

CONSERVATION EASEMENT

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Elaine Robertson Demby of *Wealth Manager* writes, "Throughout history people have valued land for what they could do with it: Hunt on it; farm it; build a residence, office building or factory on it. But with careful planning and the right mindset, land today can be valued for what its owners cannot do with it."

Conservation easements that may grant a generous tax break to the owner along with a charitable environmental contribution are often excellent methods for individuals to leave a lasting legacy and free up capital simultaneously. For example: The Smith's own 50 acres of land outside of Knoxville, TN. The couple wishes that their property remain in its natural state so they donate a conservation easement to a land trust which will prevent any future development on their property. Currently, the land is valued at \$10,000 an acre, the easement will subsequently decrease the market value of the land and the couple will start taking both a state and federal deduction for their contribution. The easement transfers the property usage rights from the owner to either a municipality or another land protection organization such as The Nature Conservancy or The Land Trust Alliance. This easement restricts real estate development, commercial and industrial uses and other activities on the land as agreed upon.

Under the Pension Protection Act of 2006, until the end of 2007 donors may deduct the value of the gift at the rate of 50% of their contribution base with the remaining to be carried over a 15 year period of time for a total of 16 years, with even more favorable terms for ranchers and farmers. In the case of the Smith's, let's say they bought the 50 acres for \$50,000, with the current market value of the property is \$500,000. Due to the easement, the value of the property drops to \$200,000. The Smith's will be able to deduct \$25,000 a year for the next 12 years. Unless the rules of the 2006 PPA are re-authorized by Congress, the rate will drop to 30% of the contribution base with a five year carry forward period as of 2008, which in my opinion is often not worth it; therefore time is of the essence.

According to *Wealth Manager*, Qualified farmers or ranchers, meaning those whose gross income from farming/ranching is greater than 50% of their annual gross income may deduct 100% of their contribution base with a 15 year carry period. In order to qualify, the easement must state that the property be made available for agriculture or livestock production. A corporation that qualifies as a farmer or rancher can deduct up to 100% of the excess of the corporation's taxable income over the amount of all other allowable charitable contributions with the excess being carried for 15 years. The corporation's stock must not be tradable on any exchange during the time of contribution. Under these rules, farmers and ranchers may potentially pay no federal income tax for 16 years.

There are many nuances and strategies that can be used regarding conservation easements. For example: there are more inherent benefits depending upon the state of residence. Also, the reduction in the value of the property will lower one's property taxes. Many tax and financial planning issues are involved in this process and need to be evaluated over a multi-year basis. For further questions contact Matthew Markowski at (888)950-0940.

Source

The Good Earth *Wealth Manager* Elaine Robertson Demby JD May 1, 2007