



# Conservation Easements: An Effective Land Preservation Tool

*Cheryl Howell Oswalt*

Do you have undeveloped land you want to preserve for future family generations? Are you interested in developing your land into a protected habitat for wildlife? Would you like to receive a tax deduction for these efforts? If your answer is yes, then a conservation easement may be appropriate for you and your family.

A conservation easement allows a landowner to voluntarily restrict his rights to develop his property by giving an easement to a qualified charitable organization, often a land trust. After giving a conservation easement, the landowner still owns his or her property and can use it for certain purposes. However, the landowner agrees to forgo, or at least significantly limit, development of all or most of the property. Through the conservation easement, the landowner gives the land trust the right to make sure it complies with the restrictions of the easement.

Although the landowner granting a conservation easement gives up some property rights, there are benefits as well. There is assurance in knowing the conservation easement will protect and preserve the encumbered property for future generations to enjoy. A landowner interested in habitat preservation will know he or she is preserving wildlife habitat. In addition to such intangible benefits, the landowner may be able to continue all uses of the property that he actually cares about. A landowner granting conservation easement will receive a tax deduction for the value of the conservation easement, so long as it complies with the legal requirements of the Tax Code.

The Tax Code requires the easement to serve one of four purposes. It must:

- preserve land areas for outdoor recreation by, or the education of, the general public,
- protect a relatively natural habitat for wildlife,
- preserve open space (including farmland and forest land) for scenic enjoyment of the public, or promote a specific governmental conservation policy, or
- preserve a historically important land area or a certified historic structure.

In order to receive a tax deduction, the conservation easement has to meet only one of these purposes. The landowner may get a deduction and still use the property for hunting, fishing, and other purposes. If the landowner cannot currently use all the tax deduction resulting from the easement, there are other ways to realize the value of the deduction over time. In using a conservation easement, it is important to proceed carefully and seek appropriate advice, because the IRS is paying close attention to such easements to make sure they satisfy the requirements and are properly valued.

To learn more, contact Ronald Levitt (205.930.5274), David Wooldridge (205.930.5219), or Cheryl Oswalt (205.930.5408).



### **CHERYL HOWELL OSWALT'S**

practice is focused on Business and Financial Services, Corporate and Real Estate Law. She is a member of the Alabama State Bar and is admitted to practice before the U.S. District Court for the Northern, Middle and Southern Districts of Alabama, as well as the U.S. Tax Court. Oswalt earned her B.A. degree from the University of Alabama in 2002 and her J.D. degree from Cumberland School of Law in 2006.