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## **CONSERVATION EASEMENT FACT SHEET**

The population of the Ozarks is growing and pressures for development are increasing. As a result, rural areas around St. Louis, Columbia, Springfield, Fayetteville, and other cities are losing their productive farm and forest land and lands with significant wildlife, recreational and scenic values. Concerned about the future of their own land, some landowners search for options to ensure that their land is not intensively developed in the future. The conservation easement is an important option for such landowners to consider.

### **WHAT IS A CONSERVATION EASEMENT?**

A conservation easement is a legal agreement between a landowner and a land trust that permanently limits uses of the land in order to protect its conservation values. The landowner continues to own the land and may sell it or pass it on to heirs, but the conservation easement remains in place forever. The land trust is responsible for making sure the easement's terms are followed.

When you donate a conservation easement to a land trust, you give up some of the rights associated with the land. For example, you might give up the right to build additional houses, while retaining the right to grow crops. The key components of most conservation easements are limits on future development and reasonable standards for timber harvesting.

Conservation easements offer significant flexibility. An easement restricts development to the degree that is necessary to protect the significant conservation values of that particular property. Landowners and land trusts, working together, write conservation easements that reflect both the landowner's desires and the need to protect conservation values. In many cases, current uses of the land such as farming or forestry continue while the conservation easement prevents intensive development in the future. An easement may apply to just a portion of the property, and need not require public access.

### **POSSIBLE TAX ADVANTAGES**

The landowner and his or her heirs may be eligible for significant tax advantages associated with conservation easements.

#### **1) Income Taxes**

A conservation easement often qualifies as a charitable gift that may be deductible for federal and state income tax purposes. The easement must be in perpetuity, donated to a "qualified conservation organization" like the Ozark Regional Land Trust, and must serve a valid "conservation purpose" as defined by the IRS.

The value of the gift, determined by a qualified appraiser, equals the difference between the fair market value of the property before and after the conservation easement takes effect. There is no standard value of easements since each one is unique and they must therefore be individually appraised. In general, appraisers have found that conservation easements range in value between 20% and 70% of the pre-easement value of the land, depending on the type and location of the land and the terms of the conservation easement.

If a landowner donates a conservation easement meeting IRS rules, the landowner can take in one year a deduction in an amount up to 30% of his or her adjusted gross income. (In certain cases a 50% deduction is possible.) If necessary, any unused amount of the deduction can be “carried forward” for up to five additional years. **NOTE:** Congress occasionally changes these rules and it is important to review current laws.

For example:

Market Value <u>Before</u> Conservation Easement (100 Acres @ \$2000)	\$200,000
Less Market Value <u>After</u> Conservation Easement (100 Acres @ \$1200)	<u>\$120,000</u>
Value of Conservation Easement	\$ 80,000

If \$80,000 exceeds 30% of the landowner's adjusted gross income for the tax year in which the gift was made, the landowner can claim the rest of the deduction for up to five more successive years.

## 2) Estate Taxes

When a landowner executes a conservation easement, he or she is lowering the value of his or her taxable estate, and therefore lowering the potential estate tax liability. Many landowners find conservation easements an effective way to protect their heirs from estate taxes on highly valued land, to ensure that the family can continue owning and enjoying the land, and to secure the land from future unwanted development. In the past, Congress has allowed for additional exclusions from estate taxes for land subject to a donated conservation easement. **NOTE:** As with the income tax provisions, these rules are changed occasionally and it is important to review current laws.

## 3) Property Taxes

Land in Missouri that is subject to a conservation easement could be eligible for property tax benefits according to Section 67.895 of R.S.Mo., which states: “After transfer and acquisition of any such interest [including conservation easements] pursuant to sections 67.870 to 67.910, all county and municipal assessors and taxing authorities, in determining the assessed valuation placed on such open space or area for purposes of taxation of the private ownership therein, shall

take due account of and assess private property interests with due regard to the limitation of future use of the land.” ORLT is not aware of a similar statute existing in Arkansas, but individual assessors may well take into account restrictions imposed by a conservation easement when assessing the value of property for local tax purposes.

**NOTE:** *The above discussion of complex tax issues has been simplified for purposes of providing general background information. The financial implications for landowners will vary with their specific circumstances. Moreover, tax laws change over time and this information may become outdated. Landowners are advised to seek professional counsel to determine their specific tax benefits.*

**FOR MORE INFORMATION PLEASE CONTACT:**

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*The Ozark Regional Land Trust is a non-profit land conservation organization founded in 1984. The mission of the Trust is to preserve the natural environment, traditional land uses, and intrinsic beauty of the Ozarks through cooperative projects with landowners. The conservation easement is one of several land conservation techniques available.*