



Overview

- Conservation 101
- Tax benefits
- Funding options

If you remember nothing else...

**READ THE CODE,
REGULATIONS AND
STATUTES!**

CONSERVATION 101

The basics

- U.S. private property rights
- Conservation real estate tools
 - Fee interest
 - Less-than-fee interests
 - Leases
 - Covenants and deed restrictions
 - Conservation easements

Conservation easements

- What are they?
- How do they work?
- How are they valued?
- How are they conveyed?
 - Donation
 - Sale
 - Bargain sale

TAX BENEFITS

Federal income tax 101

	Gross income
-	Adjustments
	Adjusted gross income (AGI)
-	Deductions (standard or itemized)
-	Personal exemptions
	Taxable income
x	Applicable tax rate
	Gross tax owed
-	Credits
	Net tax owed or refund due

Federal income tax deduction

Taxpayers making a “qualified conservation contribution” can deduct a portion of their easement’s appraised value equal to 30%* of their AGI and carry forward any unused portion of the easement’s appraised value for 5 years.

“Qualified conservation contribution”

1. Contribution
2. Of a qualified real property interest
3. To a qualified organization
4. Exclusively for conservation purposes
5. In perpetuity

Federal estate tax 101

	Gross estate
-	Deductions
	Taxable estate
+	Lifetime taxable gifts
	Total taxable estate
x	Tax rate
	Tax owed
-	Available unified credit
	Total tax owed

Federal estate tax *reduction*

- If property in an estate was conserved before the decedent’s death, it’s worth less than unconserved property in computing the value of the “gross estate.”
- If property in an estate is conserved after the decedent’s death, the estate can claim a deduction for the easement’s value in calculating the value of the “taxable estate.”

Federal estate tax *exclusion*

The executor of an estate can elect to exclude a portion of the value of easement-conserved land equal to 40% of the land's value or \$500,000, whichever is less.

Federal estate tax *exclusion*

- Must be elected
- Only available for estates of decedents dying after December 31, 1997
- Applies to "qualified conservation easements," not all "qualified conservation contributions"
- Applies to value of land only, not improvements
- Only available on land owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of decedent's death

Federal estate tax *exclusion*

- Easement must reduce the value of the land by at least 30% to qualify for the full exclusion
- Easement must prohibit all but "de minimus" commercial recreation
- Value of land must be reduced by any outstanding debt on the property
- Land owned by entities is eligible if decedent owned at least 30% of the entity
- Post mortem easement donations qualify, provided no income tax deduction is taken

Tax credit states



Transferable tax credit states



Colorado state tax credit

Colorado taxpayers who donate a perpetual conservation easement to a state-certified organization can claim an income tax credit equal to the lesser of 50% of their easement's appraised value or \$375,000.

Colorado state tax credit

- Grantee must be state-certified governmental entity or charitable organization exempt under IRC 501(c)(3) that was created at least 2 years prior to receipt of the easement
- Conserved property must be located in Colorado
- Landowner must donate all or part of the easement's value
- Easement must be a perpetual easement in gross per Colorado statute

Colorado state tax credit

- Taxpayer must be:
 - Colorado resident individual
 - C corporation
 - Trust
 - Estate
 - Member of a pass-through entity who receives the credit from such entity, regardless of whether such member is a Colorado resident
 - Nonprofit corporation (except land trusts)

Local tax benefits

- “Real property subject to one or more easements shall be assessed...with due regard to the restricted uses to which the property may be devoted.”
- A conservation easement will sometimes lower property taxes due to the reduced value of the property subject to the conservation easement.
- For Colorado agricultural properties of a certain size, a landowner is entitled to maintain agricultural classification after a conservation easement is placed on the property, even if agricultural use later ceases.

FUNDING OPTIONS

Federal government funding

- USDA Natural Resources Conservation Service
 - Agricultural Land Easement Program
 - Wetland Reserve Program
- North American Wetlands Conservation Act
- National Scenic Byways Program

State government funding

- Great Outdoors Colorado
- Colorado Parks and Wildlife

Local government funding

COUNTIES	MUNICIPALITIES
Adams	Aspen
Arapahoe	Basalt
Bent (LAVWCD)	Boulder
Boulder	Breckenridge
Crowley (LAVWCD)	Colorado Springs
Douglas	Durango
Eagle	Erie
Gunnison	Fort Collins
Jefferson	Frederick
Larimer	Frisco
Otero	Lafayette
Park	Longmont
Pickin	Louisville
Powers (LAVWCD)	Nederland
Routt	Superior
Summit	Thornton
	Westminster

Private funding

- Corporations
- Foundations
- Individuals

For more information

- C. Timothy Lindstrom's *A Tax Guide to Conservation Easements*
- Internal Revenue Code § 170(h)
- Treasury Regulation 1.170A-14
- Internal Revenue Code § 2031(c)
- Land Trust Alliance website
- Coloradoopenlands.org