

Ecological Gifts: Answers to Donors' Questions

Q I want to donate but don't know where to start – where can I get help?

A Potential donors can contact staff from the Ecological Gifts Program (see contact information below) or talk to a recipient organization that may potentially receive the donation. It is very important to find a recipient who you trust and feel comfortable with – you will be working with them through the entire donation process and ultimately entrusting them with your land, or an interest in your land. It is also advisable to get independent legal and financial advice about land donations and making a donation through the Ecological Gifts Program.

Q Who gets the donated land, covenant or easement? Environment Canada?

A The donor may choose to give the land, or an interest in land, to a qualified registered charity or incorporated municipality, or the federal or provincial Crown. Environment Canada certifies ecological gifts and as a federal agency, may also be a recipient. Environment Canada maintains a list of conservation charities qualified as ecological gift or 'ecogift' recipients, available at www.cws-scf.ec.gc.ca/egp-pde, or contact Environment Canada staff at (416) 739-4286 for a copy of the list. To qualify, a registered charity's purposes must include the conservation and protection of environmental heritage or a similar statement of intent and it must file an application to be qualified with Environment Canada showing its capacity to receive such gifts.

Q Do I apply to have my donation certified as an ecological gift before or after I make my gift?

A Either – most donors simultaneously pursue their donation and certification of the donation as an ecological gift.



John Mitchell



Fowler's Toad

John Mitchell

Q Do I have to make my donation through the Ecological Gifts Program?

A No, you can still donate land and receive a donation receipt but Environment Canada does not certify the value of the donation. Also, donors may not claim the enhanced tax benefits that would be available if their donation was an ecological gift. Non-ecogifts are usually referred to simply as donations of capital property.

Q I don't know if my land is ecologically sensitive. How do I find out?

A Consult the criteria for Ontario on the Ontario Ecogifts website, or contact Environment Canada for a copy of the criteria or to discuss your proposed donation. If you are contemplating a donation, contact a qualified recipient organization; they can help you prepare the information you will require.

Q Who issues the donation receipt? How do I get the income tax benefits if I get my donation certified as an ecogift?

A The recipient issues the donation receipt. The donor enters the eligible amount of the gift of the donation from the receipt (or a portion of the value that they wish to use if spreading the donation over multiple years) on the appropriate line of his or her income tax return. He or she then submits the return with the donation receipt and the *Certificate of Ecologically Sensitive Land, Recipient Identification, Registered Charity and Statement of Fair Market Value of an Ecological Gift* as issued by Environment Canada.

Q What income tax benefit do I get?

A Ecological gifts (ecogifts) receive tax treatment that is superior to most other charitable gifts:

- eliminated taxable capital gain on the disposition of the property (38 (a.2) ITA)
- no income limit for calculating the tax credit/deduction (118.1(1) ITA)
- donation value certified by the Government of Canada (118.1(10.1 to 10.5) ITA)
- tax liability for donees that do not protect the gifted land (207.31 ITA)

Every case is different - seek professional advice.

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Q What is a conservation easement?

A A conservation easement is an agreement between a conservation body (the easement holder) and the landowner, with restrictions and/or allowances regarding land use (covenants) and an allowance for the easement holder to inspect the property to ensure compliance (the 'easement'). The agreement is registered on the title of the land and remains in effect even if title is transferred. When a conservation easement is donated such a donation may qualify as an ecological gift – the easement holder is considered to be the recipient organization.

Q Can a Conservation Authority accept ecogifts?

A Conservation Authorities and/or their foundations can qualify as registered charities – check with Environment Canada to find out if an Authority is on the list of qualified ecogift recipients.

Q What is the donation value of a conservation easement?

A The value of a donated conservation easement as an ecogift is the difference between the 'before' and 'after' fair market value of the property once easement restrictions have been registered. This value must be determined by a qualified appraiser and conform to Environment Canada's *Guidelines for Appraisals*.

Q Are there income taxes on capital gains of ecological gifts of conservation easements?

A No. The Government of Canada has eliminated the tax on capital gains for all certified ecological gift donations (gifts of land or interests in land) made on or after May 2, 2006 by reducing the inclusion rate to **zero**.

Q What happens if the recipient sells, gives away or degrades the land?

A Charitable and municipal recipients are subject to a federal tax of 50 percent of the fair market value of the land for any unauthorized land use changes or disposition of title, in addition to any legal action the donor may take against the recipient. It is essential for donors to find a recipient they trust and are convinced will be able to responsibly manage and protect their land in perpetuity – a good donor-recipient relationship lessens the likelihood of future problems.



Red-shouldered Hawk

John Mitchell

***Have a question not answered above?
Contact us.***

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