will be individually tailored. A pro forma template will be provided to you and your legal counsel at the onset of the project. It is critical to address any concerns with the template language at this phase.

Once the project is fully funded, the land trust will construct an initial draft of the deed of conservation easement to you and your attorney for consideration. Deed language will be finalized following any negotiation of deed terms. It is important to note that the land trust is represented by its own, separate legal counsel. You are encouraged to seek your own legal counsel throughout the duration of the project, but especially in considering the terms in the deed of conservation easement.

### Mineral Assessment

To satisfy federal requirements, a mineral remoteness assessment is completed to evaluate the probability of surface mining on the property. The land trust maintains a network of qualified, licensed geologists to complete the mineral assessment. Mineral assessment costs are paid by you and may range from \$3,000 to \$5,000 based on property location and size. In the case of fully donated easements, the land trust may be

able to fundraise to assist landowners with this cost.

### Completion of Baseline Documentation Report

The baseline documentation report (BDR) is a record of the property's attributes and condition at the time the conservation easement is completed. Land trust staff will inventory all aspects of the property, ranging from ecological sites to history of the agricultural operations to existing structures, and will establish the annual monitoring photo points (discussed below). These attributes are recorded in the BDR.

Land trust staff will perform a site visit to complete the BDR. You will be invited to accompany staff on this visit to thoroughly tour the property, inventory natural features, and establish logical and accessible photo point sites. Most site visits take half a day and are completed during the summer.

## **Closing Procedures**

After all due diligence items are complete (appraisal, title review, mineral assessment, baseline report) and the project is fully funded, the project moves into the closing phase. The costs discussed below are usually deducted from the final payment for a purchased easement. In the case of fully donated easements, the land trust may be able to fundraise to assist landowners with these costs.

### Final Board Approval

Land Trust Board of Directors must approve the final conservation easement deed and supporting documents prior to closing a conservation easement transaction.

### Funder Review of Due Diligence

For purchased conservation easements, some funders wish to review the project and request documents such as the conservation easement, appraisal, baseline inventory, minerals report, title work, and other relevant documents prior to releasing funds. Funder review of due diligence can take up to ninety (90) days.

If the project is funded by NRCS, additional time is required to complete this step. Technical review by NRCS requires analysis by national NRCS staff, additional appraisal analysis on large projects, and a site visit by the local District Conservationist to ensure condition of the property has not significantly changed.

### Purchase and Sale Agreement

This contract lays out the terms and conditions for the transaction.

### Mortgage Subordination or Release

If the land is mortgaged, the mortgage must be subordinated or released before the conservation easement can be signed. The land trust will coordinate with the mortgage company to complete any necessary subordination documents. The mortgage will be formally subordinated at the time of closing.

### Signing of the Conservation Easement

Once all other steps are completed, the conservation easement is signed and closed at the title company

that is insuring the transaction. Remote closing is possible if you or land trust staff are unable to attend in person. All title costs associated with the project are paid by the landowner at the time of closing. Title costs may range from \$3,000 to \$8,000 depending on the project.

### Transaction Fee

At closing, you pay a transaction fee to the land trust to recover costs incurred by the land trust through the course of the project. The land trust uses a standard transaction fee of \$30,000 for purchased easements and \$18,000 for fully donated easements. Transaction fees may be considered a charitable contribution based on the landowner's tax situation (consult your financial advisor for more information).

### Stewardship Fee

The land trust requests that you make a \$30,000 charitable contribution to its Stewardship Endowment. The intent of this endowment is to fund annual monitoring expenses, enforcement costs in the event of some future violation, and defense of the conservation easement from external threats to the conservation values of the property. Contributions to the land trust Stewardship Endowment may be considered a charitable contribution based on the landowner's tax situation (consult your financial advisor for more information).

### Recording the Conservation Easement

The signed conservation easement is recorded in the local county clerk's office. An original copy is provided for your records. Recording costs vary from county to county and are paid by the landowner at the time of closing.

### Acknowledgment of Charitable Contribution

In the event the landowner claims the in-kind value donated as a charitable contribution, the appraiser and your tax advisor will complete an IRS Form 8283 documenting the charitable event. The land trust will acknowledge this form and provide an accompanying "Contemporaneous Letter" further acknowledging the charitable donation.

## **Annual Monitoring**

As an accredited land trust, we are required to monitor each conservation easement at least once per year. You will receive notice of monitoring two weeks prior to the visit. You are encouraged, but not required, to attend the visits.

Each year, biennial photos are taken at half of the photo points established on the property. Land trust staff will visit with you to determine if any reserved rights have been exercised in the past year and are consistent with the conservation easement. Land trust staff will also inquire about any future projects you

have planned or opportunities for the land trust to provide additional support.

Each monitoring visit is documented in a report that is signed by you and land trust staff. A copy of this report will be provided to you for your records.

*Conservation easements establish a powerful partnership between landowner and land trust.*  
Land trust staff are available discuss your property management goals, future opportunities for conservation, or challenges you are facing. As your partner in conservation, we want to support and assist you however we can.



# **Estimated Purchased Conservation Easement Timeline**

## **Phase 1 – Initial Due Diligence (1 year)**

- Title Commitment
- Appraisal Consultation
- Survey (if required)

## **Phase 2 – Fundraising and Due Diligence (1-2 years)**

- Title Curative Work (if necessary)
- Grant Applications (NRCS, WWNRT, other non-government entities)
- Minerals Assessment Report
- NRCS Appraisal
- Baseline Documentation Report
- Deed of Conservation Easement Drafting

## **Phase 3 - Closing (6-12 months)**

- Final Board Approval
- Funder Final Approval and Invoicing
- Mortgage Subordination (if applicable)
- Signing and Recording of the Conservation Easement
- Land Trust Transaction Fees and Stewardship Contribution Due
- IRS Appraisal

## Frequently Asked Questions

### What is a conservation easement?

Conservation easements are voluntary, individually tailored, and perpetual agreements that limit the amount and type of development on all or part of a property. With a conservation easement, you continue to own your property, but you give up specific rights to divide and develop the land within the conservation easement. By giving up these particular rights, a landowner ensures that the property will remain in its current and natural state for generations to come.

The land trust's template deed of conservation easement allows agricultural operations to grow and change as agricultural practices change, while limiting or eliminating the potential for subdivision and future residential development on the property. In partnering in a conservation easement with the land trust, you ensure that the land will be available for agricultural uses in the future.

### What are the financial benefits of a conservation easement?

Based on your financial status, certain tax benefits may be available. The land trust encourages every landowner to consult with their attorney and financial planner to discuss the possible tax benefits that can be realized in a conservation easement transaction. For an in-depth overview of possible benefits, please see the attached summary of tax incentives by the Land Trust Alliance or visit this website:

<http://www.landtrustalliance.org/taxonomy/term/121>

### What does perpetuity mean?

“Perpetuity” means that the conservation easement is fixed to the property permanently. Furthermore, the deed of conservation easement cannot be amended or terminated unilaterally by the conservation easement grantor (landowner) or grantee (land trust). Perpetuity is a requirement of federal tax law for an easement donation to be tax-deductible.

### Will a conservation easement result in the loss of landowner control over the management of the property?

The terms of an agricultural conservation easement are designed to preserve the property without undermining your ability to make day-to-day management decisions for your ranch. However, by their nature, agricultural conservation easements limit future development of the property for the purpose of conserving values of the property.

In a deed of conservation easement, the land trust is conveyed the rights to access the property for annual monitoring and the ability to enforce the conservation easement. Additionally, the land trust is granted the development rights, except those reserved by the landowner, which are subsequently extinguished (i.e., no one, including the land trust, can build additional residences or subdivide the property).

The deed of conservation easement prohibits certain activities that may compromise the agricultural and conservation values of the property. These prohibitions typically include limitations on subdivision, construction of additional residences or structures, dumps and hazardous waste storage, surface mining, non-agricultural commercial uses, etc.

Agricultural conservation easements are designed to protect the continued use of the property for agriculture. To this end, the deed of conservation easement explicitly reserves to the landowner numerous rights that capture the essence of agricultural production. These explicitly reserved rights include grazing, hunting, leasing, limited additional residences, fence construction, vegetation management, road and utility construction, recreation, agricultural support structures, etc.

A pro forma deed of conservation easement is available for interested parties to review.

Can a conservation easement ever be amended or terminated?

Amendments to conservation easements are possible but can only be done at the mutual consent of both the landowner and land trust, and if the amendment does not result in private benefit to any party. The amendment process is rarely used and involves extensive legal counsel and new appraisals of the property.

The land trust has never had a conservation easement terminated for any reason. However, conservation easements can be terminated by either judicial action or condemnation. These processes rarely occur and have specific procedural requirements detailed in the deed of conservation easement.

Can there be oil and gas development on a property with a conservation easement?

Conservation easements limit mineral development and limitations will differ between properties. We encourage you to consult with your attorney concerning mineral development on permanently conserved lands.

What are the public benefits?

Conservation easements help to ensure that Wyoming's wide-open spaces continue to contribute to the production of food and fiber, habitat for wildlife, watershed quality, and the scenic resources that Wyomingites and visitors alike cherish. These public benefits are what qualify conservation easements as charitable transactions in the IRS code.

Do conservation easements require public access?

Conservation easements do not require public access. Decisions regarding public access to the property are left solely to the landowner. Some landowners choose to grant public access and some funders are willing to pay for it. Any public access agreements are completed separate from the conservation easement.

Who gets the money if a conserved property is sold to a new owner?

The land trust does not gain from the sale of a conserved property. As the landowner, you receive all proceeds from any future sale of the property. The land trust works with new landowners after a property has been sold to ensure they understand the terms of the conservation easement and build a relationship between the new landowner and the land trust.

Can a land trust sell the conservation easement granted to them, or otherwise dispose of it?

Land trust conservation easements may only be transferred to a different land trust or conservation easement holder with the mutual consent of the landowner, and not for any financial gain. The land trust has only been transferred additional easements to hold and has not transferred any easements to other land trusts.

How does the land trust choose which project to take on?

The land trust uses a ranking system that is approved by our Board of Directors. The metrics consider agricultural viability, agricultural heritage, landscape connectivity, wildlife habitat, public benefit, and potential project risks. More information is available in the application form and on our website.

What's the difference between fully donated and purchased conservation easements?

The primary difference between donated and purchased conservation easements is the amount a landowner is compensated for the easement.

In a fully donated transaction, the landowner receives no payment for the easement and makes a charitable “in-kind” donation of the full value of the easement. The landowner can utilize the full value of the easement for potential tax benefits, provided a qualifying appraisal is completed. In a fully purchased transaction, the land trust pays up to 75% of the conservation easement value and the landowner makes a charitable “in-kind” donation of the remaining 25% of the conservation easement value.

Charitable donation can be used for potential tax benefits if a qualified appraisal is completed. Landowners are not required to pursue or utilize potential tax benefits.

Fully donated easement projects can be completed in 12 to 18 months and are at a reduced cost to the landowner compared to purchased easements. Purchased easements take longer and are more expensive to complete than fully donated easements due to the fundraising and staff capacity necessary to complete the project.

Why should I consider a conservation easement?

Conservation easements are a great tool for certain landowners. They may provide tax incentives, assist in generational transfer, provide numerous public benefits, and preserve our working Wyoming landscapes. The land trust advises landowners to discuss the potential benefits of both fully donated easements and purchased easements with their legal and financial advisors.

**For More Information**

Visit our website at <https://wsglt.org>

or

Call the Wyoming Stock Growers Land Trust office at (307)772-8751



---

# USING THE CONSERVATION TAX INCENTIVE

---

**In 2015 Congress enacted one of the most powerful conservation measures in decades: the enhanced federal tax incentive for conservation easement donations.**

The permanent conservation easement tax incentive is a powerful tool that helps Americans conserve their land voluntarily.

For land trusts across the country, the permanent incentive represents vastly increased opportunities to protect the special places in their widely varied communities.

If you own land with important natural, agricultural or historic resources, donating a conservation easement can be a prudent way to both save the land you love forever and to realize significant federal tax savings.

This short brochure summarizes the conservation easement tax incentive and provides answers to some frequently asked questions. For the latest information and for guidance on individual properties, please contact your local land trust, which can be located at [www.findalandtrust.org](http://www.findalandtrust.org).



# FREQUENTLY ASKED QUESTIONS

## WHAT IS A CONSERVATION EASEMENT?

A conservation easement, also called a conservation agreement, is a voluntary and legally binding agreement between a landowner and a land trust or government agency.

When a landowner donates an easement to a land trust or public agency, she or he is giving away some of the rights associated with the land. The easement permanently limits uses of the donated parcel in order to protect its conservation values, as specified in the Internal Revenue Code (IRC) 170(h).

Conservation easements offer private landowners flexibility in protecting their land. For example, a donating landowner can retain the right to grow crops on a parcel while, at the same time, relinquishing the right to build additional structures on the parcel.

The land trust is responsible for making sure that a landowner adheres to the conservation terms of the easement. An easement may apply to all or a portion of the property and may or may not allow for public access to the property. A landowner who has donated a conservation easement can sell the land or pass it on to heirs, and future owners of the property are bound by the terms of the easement.

## HOW DOES THE PERMANENT, ENHANCED TAX INCENTIVE WORK?

If a conservation easement is voluntarily donated to a land trust or government agency, and if it benefits the public by permanently protecting important conservation resources, it can qualify as a charitable tax deduction on the donor's federal income tax return.

First enacted temporarily in 2006, the tax incentive was made permanent in 2015 and increases the benefits to landowners by:

- Raising the deduction a donor can take for donating a conservation easement to 50%, from 30%, of his or her annual income;

- Extending the carry-forward period for a donor to take a tax deduction for a conservation agreement to 15 years from 5 years; and
- Allowing qualifying farmers and ranchers to deduct up to 100% of their income, increased from 50%.

Easements vary greatly in value. In general, the highest easement values are found on tracts of open space under high development pressure. In some jurisdictions, placing an easement on one's land may also result in property tax savings for the landowner.

### 1. What is an example of the financial benefit that the permanent tax incentive provides a landowner?

Prior to 2015, a landowner earning \$50,000 a year who donated a \$1 million conservation easement could take a \$15,000 deduction (30% of his or her income) for the year of the donation and for an additional five years, generating a total of \$90,000 in tax deductions.

The new, permanent incentive allows that landowner to deduct \$25,000 (50% of income) for the year of the donation and for each of an additional 15 years. This would result in a total of \$400,000 in deductions.

If the landowner is a farmer or rancher, he or she can deduct \$50,000 (100% of income) in the first year and then for each of the following 15 years, realizing a maximum of \$800,000 in deductions.

### 2. Can anyone deduct more than the value of his or her gift of an easement?

One can never deduct more than the fair market value of the gift. The permanent incentive simply allows landowners to deduct more of that fair market value.



### 3. Who qualifies as a farmer or rancher?

The 2015 law defines a farmer or rancher as someone who receives more than 50% of his or her gross income from “the trade or business of farming.” The law references IRC 2032A(e)(5) to define activities that count as farming, including:

- Cultivating the soil or raising or harvesting any agricultural or horticultural commodity (including the raising, shearing, feeding, caring for, training and management of animals) on a farm;
- Handling, drying, packing, grading or storing on a farm any agricultural or horticultural commodity in its unmanufactured state, but only if the owner, tenant or operator of the farm regularly produces more than one-half of the commodity so treated; and
- The planting, cultivating, caring for or cutting of trees, or the preparation (other than milling) of trees for market.

For an easement to qualify for a farmer or rancher, it must contain a restriction requiring that the land remain “available for agriculture.” This provision also applies to farmers who are organized as C corporations. Additionally, Alaska Native Corporations are eligible as farmers or ranchers.

### 4. Do these changes apply to gifts of land?

The expanded incentive does not apply to gifts of land in fee. It only applies to gifts that qualify under IRC 170(h)(2), such as conservation easements. A landowner considering the donation of land should consult an attorney to determine whether the structure of his or her gift should be changed to take advantage of the permanent incentive.

### 5. When does the permanent incentive apply?

The permanent incentive applies to all conservation easements donated after December 31, 2014.

### 6. What other restrictions apply?

Conservation easement donations must comply with “conservation purposes” as defined in IRC 170(h). A donated easement must be a true gift. It must protect significant natural, agricultural or historic resources that public agencies or land trusts want to have conserved. A donated easement cannot serve to simply prevent development on a property or be part of a “quid pro quo” agreement in exchange for a government action, such as issuance of a building permit or a zoning change.

### 7. Will donors who use this provision be audited by the IRS?

Taking advantage of the 2015 law should not affect one’s likelihood of being audited. However, all donors should note that the IRS does pay attention to donations of property that are high in value, including donations of conservation easements.

This makes it important for donors and their advisors to know and follow the law, utilize a reputable professional appraiser who has experience in the appraisal of conservation easements and donate to a well-established, reputable land trust that has adopted and implemented *Land Trust Standards and Practices*.

## WHAT IS THE ROLE OF THE LAND TRUST?

Voluntarily donating a permanent conservation easement is a major commitment for a landowner that requires careful planning and independent legal advice.

Donating an easement also necessitates a strong working partnership with a land trust. A landowner should allow sufficient time for the careful drafting of baseline documentation, creation of maps and production of a professional property appraisal. Land trusts will want to review the appraisal before accepting the gift, and landowners should understand that a land trust may decline to accept a donation that does not meet both the legal requirements and the land trust’s charitable mission and strategic plan.



## ACKNOWLEDGEMENTS

There are many people to thank for the 2015 conservation tax incentive victory. We extend one grand thank you from the Alliance to all of you.

The Alliance has been leading a team effort to achieve this since 2000, when we convened land trust leaders from across the country to build a consensus on what tax policies would best address the need to expand land conservation.

This legislation would not have happened without the leadership of Senators Dean Heller (NV) and Debbie Stabenow (MI), Representatives Mike Kelly (PA) and Mike Thompson (CA), and many of their colleagues. These leaders know that the conservation work of land trusts is important to their communities and broadly supported by their constituents.

For the latest information visit [www.lta.org/policy](http://www.lta.org/policy).

## ABOUT THE ALLIANCE

Founded in 1982, the Land Trust Alliance is a national conservation organization representing over 1,100 land trusts. The Alliance works to save the places people need and love by strengthening land conservation throughout America. Please visit our website at [www.landtrustalliance.org](http://www.landtrustalliance.org) for more information on:

- Finding a local or regional land trust
- The latest federal tax laws concerning conservation easement donations
- Examples of how private landowners work with land trusts to protect their land
- Publications and resources for landowners



1660 L St. NW, Suite 1100  
Washington, DC 20036  
202.638.4725  
[www.landtrustalliance.org](http://www.landtrustalliance.org)

 [www.facebook.com/landtrustalliance](http://www.facebook.com/landtrustalliance)

 [www.twitter.com/lalliance](http://www.twitter.com/lalliance)

*The content in this document is for informational purposes only and should not be construed as legal advice.*

Cover photos: Top—Harlen Persinger, photographer; Bottom—Scott Bauer, USDA/ARS.