

Conservation Easements

If you have owned real estate in this country for at least three years prior to the date of your death, the IRS gives you a special estate tax break for the gift of a Qualified Conservation Easement, either during lifetime or after your death. A Qualified Conservation Easement is an interest in real estate given to a qualified charitable organization for a conservation purpose (normally involving the preservation of lands for outdoor recreation or education, the protection of natural habitats, or the preservation of open space). The donation of the easement can be made by you during your lifetime, by direction in your Will or, in some cases, by your Executor, even without a direction in your Will. If you make the donation of the easement during your lifetime, you will obtain an income tax charitable deduction in the year of the gift, and the value of the easement will not be includable in your taxable estate for estate tax purposes (because you have already given it to the charity). If the easement is given by your Will or by your Executor, you will not get the income tax deduction you would have gotten if you had made the gift during your life, but you will have an estate tax charitable deduction in your estate. Either way, the value of the easement is removed from your taxable estate.

Does this conservation gift benefit you more than any other type of charitable gift? In the case of a gift of a Qualified Conservation Easement, the answer is "Yes!" To encourage gifts of this sort, whether made during lifetime or at death, the IRS gives you, as a sort of bonus, an *additional estate tax exclusion* (thus lowering the value of your taxable estate) equal to the *lesser* of (i) 40% of the value of the land subject to the conservation easement or (ii) \$500,000. The 40% amount is reduced, however, to the extent the value of the easement is less than 30% of the value of the land determined without regard to the value of the easement. This additional exclusion is *on top* of the charitable deduction you have already received.

There are some conditions which need to be met to qualify for this benefit, so come and talk with us if you think you might like to take advantage of this unique federal estate tax exclusion. It could save you a large amount of potential estate tax otherwise chargeable against the value of your land.

This Personal Wealth Services Newsletter was written by Maurice D. Lee, III, a partner at Saul Ewing in its Estates and Trusts Department. The statements contained in this newsletter are intended for general information and do not constitute legal advice.

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The Personal Wealth Services Group of Saul Ewing LLP offers an ongoing, coordinated approach to acquiring, preserving and passing on wealth. After carefully considering your unique circumstances, we will work with you to organize your estate planning and related financial affairs into an efficient program suited to your objectives. We will interact regularly and systematically with you to implement your plan.

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