

FOR PERSONAL INFORMATION ONLY

Conservation Easement (CE) bullet points:

- The purpose of a CE is to preserve American land for conservation purposes. These conservation purposes are specified in the IRS code 170h. In order to qualify, the land tract must meet at least one of the 170h prerequisites for conservation purposes;

1. Support agriculture (crops, timber, etc...)
2. Support wildlife habitat and migratory routes
3. Maintain and support water quality
4. Promote scenic vistas
5. Support healthy forest initiatives

- CE is a voluntary, real estate partnership between the land owner and an accredited non-profit (land trust) or government agency
- A CE is perpetual. Once donated to the land trust, it can never be removed and the land trust owns the CE deed to ensure the property is never developed beyond the scope of the agreement.
- A CE appraisal is based on the Highest & Best Use of the property NOT fair market value.

The land owner is allowed to enjoy tax benefits associated with the highest and best use value because he has given up the right to ever develop the property.

Example

Fair Market Value 100 acre farm land = \$1000 per acre

CE value 100 acre Planned Unit Development = \$5000 per acre

- CE valuations are typically based on land or mineral valuation.
 1. Land - Development potential (Residential, Commercial, Industrial) that includes PUD, permits, absorption rates, viability for the area, etc...
 2. Mineral - Proven mineral reserves that include geology studies, feasibility studies, economic viability (absorption potential using a discounted cash flow), legally permissible (permit can be obtained), mine development costs, etc...

- A land owner must own the property for 365 +1 days prior to placement of the CE on the property
- The CE tax benefits can be used one of two ways;
 1. Self-Absorbed easement - Land Owner places the easement and uses the tax benefits personally
 2. Syndicated easement - An LLC owns the property and allows others to become part owners. The date of ownership is based on the original land owners ownership (i.e. 365 +1 days). In a syndicated easement, the LLC owners divide the tax benefits based on percentile of ownership interest.
- CE tax benefits can be applied up to 50% of Adjusted Gross Income and spread over 15 years plus the year the easement is placed.
- Many times, a land owner cannot use the amount of tax benefits that the Highest & Best Use valuation can produce. Investors will buy in to the LLC in order to preserve the land and realize the tax benefits associated with the legally permissible CE donation.
- If owned by an LLC, the members vote for one of the following:
 1. Hold the property as a long-term investment
 2. Develop the property based on highest & best use
 3. Donate the property as a CE to a land trust
- CEs are heavily regulated and scrutinized by the IRS and should only be undertaken using a very conservative approach to valuation, due diligence and 170h adherence.
- The CE deed is a binding agreement that prevents the property from ever being developed beyond the scope of the agreement. The agreement allows non-destructive use of the property for agriculture, recreation, hunting, etc...
- The CE property can be leased or sold; however, the CE remains with the property and the property can never be developed beyond the scope of the agreement.

- Building envelope(s) for residence, cabin, pole barn, etc...can be included in the CE deed by mutual consent or a building envelop can be excluded from the CE deed.
- Property adjacent to the CE property, which is owned by the land owner, must be disclosed and accounted for in the valuation. This is due to the potential for adjacent property to increase in value when the CE is placed.

Next Step - If you know a land owner interested in finding out more, we can jump on a phone call with them. After answering their questions, the next step would be to have them fill out a customer questionnaire and set up a site visit.