



# Eastern Shore

## LAND CONSERVANCY

### Donated Conservation Easements with Eastern Shore Land Conservancy

Eastern Shore Land Conservancy (ESLC) is a 501(c)(3) nonprofit land trust dedicated to conserving, stewarding, and advocating for the unique rural landscape of Maryland's Eastern Shore. ESLC was founded in 1990 when a group of engaged community members realized the urgency of protecting the Eastern Shore's open land and agricultural roots. Since then, ESLC has worked in partnership with landowners, communities, and government agencies to permanently protect over 68,000 acres of land across the region, including over 26,000 acres of farmland and over 170 miles of shoreline. These protected lands include working farms, forests, wetlands, and wildlife habitat that define the region's environmental and cultural heritage.

ESLC is an accredited land trust through the Land Trust Accreditation Commission, a national program that recognizes land trusts meeting the highest standards for ethics, accountability, and long-term stewardship. This voluntary accreditation affirms ESLC's commitment to sound financial management, transparent governance, and the perpetual care of conserved properties. When a landowner works with ESLC, they are entrusting the organization to safeguard their land's conservation values forever. ESLC takes that responsibility seriously and continues to uphold the professional and ethical standards that have guided its protection work for more than three decades.

As a land trust, ESLC's primary mechanism for protecting properties is a conservation easement. A conservation easement is a legal agreement between a landowner and a land trust or government agency that permanently protects conservation values by restricting certain land uses on privately held land. Placing an easement on your property does not affect your current ownership and control of the land, nor does it prevent you from selling the property or passing it on to your heirs. Many activities such as farming and timber harvesting can continue under the terms of a conservation easement. By recording the conservation easement in the county's land records, all current and future owners are bound to the restrictions that protect identified conservation values in perpetuity. Conservation easements offer great flexibility, and the easement may apply to all or a portion of the property. **ESLC works with the landowner to draft a personalized conservation easement that implements the requisite protection measures for the property's conservation values, while accommodating the landowner's current and future use of the property.**

Almost all properties are eligible for a donated conservation easement, in which the appraised value of the easement is treated as a charitable contribution. Donated easements not only provide enduring conservation benefits- such as safeguarding wildlife habitat, protecting water quality, and preserving the Eastern Shore's rural character- but can also be completed relatively quickly, often within four to six months. **In addition to the environmental benefits, donating a conservation easement may qualify landowners for significant tax benefits, as outlined further herein.**

## Donated Easement Potential Tax Benefits

*The following is a simplified overview of major Internal Revenue Code requirements and related guidance as they apply to conservation easement donations, valuations, and appraisals. ESLC is not a tax professional and as such cannot ensure the deductibility or eligibility of a conservation easement donation for any tax benefit. This is not a comprehensive explanation of all requirements for obtaining associated tax benefits. As such, Landowners should consult their attorney and accountant for detailed guidance..*

### Federal Income Tax Deduction

Donation of a qualified conservation easement constitutes a charitable gift that may be deductible by the landowner on federal income taxes under §170 of the Internal Revenue Code. The value of the easement gift, as determined by a qualified appraisal contracted by the landowner, equals the difference between the fair market value of the property before and after the easement is recorded.

To qualify for this income tax deduction, IRS qualifications require that the easement be perpetual, held by a qualified conservation organization, such as ESLC, and serve a valid conservation purpose. In other words, the property must possess significant natural, scenic, historic, scientific, recreational, or open space value. Donors of conservation easements that meet IRS qualifications may claim a charitable donation of up to 50 percent of their adjusted gross income (AGI). For an IRS qualified farmer or rancher, this increases to 100 percent of their AGI. Excess deductible amounts can be carried forward for 15 additional years or until the appraised amount of the easement has been used up– whichever comes first.

### Estate Benefits

For landowners who will leave sizeable estates upon their death, the most important financial impact of a conservation easement may be a significant reduction in estate taxes. In some situations, heirs may find it difficult to keep the family land intact because of the high value of developable land and high estate taxes and may be forced to subdivide or sell the land in order to pay the estate taxes. **A conservation easement limits the amount of development that may occur on a property, thus lowering the appraised value of the land and reducing the taxable estate by the value of the donated conservation easement.** As a result, estate taxes will be lower since the heirs will only have to pay estate taxes on the preserved, “after” easement value– not the full, “before” easement value – of the property.

**When a property has a qualified conservation easement placed upon it, up to an additional 40 percent of the land value (capped at \$500,000) may be excluded from the estate when the landowner passes away.** For example, if the “before” easement value is \$1.5 million and the “after” easement value is \$1 million, an additional \$400,000 (40 percent of the “after” easement value) can be subtracted from the taxable estate. The descendant or a member of their family must have been the easement donor and owned the land for at least three years prior to the descendant’s death. Heirs may receive these benefits by choosing to donate a conservation easement after the landowner’s death.

### State Income Tax Benefits

Maryland law allows a state income tax credit to be claimed by an individual who donates a conservation easement after July 1, 2001 to the Maryland Environmental Trust. **The maximum credit per individual or pass-through entity is \$5000 per year. The remainder of the credit (based on the appraised value of the easement) may be carried forward for up to 15 years for a maximum credit of \$80,000.** Each owner of an undivided interest in the property may be eligible to take this state income tax credit. **To qualify for this credit, the easement must: be perpetual; be conveyed to an approved State entity such as the Maryland Environmental Trust (MET), or co-held by MET and a local land trust such as ESLC; and the fair market value of the easement must be substantiated by an appraisal.** The landowner may not claim a state income tax deduction and a state income tax credit for the same easement donation.

State law allows, with some limitations, an individual who itemizes deductions on their federal income tax return to itemize deductions on the Maryland income tax return. An individual cannot deduct a conservation easement donation if they claimed the Maryland income tax credit for donating the conservation easement.

### Property Tax Credit and Assessment Rate

Properties protected by a qualified conservation easement in Maryland are eligible for a 15-year property tax credit. **A qualified landowner will pay no property tax on the unimproved land subject to a donated easement for 15 years from the date of donation.** After the 15-year credit expires, unimproved land under donated easement will be assessed at the highest agricultural rate. Property will qualify for this assessment rate even if the property is not actively farmed. If the property is in agricultural use, it will be assessed at the appropriate agricultural level. The tax credit and assessment rate do not apply to any residential improvements, or to a minimum of one acre around these improvements. **This property tax credit only applies to conservation easements donated to Maryland Environmental Trust – a statewide land trust that acts in partnership with ESLC to permanently protect lands on the Eastern Shore.**

## Costs Associated with a Donated Easement

The following is an outline of the various costs an easement donor can expect to pay when donating a conservation easement to Eastern Shore Land Conservancy (ESLC). Since each easement donor's situation is unique, the services required and costs incurred may vary greatly among conservation easement projects. While the costs associated with donating a conservation easement can be considerable, they may be tax deductible. All easement donors are encouraged to seek professional tax advice regarding the deductibility of costs associated with a conservation easement donation. Below is a general guide to the services and expenses commonly associated with the donation of a conservation easement.

### Engagement & Administrative Fee

Since ESLC staff and board members spend considerable time processing, planning, and reviewing each conservation easement project, an administrative fee must be charged with this service. After the initial conversation with the donor and before staff begins gathering information on the property, ESLC will require a **\$500 Engagement Fee** be paid by the easement donor to continue with the easement process. **The minimum, total administrative fee will be \$10,000 (inclusive of the Engagement Fee), but may be higher depending on the complexity of the easement and the amount of negotiation and staff time required to complete the easement.** The balance of the administrative costs are due before the easement is finalized and recorded in the land records of the appropriate county.

### Stewardship Fee

In accepting a conservation easement, ESLC forever assumes the legal obligation of carrying out the easement donor's wishes by upholding the terms of the easement. The original easement donor is not likely to violate their own easement, but as time passes and properties transfer, the risk of violation increases. ESLC must be prepared to monitor and defend all held easements against future violations. **In order to fulfill this stewardship responsibility, and pursuant to standard land trust practices and procedures, ESLC charges, at minimum, a stewardship endowment fee in the amount of \$10,000 for every conservation easement donation.** The fee could be higher depending on added stewardship burdens within the easement such as reserved subdivisions. This endowment fee is necessary for ESLC to successfully monitor, service, and enforce the easement in perpetuity. These funds are not used for ESLC's general operating expenses; rather, the money is deposited into a managed investment account that is used to steward and enforce our easements in perpetuity.

**If you feel you cannot afford some or all ESLC fees associated with a conservation easement, staff will work with you and the ESLC Board of Directors to explore options for covering the costs, including potential payment plans.**