

FROM THE PROFESSIONALS

From the Professionals is a tri-annual column of finance and investing tips from different members of the professional services industry. The opinions represented here are authorized by the following firm, and may not reflect those of the Pinchot Institute for Conservation.

Family Land for Generations

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A popular misconception is that only the very wealthy hope to pass family land on to the next generation. Many families of modest wealth are unaware that a tract of farmland, vacation home, lake property or even the old family home may be lost to the next generation without the sophisticated planning that includes a conservation easement.

CONSERVATION EASEMENT DEFINED

A conservation easement is simply an agreement between the landowner and a land trust that permanently protects the land from development, while leaving it in private ownership. Depending on the easement's provisions, the landowner can continue to live on and work the land, and even sell it or pass it on to their heirs after death. The restrictions on the land reduce its overall value, thus reducing the value of the estate and therefore, the estate tax that may be due.

The owner who makes such a donation receives the immediate benefit of a charitable donation, applied against income tax. Under current Internal Revenue Code rules, most gifts of land allow a taxpayer to deduct up to 30% of adjusted gross income in the year of the donation. If the value of the gift is more than the deduction, the balance can be carried forward for up to five years.

THE NEED

Dramatic development in many parts of the country has sent property values soaring during the past two decades. It's a common, but sad story—the family is forced sell land that has been in the family for generations, all to pay estate taxes. This story has been repeated again and again on working ranches, small to large farms, and even modest residences.

The tremendous increase in land under conservation trust in the past decade indicates this technique is gaining popularity as families learn of the associated estate tax benefits. Even for families who have acquired land in the last twenty years, appreciation in some areas of the country has been so extreme that a \$20,000 property may now be worth more than \$300,000.

HOW IT WORKS

As an example, consider a home and five acres purchased in 1975 for \$100,000, now worth \$1,000,000. When these highly appreciated properties inflate the estate's total value, a desire to keep the property in the family after the owner's death may be seriously jeopardized. Under current tax law, the rest of the owner's estate will be subject to tax because the property absorbs the entire exemption amount of \$1,000,000. If land-



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use restrictions under a conservation easement reduce the value of the property by \$400,000, this could get the total estate value under the exemption amount and provide an immediate income tax benefit for the owner. If the contribution of the easement transfers as a bequest at death, the property could also qualify for as much as \$500,000 in additional estate tax exclusion.

Qualified conservation easements were once the tools of only the very wealthiest families, and the tax benefit of such donations applied only to income tax. The Taxpayer Relief Act of 1997 added another inducement, an estate tax exclusion of up to 40% of the land's value (excluding improvements) that is subject to the easement.

ADDITIONAL CONSIDERATIONS

Conservation easements can be flexible depending on the land use. An easement on farm property might allow additional structures to be built that relate to farming, while land hosting a wildlife habitat might prohibit any development whatsoever. Obviously, an easement can apply to

only a portion of the property and public access is not required.

When you donate a conservation easement to a land trust, you do indeed give up some rights associated with the land, but the benefits to your family can be substantial. Clearly, many families are choosing this technique—more than six million acres were under trust by 2000, and over 1,200 non-government nonprofits worked with landowners to conserve their lands.

Establishing a conservation easement may be a viable option for you and your family. For more information on this valuable, tax-advantaged tool, please contact a tax attorney for professional advice or Kendra Miller, the Pinchot Institute's external affairs director, at 202-797-6580 or kmiller@pinchot.org for a referral or to obtain details on the Institute's policies.

William A. Conway, JD is a tax attorney, investment banker, and legal educator specializing in estate, tax, and charitable gift law. His unique set of skills enables him to serve his clients with both financial and legal counsel as a registered investment advisor and tax attorney, and a member of the bars of the Commonwealth of Virginia, the District of Columbia, and the State of Maryland.

His practice is dedicated to building wealth enhancement strategies for his client families' estates and businesses by using far-reaching, advanced planning to preserve wealth for future generations. Each week, his Family Fortunes planning tips is broadcast on WMAL 630-AM, a Washington, DC news/talk radio station.

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Your gift can be made to the Pinchot Institute through the Combined Federal Campaign or by returning the enclosed envelope. For information on additional tax-advantaged ways to become an innovative conservationist and follow in Gifford Pinchot's shoes, please contact External Affairs Director Kendra Miller at (202) 797-6580 or kmiller@pinchot.org.



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