

Questions and Answers about PACE: Purchase of Agricultural Conservation Easements

Q: Won't my sale of an agricultural conservation easement make it more difficult for me to later sell my land?

A: Certainly the land will be reduced in value after an easement has been placed on it. But you'll be selling at a reduced price. And you will have received the market value of the easement in payment. So your financial position should be the same. And surveys of farmers who have participated in these programs indicate that many find easement-protected land is easier to sell since other farmers prefer the permanence that it provides.

Q: Since my land will be reduced in value, won't my ability to borrow also be reduced?

A: While most responsible agricultural lenders will loan only on the productive value (ag value) of farmland, there are exceptions. And your borrowing against the land will obviously be measured by the value of the collateral. But remember, you will have received the difference in cash. You will have placed that cash in other investments against which you can borrow. Your total financial worth should not be affected. Your borrowing capacity may easily be stronger. And your need to borrow should be greatly reduced.

Q: Don't agricultural conservation easements take land out of farming and off the tax rolls?

A: No. Agricultural conservation easements accomplish the exact opposite result – they keep land in active, economically viable agriculture and paying taxes as such. In states where farmland is already taxed at its current use ag value, property taxes do not change.

Q: If my neighbors sell agricultural conservation easements on their farms, won't that reduce the development value of my land and reduce my property value?

A: This may occasionally happen, but generally, the opposite will be true. Recreational, retirement, and long-distance commute residential purchasers (the kind most common to ag country) usually prefer the open, rural, outdoors feel of protected neighboring lands. This provides them with views and protects the quality of life they came there to obtain. This will obviously depend on the circumstances and there is no general rule, but studies have demonstrated that neighboring land values usually go up. In fact, the IRS incorporates this expectancy into its capital gains tax regulations, requiring that the recognized value of retained open land be increased as an offset for the value of lands that are subdivided and sold.

Q: Doesn't the restriction of my land eliminate options for future owners who may wish to develop or make some use other than for agriculture?

A: Of course it does – this is exactly the purpose. But so do subdivisions and development. Once a farm is split up, sold to a hundred different owners, and houses, shopping malls, and warehouses are built there, there's no going back either. The purpose of easement programs is to create more options for you – the current owner and to make the retention of land in farming also a possibility.

Q: What if I prefer to sell my land for development?

A: If you prefer to sell for development, nothing in these programs prevents you from doing that. These programs are strictly voluntary.

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Q: When I die, what effect will my sale of an easement have on my ability to see that my children are fairly treated by my estate?

A: Sale of an agricultural conservation easement can create the cash needed to allow you to provide equal value to your children from your estate without the need to break up your farm into small parcels that may be uneconomic for agriculture. In any case, since the sale of an easement should not affect your net worth, it should also not affect the value of your estate.

Q: What effect do these programs have on my ability to meet my estate tax obligations at the time of my death without bankrupting or selling my farm?

A: Selling an agricultural conservation easement can allow you to create the cash that will be needed to pay estate taxes without disrupting your farming operation.

Q: Won't my sale of an agricultural conservation easement deprive my children of their inheritance and of the ability to profit from the sale of this land some day in the future?

A: The financial inheritance you leave for your children is composed of ALL of your assets – land and otherwise. If you wisely invest the payment you receive when you sell your agricultural conservation easement, the investments you make will leave your total inheritance unchanged from what it would have been had you left all your money in your land. Studies have shown farmers do make wise investments and that their overall financial positions do not change after the sale of an easement.

Q: What if the market for agricultural products collapses and farming simply becomes impossible or impractical at this location? Won't this leave the land trapped forever in a useless condition?

A: Well-designed programs that make careful choices among the easements they buy avoid this. And when owners are realistic about the real agricultural value of their lands, this very seldom happens. Moreover, there is still a market for estates, so the land will still retain some value. Most agricultural conservation easements have “safety valve” language that provides that if the conditions of the easement can no longer be served, the restriction can be removed – with repayment of the development value, although this generally takes a court decision. Most other land investments face this same risk – consider, for example, that properties with warehouses, apartments, office buildings, and other developments sometimes face this same problem.

Q: Won't easement programs result in the government owning too much land and depriving the people of the citizen independence that land ownership provides?

A: Under an agricultural easement, the farmer continues to be fee owner. Only owner's use for development is restricted. All other property rights are retained. The owner is fully compensated for this easement, can use the cash to purchase more land if so desired. Easements need not be held by government. The Colorado Cattlemen's Land Trust was created by the Colorado Cattlemen for exactly this purpose. The difference between the sale of an easement and agricultural zoning is that the former is fully voluntary and provides compensation. By reducing the cost of farmland to its actual productive value, these programs make farm investments more affordable for more people and keep land parcels large enough to be economically viable for natural resource production. Once parcels are so small they are no longer economically viable – they lose their productive value and no longer contribute to citizen independence in the same manner.

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(Originally written for American Farmland Trust at www.farmland.org. It has since been updated.)