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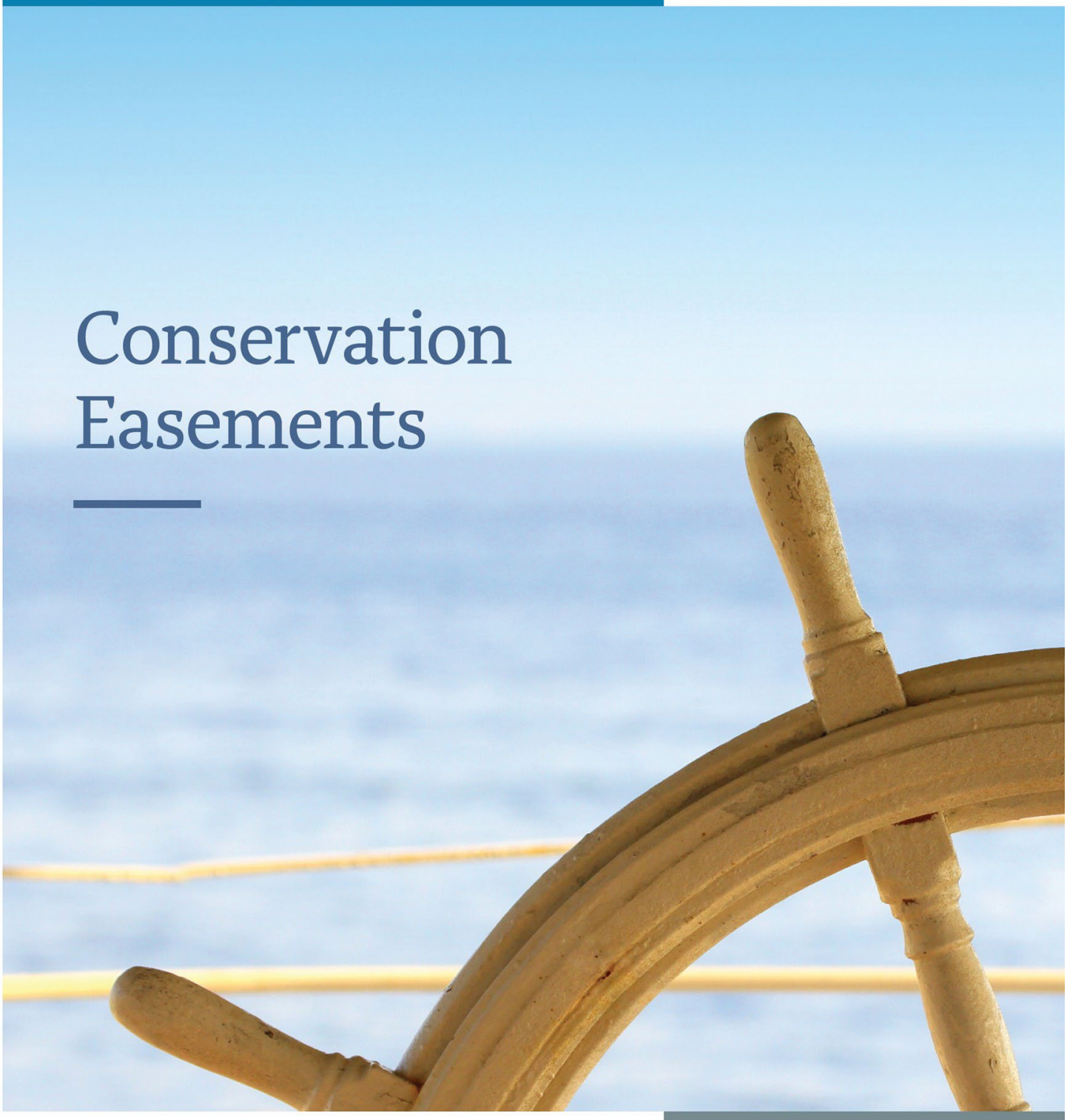
Conservation Easements



Conservation Easements

Conservation easements – In general

If you own land with important natural, historic, or agricultural features, you may be eligible to grant a conservation easement to a qualified charity. In doing so, you may receive a charitable deduction for income, estate, or gift tax purposes—while ensuring long-term preservation of the property.

What is a conservation easement?

A conservation easement is a permanent legal agreement that restricts certain uses of land in order to protect its conservation value. The landowner grants the easement to a qualified charitable organization, such as a land trust or government agency, which serves as the holder and enforcer of the easement. The easement can apply to all or a part of the property and may or may not allow for public access to the property. Future owners, including heirs and purchasers, are bound by the terms of the easement.

A qualified conservation easement must be made for one or more of the following permitted conservation purposes: (1) preservation of land areas for outdoor recreation or education of the general public; (2) protection of a relatively natural habitat of fish, wildlife, or plants; (3) preservation of open space, including farmland and forest land, for the scenic enjoyment of the general public; or (4) preservation of a historically important land area or a certified historic structure.

What is the value of the deduction?

The charitable deduction is generally equal to the fair market value of the easement, measured by the decrease in the property's value resulting from the restrictions. The deduction for a gift of a conservation easement is generally the fair market value of the restriction at the time of the gift. This value is typically determined by the reduction in the property's value as a result of the conservation restriction.

Qualified appraisals must be obtained showing the property's value before and after the conservation easement is granted to establish the value of the contribution. The appraisal must meet IRS requirements under Treasury Regulations, including being prepared by a qualified appraiser and conducted no earlier than 60 days before the contribution.

The deduction for a conservation easement is based on the fair market value of the easement itself, typically measured by the reduction in the property's value due to the restriction. Annual deductions are limited to 50% of the taxpayer's adjusted gross income (AGI). Any deduction in excess of this limitation may be carried forward and utilized in the subsequent 15 years. In determining the allowable deduction, charitable contributions are generally applied in a specific order, with conservation easements subject to a separate limitation calculated after other contributions.

Lastly, qualifying farmers and ranchers can offset 100% of their AGI with the deduction for contributions of conservation easements if the property is required to remain available for livestock production or agriculture. In general, a farmer or rancher is someone who receives more than half of his or her gross income from the "trade or business of farming."

Important considerations

A conservation easement can be a powerful tool for preserving meaningful property while achieving tax savings. However, proper planning, documentation, and compliance are essential. The IRS closely scrutinizes certain syndicated conservation easement transactions. Donors should ensure that any conservation donation complies fully with IRS regulations and valuation standards.

This strategy may be most appropriate for landowners with high-value properties who have long-term preservation goals and are working with qualified tax and legal advisors.

How is the deduction taken?

Example 1: Jack and Chrissy own land worth approximately $2 million. Their annual AGI is $250,000. They establish a qualifying easement for part of their land, resulting in a deductible value of $500,000.

Because their AGI is $250,000, They can deduct $125,000 (50% of AGI) in the first year. The remaining $375,000 may be carried forward and deducted over the next 15 years, subject to the same AGI limitation each year.

Example 2: Darrin and Samantha own land worth approximately $1 million and have adjusted gross income of $150,000. They make cash contributions of $85,000 to a public charity, as well as a qualified contribution easement with a deductible value of $200,000.

Because the 50% AGI limit applies to total charitable contributions, Darrin and Samantha may deduct $75,000 of the cash contribution this year. The remaining $10,000 cash contribution can be carried forward for 5 years. The full $200,000 easement deduction is carried forward and may be used over 15 years, subject to annual limits.

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