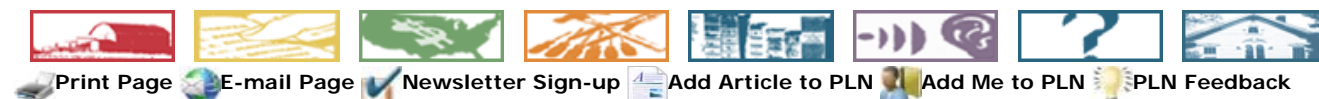




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Recognized Conservation Purposes for Easements

In order to obtain tax benefits, a conservation easement must serve a recognized "conservation purpose." The tax code recognizes four purposes that will qualify:

- 1) Providing places for public outdoor recreation and education.
- 2) Protecting a significant habitat or ecosystem.
- 3) Preserving open space.
- 4) Protecting historically important land areas.

The first recognized conservation purpose is the **preservation of land for public outdoor recreation or education**. Because the general public must be able to make substantial and regular use of the recreational or educational features, the public must have access to the land. Under this provision, a landowner could preserve a lake for public boating or a farmer could establish a public nature or hiking trail.

The second conservation purpose is the **preservation of fish, wildlife, or plant habitats or ecosystems**. Such areas may include habitats for rare, endangered, or threatened species; natural areas, such as undeveloped islands, that are high-quality examples of terrestrial or aquatic communities; and natural areas that contribute to the ecological viability of a local, state, or national park, preserve, or similar conservation area. Unlike conservation easements that meet the first conservation purpose, conservation easements created under this provision may include limitations on the public's access to the property.

The third conservation purpose is the **preservation of open space**. The preservation of open space must either be for the scenic enjoyment of the general public or advance a clear federal, state, or local governmental conservation policy. If the easement is for the scenic enjoyment of the public – for example, it preserves a forest along a public highway – it must provide visual access to or across a significant portion of the property, but it does not have to allow the general public to have physical access to the property. If the easement preserves open space to advance a federal, state, or local governmental conservation policy – for example, it protects farmland under a state flood control program – it may limit public access to the land as long as the limitation does not undermine the purpose of the easement.

As easement that preserves open space must also provide a significant public benefit. Examples of easements that create a significant public benefit include protecting a unique natural land formation for the public's enjoyment or preserving an urban lot for a public garden.

The fourth, and final, conservation purpose is the **protection of historically important land areas**. Such areas include certain independently significant land areas, like Civil War battlefields, land in a registered historic district, and land next to a property listed in the National Registrar of Historic Places where the features of the land contribute to the historic or cultural integrity of the property. The amount of public access that a landowner must provide depends on the characteristics of the property, but the public, at minimum, must have some visual access to the land.

A conservation easement created to protect historically important land areas is not eligible for the estate tax exclusion. To qualify for the exclusion, the conservation easement must serve one of the other three recognized conservation purposes.

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