

Why Should I Place a Conservation Easement on my Property?

SUMMARY OF WHY EVERY LARGE LANDOWNER SHOULD CONSIDER A CONSERVATION EASEMENT

Land conservation has taken an increasingly prominent role in the planning of towns and cities throughout rural Connecticut, and rightfully so. Land conservation provides areas for local food resources, the protection of our drinking water supplies and the protection of habitat for threatened or endangered species, as well as maintaining the scenic resources that we can all appreciate. Are you aware that you can conserve your land and reduce your tax liabilities? If you were not aware of this fact, or want to learn more, please read the following summary of how placing a conservation easement on your property can lead to significant tax benefits:

WHAT IS THE TAX INCENTIVE TO EASE MY LAND?¹

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 was approved on December 16, 2010. This Act extends available tax incentives for placing conservation easements on your property including, but not limited to:

- An individual who donates a conservation easement can take a federal income tax deduction for the gift value up to 50% of the landowner's Adjusted Gross Income for the year and "carry over" any unused deduction for 15 years.
- An individual who meets the recently revised Internal Revenue definition of "qualified farmer and rancher" can take the income tax deduction for up to 100% of their Adjusted Gross Income (Deduction of 100% of taxable income also available for corporations that meet same criteria.)

WHAT IS A CONSERVATION EASEMENT?²

A conservation easement is a legal document filed on the land records of the Town in which you reside that restricts the use of your land. When a conservation easement is placed you give up certain rights to the eased land. Typical restrictions include:

- Giving up the right to develop the eased area for residential or commercial purposes.
- Giving up the right to place additional structures.
- Giving up the right to do anything with the eased area whatsoever in order to preserve the pristine and natural character of the land.

Many times, the eased area will allow structures and uses that have specific agricultural purposes so long as it meets specific Internal Revenue Service requirements. A conservation easement also ensures that your land will be preserved in its current state from generation to generation.

WHY DON'T I JUST GIFT MY LAND IN FEE SIMPLE?

Gifting your land and actually transferring ownership to a land trust or governmental agency does not provide the same tax incentives as placing a conservation easement on the same area of land. The income tax deduction is only 30% of your Adjusted Gross Income (instead of 50% for an easement) and the "carry over" is only for a period of 5 years (instead of 15 for an easement.)

¹ See Fact Sheet entitled, "Summary of Internal Revenue Code, Section 170(h)," for additional guidelines regarding the tax incentive.

² The Internal Revenue Service classifies this as a "qualified conservation contribution." See Fact Sheet entitled, "Summary of Internal Revenue Code, Section 170(h)," for additional guidance.



Once you transfer ownership of the property you also give up your exclusive use of the property, so this decision should be carefully considered ahead of time.

WHO ENSURES THAT MY CONSERVATION EASEMENT IS ENFORCED?

A conservation easement is “in favor of” an organization who agrees to enforce the terms of your conservation easement in perpetuity. This organization is typically a land trust or governmental agency that meets specific Internal Revenue Service requirements with regards to the structure of their entity.

HOW LONG DOES THE CONSERVATION EASEMENT LAST FOR?

Once the conservation easement is filed, it is in perpetuity, and is carried over from property owner to property owner. That is why it is extremely important that a firm who has extensive experience with easement formulation assist you with ensuring that all of your future wants and needs are incorporated into the easement document.

HOW LONG DO I HAVE TO FILE MY EASEMENT?

The current tax incentives expire December 31st, 2011 unless action is taken this year. Therefore, it is important to begin the process as soon as possible so that your value is guaranteed!

WHY SHOULD I HIRE ARTHUR H. HOWLAND & ASSOCIATES, P.C.?

Our firm has a long history of successfully placing conservation easements that maximize our client’s use of their property while at the same time maximizing the value generated from placement of the easement. We have met personally with several Internal Revenue Service appraisers and engineers and our work has upheld the scrutiny of their careful examination time and time again. Each time we meet, we better understand what other donors are doing to defend their donation value and what missteps trigger the audit process.

We allow our clients to be as “hands-on” or as “hands-off” as they would like to be and do not believe that it is, “our way or the highway.” Our staff of land use planners, civil engineers, land surveyors, soil scientists and other environmental professionals along with our on-call team of appraisers, attorneys and other experts ensures successful implementation of your conservation easement.

HOW DO I GET STARTED?

Please contact us at (860) 354-9346 or pszymanski@ahhowland.com so that we may schedule a courtesy consultation for a time and day that is of convenience to you. Prior to meeting, our title searcher will research the land records regarding your property in order to ensure a successful and productive consultation. We look forward to working with you and welcome your call!

Arthur H. Howland & Associates, P.C., specializes in assisting donors step-by-step with the conservation easement process offering a full array of civil engineering, land surveying, land planning, soil science and consulting services.

One should always consult their attorney or accountant for legal or tax advice.



INFORMATION PROVIDED COURTESY OF:

**ARTHUR H. HOWLAND
& ASSOCIATES, P.C.**

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LAND SURVEYORS
SOIL SCIENTISTS
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