



Agricultural Conservation Easements

A conservation easement is a legal agreement between a landowner and a conservation organization such as the Transition Habitat Conservancy.

The landowner retains fee title to the property, including exclusive use and possession of the property. The easement does not limit in any way the owner's right to sell, bequeath, or otherwise transfer title to their land, except that the terms of the conservation easement will remain in effect after any transfer.

The Transition Habitat Conservancy easement is tailored for agricultural land uses. The easement places permanent restrictions on future uses of the property to protect its agricultural character and productivity. It describes the permitted uses very broadly to take into account not only the variety of current agricultural practices, but also future changes in economic conditions, agricultural technologies, and farm and ranch management practices. The easement does not grant public access.

THC's easements prohibit residential or commercial development and uses or practices that would be destructive to the agricultural value and productivity of the land. The easement allows the landowner to use the property as they choose, provided the uses are consistent with the agricultural values the easement is intended to preserve.

Landowners can sell or donate an agricultural conservation easement to the Transition Habitat Conservancy. The value of an agricultural conservation easement is generally the fair market value of the property minus its restricted value, as determined by a qualified appraiser.

Landowners can receive several tax advantages. Donated agricultural conservation

easements that meet Internal Revenue Code section 170 (h) criteria are treated as charitable gifts. Donors can deduct an amount equal to up to 30 percent of their adjusted gross income in the year of the gift. Corporations are limited to a 10-percent deduction. Easement donations in excess of the annual limit can be applied toward federal income taxes for the next five years, subject to the same stipulations.

The donation or sale of an agricultural conservation easement usually reduces the value of land for estate tax purposes. To the extent that the restricted value is lower than fair market value, the estate will be subject to a lower tax. In some cases, an easement can reduce the value of an estate below the level that is taxable, effectively eliminating any estate tax liability.

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