DONATING A CONSERVATION EASEMENT: WHAT ARE THE TAX IMPLICATIONS?

Introduction

Even the most ardent conservation-minded landowner faces financial realities when pursuing their land conservation goals, especially when the parcel in question factors heavily into their financial livelihood. While many landowners can and do grant conservation easements with no or limited requirement for compensation, not everyone has that ability.

At the same time, the not-for-profit, charitable land conservation organizations (or 'land trusts') that such landowners seek out have very limited resources when it comes to compensating them for a conservation easement.

As a result, the private land conservation sector as a whole has relied heavily on 'charitable tax receipts' (or 'official donation receipts') to provide the majority of the compensation for the grant of a conservation easements (see *Finances of Conservation Easements – Valuation and Compensation*, for more information).

But how exactly does that work? How do landowners apply such a donation receipt to their income tax calculations? What are the unique considerations to be aware of? And how does a tax receipt provide value, especially for 'land rich, cash poor' landowners?

This guide was created to answer those questions.

THE CONSERVATION EASEMENT EXPLAINER SERIES

This document is part of a series of 'Explainer' documents describing various aspects of the conservation easement tool in plain language.

To see other Conservation Easement Explainers, as well as much more information, go to the: Alberta Conservation Easement Resource Centre

THE CORVUS CENTRE FOR CONSERVATION POLICY

The **Corvus Centre for Conservation Policy** is a Canadian nature-conservation charity based in Calgary, Alberta, Canada

Corvus works with government, NGOs, and others to develop and implement nature-positive policy

Contents

What is a Conservation Easement

If you know what a conservation easement is, then go ahead and skip this section!

A conservation easement allows a conservation-minded landowner to see the natural values of their property conserved in perpetuity, while at the same time continuing to live on, draw income from, and otherwise use the property subject to the restrictions in the conservation easement agreement.

The conservation easement is a private, legal contract between a landowner and an entity qualified to hold such easements. The agreement outlines specific restrictions and land management requirements designed to maintain the identified conservation values.

The financial value of the conservation easement is determined by a qualified real property appraiser, and the landowner receives compensation for that amount in the form of a charitable donation (tax) receipt, a cash payment, or a mix of both (see *Finances of Conservation Easements – Valuation and Compensation* for more details).

The conservation easement is registered on title as 'an interest in land', meaning it 'runs with the land', applying to any future landowner.

For more information on what a conservation easement is, see the other guides in this series, starting with *What is a Conservation Easement?* and *Conservation Easements in 20 Questions*).

The Charitable Tax Receipt

The majority of the compensation available for the grant of a conservation easement is via a charitable tax receipt, or 'official donation receipt' (see *Finances of Conservation Easements – Valuation and Compensation*, for more details). Any 'qualified organization' (i.e., an entity able to hold a conservation easement) is able to provide a charitable tax receipt in exchange for the gift of a conservation easement. The amount on the tax receipt is equal to appraised value[1] of the conservation easement.

There are several important facets of donation receipts that should be understood by anyone granting a conservation easement in exchange for a tax receipt:

- What the CRA considers to be a 'gift';
- How the value of that gift is determined; and
- That corporations and individuals use a donation receipt differently.

The Nature of a 'Gift'

A charitable tax receipt (or 'official donation receipt from a qualified donee') is only available for the donation of a 'gift', and the Canada Revenue Agency (CRA) has very specific guidelines regarding what is and is not considered a gift[2]. In general, they define a gift as "a voluntary transfer of property without valuable consideration," meaning that the gift must be irrevocable, and the person providing the gift cannot do so in exchange for any undue "advantage" – i.e., the gift must be given 'free and clear.'

For example, a developer providing a conservation easement to a municipality in exchange for a subdivision or development approval would most likely not qualify for a charitable tax receipt. In this case, the developer is providing the conservation easement in order to secure an approval; an 'advantage' for the donor.

Value of the Gift / Tax Receipt

The donation of land or other capital property (including conservation easements) is known as a 'gift in kind', and the amount on the associated donation receipt must be based on its Fair Market Value (FMV). While recipients and donors are not required to secure formal appraisals of the FMV, they are strongly encouraged to do so, and there are potential repercussions for not doing so.

For example, any individual's T1 tax return can be reassessed by the CRA up to three years after the notice of assessment has been received[3]. The value of a donation of a conservation easement is likely to be questioned at that time if there is no credible backing for the initial valuation. For more details on how conservation easements are financially valued, see *Finances of Conservation Easements – Valuation and Compensation*, in this series).

A 'gift' cannot be given in exchange for any undue "advantage."

Tax Deduction vs Tax Credit

Both an individual and a business/corporation can receive a charitable tax receipt for a donation, but they use them in slightly different ways.

The donation receipt is used by an individual as a 'tax credit', meaning that they calculate their net *tax owing*, then they calculate the amount of tax credit will result from the donation receipt. The amount of the tax credit is applied to reduce the net taxes payable[4].

A corporation or business uses a donation receipt as a 'tax deduction', meaning they apply the tax receipt to their *taxable income* calculation, reducing the net taxable income before taxes are calculated.

The difference is more in method than result, so for the sake of simplicity, this guide uses the 'personal tax credit' situation in its case examples.

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[1] *Note that a conservation easement does not need to be certified as an EcoGift to be eligible for a charitable tax receipt (see Ecological Gifts below)*

[2] *See Gifts and Income Tax, P113(E), Canada Revenue Agency.*

[3] *See Income Tax Act, Assessment and Reassessment, Sec 152(4) for more detail.*

[4] *Note that this is a 'non-refundable' tax credit, meaning if a person cannot use the entire amount to offset taxes, they do not receive a payment for the rest. They can can, however, carry the unused amount forward.*

Applying a Conservation Easement Donation Receipt to Income Taxes

Reporting a Charitable Donation

The donation of a conservation easement is treated exactly the same way as any other charitable donation when it comes to calculating year-end taxes.

A separate schedule in the tax form package is used to add up all eligible charitable donations, including any conservation easement donation, and then determine the portion of those donations that can be used as tax credits.

The federal tax form then uses the results of that calculation to determine the tax credit to be deducted from federal taxes owing, and the provincial tax form does the same for provincial taxes owing.

Currently, the federal tax credits are:

- 15% of the first $200 donated
- 29% of the next $9,800
- 33% of all donations beyond that

The current provincial tax credits are:

- 60% of the first $200 donated
- 21% of all donations beyond that

Using a Large Donation Receipt

In some cases – and especially with conservation easements – the value of a donation receipt may exceed the donor's income in the year of the donation. In these cases, certain limitations apply.

In any given year, federal and provincial governments limit the how much of a charitable tax receipt can be used in two ways, both based on the donor's income in that year.

Net Income Limit

A charitable donation can only be applied to 75% of a donor's income in any given year.

For example, if a person had a net income of $40,000 in a year, and made $100,000 worth of donations in that year, they could only claim a maximum of $30,000 of the donations in that year ($40,000 x 75% = $30,000). The remaining $70,000 worth of donations would then have to be carried forward to be used in future tax years.

In some cases – and especially with conservation easements – the value of a donation receipt may exceed the donor's income in the year of the donation.

Years to Use the Receipt

The total value of the donation receipt must be used up in the year the gift is made plus no more than 5 additional years (if certified as an EcoGift, you have 10 additional years)

The following examples are simplified descriptions – a person's actual tax circumstance is much more complicated, and varies from person to person. However, these tables give a basic idea of how the tax receipt is carried over, in both an EcoGift and non-EcoGift scenario.

Examples

Case 1: A landowner with an annual net income of $50,000 donates a conservation easement valued at $100,000.

$100,000 Conservation Easement; No EcoGift

Tax Year	Net Income	Usable Amount of Receipt	Remaining Donation Receipt
Year of donation	$50,000	$37,500	$ 62,500
Year 2	$50,000	$37,500	$ 25,000
Year 3	$50,000	$25,000	$0
Year 4	$50,000	$0	$0
Year 5	$50,000	$0	$0
Year 6	$50,000	$0	$0
Unusable tax receipt remaining			$0

$100,000 Conservation Easement; EcoGift Certified

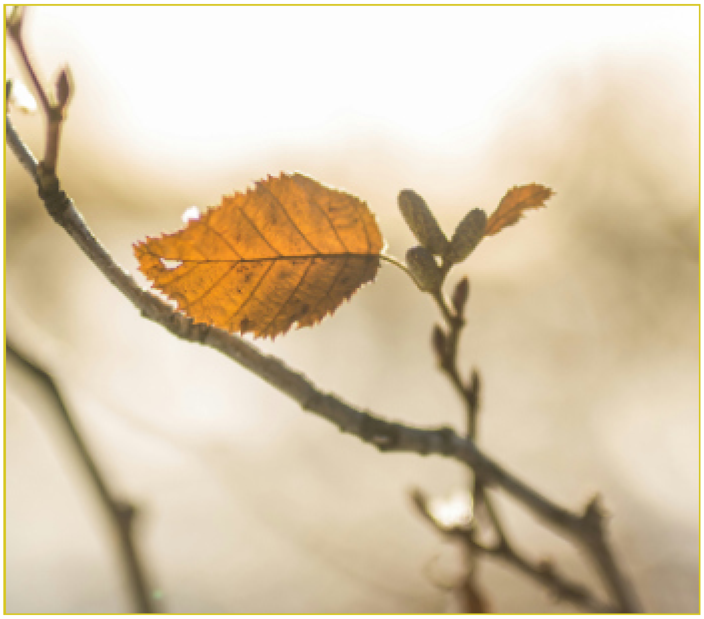
Tax Year	Net Income	Usable Amount of Receipt	Remaining Donation Receipt
Year of EcoGift donation	$50,000	$50,000	$50,000
Year 2	$50,000	$50,000	$0
Year 3	$50,000	$0	$0
Year 4	$50,000	$0	$0
Year 5	$50,000	$0	$0
Year 6	$50,000	$0	$0
Year 7	$50,000	$0	$0
Year 8	$50,000	$0	$0
Year 9	$50,000	$0	$0
Year 10	$50,000	$0	$0
Year 11	$50,000	$0	$0
Unusable tax receipt remaining			$0

These examples are simplified descriptions – a person's actual tax circumstance is much more complicated, and varies from person to person.

Case 2: A landowner with an annual net income of $50,000 donates a conservation easement valued at $500,000.

$500,000 Conservation Easement; EcoGift Certified

Tax Year	Net Income	Usable Amount of Donation	Remaining Donation Receipt
Year of EcoGift donation	$50,000	$37,500	$462,500
Year 2	$50,000	$37,500	$425,000
Year 3	$50,000	$37,500	$387,500
Year 4	$50,000	$37,500	$350,000
Year 5	$50,000	$37,500	$312,500
Year 6	$50,000	$37,500	$275,000
Unusable tax receipt remaining			$275,000



$100,000 Conservation Easement; EcoGift Certified

Tax Year	Net Income	Usable Amount of Donation	Remaining Donation Receipt
Year of EcoGift donation	$50,000	$50,000	$450,000
Year 2	$50,000	$50,000	$400,000
Year 3	$50,000	$50,000	$350,000
Year 4	$50,000	$50,000	$300,000
Year 5	$50,000	$50,000	$250,000
Year 6	$50,000	$50,000	$200,000
Year 7	$50,000	$50,000	$150,000
Year 8	$50,000	$50,000	$100,000
Year 9	$50,000	$50,000	$50,000
Year 10	$50,000	$50,000	$0
Year 11	$50,000	$50,000	$0
Unusable tax receipt remaining			$0

Capital Gains

The donation of a conservation easement by an individual is considered a gift of in-kind capital property. Therefore the donor must be aware of the gain in value over time of their capital property (i.e., capital gain) and the accumulated taxes owing (capital gains taxes) when calculating the impact of the conservation easement transaction on their income taxes. The choice to dispose of capital property via a donation (versus, for example, a sale) does not do away with the capital gains taxes that have accumulated over the years.

Remember that a conservation easement is only an interest in land (not the whole property), and therefore the capital gain (and associated taxes) only apply to that proportion. For example, if a conservation easement represents 20% of the financial value of a property, then only 20% of the capital gain is attributable to the conservation easement.

Regardless, landowners making a donation of a conservation easement must include that transaction in their capital gains tax calculations. In the same vein, the donation of capital property does not do away with the existing capital gains exemptions available to a landowner either (see *Taxes on Capital Gains*, below, for more information).

'Ecological Gift' Certification

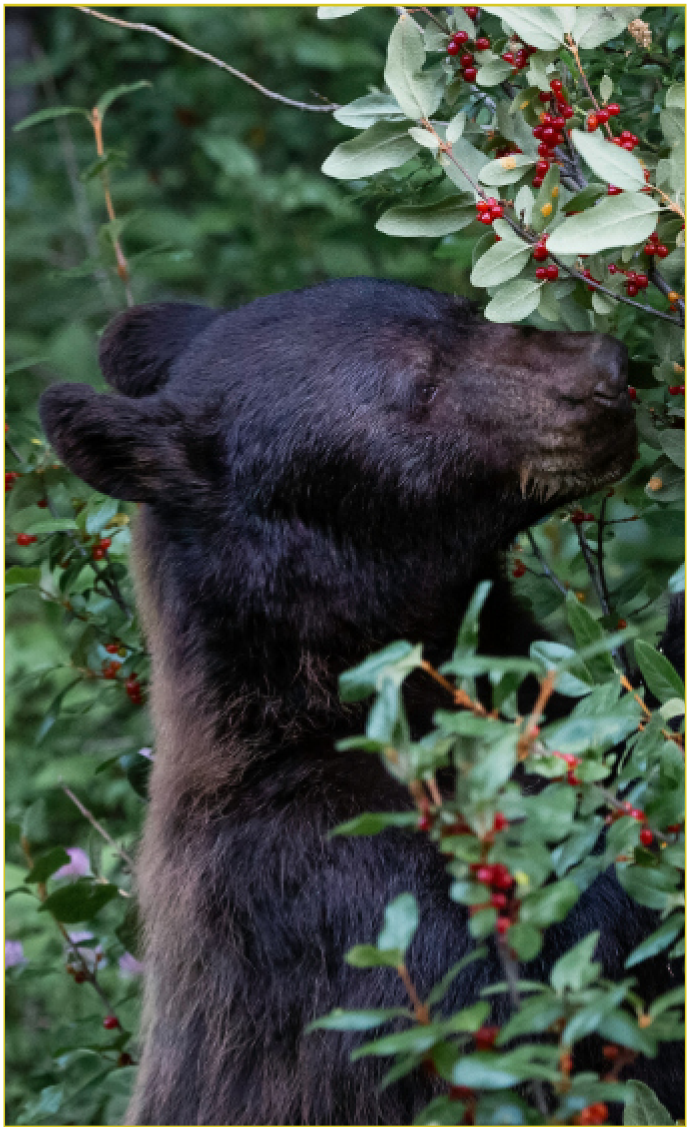
Landowners making a donation of a conservation easement (or fee-simple land parcel) can apply to have that parcel certified by the federal government as a Gift of Ecologically Sensitive Property (i.e., an EcoGift) for the purposes of income taxes[5].

The tax benefits for landowners are significant, especially for those in certain circumstances. Instead of limiting the donation amount usable in any year to 75% of net income, it rises to 100%. And the donor has the year of donation as well as 10 additional years (rather than just 5) in which to use up the donation receipt.

As well, the accumulated capital gains taxes on the property are effectively wiped out by an EcoGift certification, as the portion of the capital gain deemed taxable (the "inclusion rate") is lowered to 0%.

Without an EcoGift certification, a conservation easement door is simply being compensated for the financial value of the property interest they are disposing of, based on a market-value assessment. The EcoGift certification provides additional tax benefits above and beyond that.

It is important to understand that while the EcoGift certification bestows significant tax incentives for the landowner, it also imposes a tremendous liability burden on the recipient of the conservation easement, and removes the ability of the two parties to the agreement to make changes to the contract without federal government approval (see *Ecological Gifts*, below, for more details).



[5] *For more details see the Ecological Gifts Program Handbook*

Special Considerations

Taxes on Capital Gains

Taxes on 'Capital Gains' can sometimes be confusing in the context of the grant and/or donation of a conservation easement. Two primary elements that need to be understood are: 1) the way capital gains tax owing accumulate regardless of the easement; and 2) how the capital gains taxes owing are treated when the property is donated.

What Are 'Capital Gains'?

Over time, the value of 'capital property' (e.g., land and buildings used in business, second homes, stocks, bonds) may increase. Since 1972, any such gain has been deemed a 'capital gain', and taxed as income.

To determine the value of the gain, owners of capital property must report the 'original' cost, or what is known as the Adjusted Cost Base (ACB). If the property was purchased before 1972, then its value at that time is the ACB.

What Are Capital Gains Taxes?

In the simplest terms, 'capital gains taxes' are the income taxes paid on that capital gain. Recognizing that this may in some cases result in certain types of income being taxed twice, the federal government considers only 50% of that gain to be taxable – what is known as the 'inclusion rate.'

These taxes payable are calculated every year on a person's income tax return. However, recognizing that owners of capital property will not see the 'cash' from that gain until they sell the property, the government allows the capital gains taxes that are owing to be carried over. In the year the property is eventually 'disposed of' (e.g., sold or donated), those accumulated taxes become due.

Capital Gains Exemptions

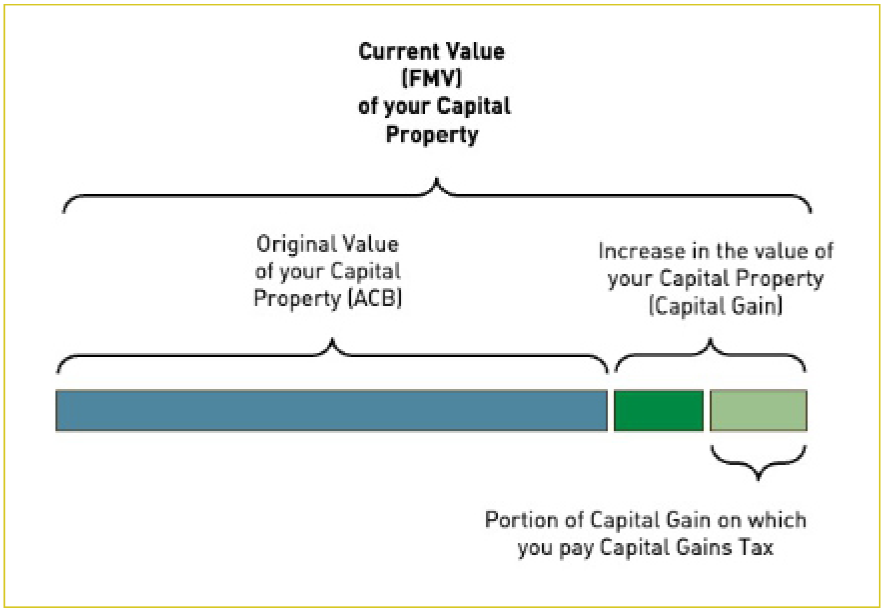
The capital gains taxes owing are also subject to certain exemptions and reductions. These include:

- *Exemption on a Principal Residence* – The gain in value of a principal residence is not included in calculating capital gains taxes
- *Lifetime Capital Gains Exemption on Qualified Farm or Fishing Property* – Owners of "qualified farm or fishing property" can reduce the amount of capital property which must be included in the capital gain calculation by a cumulative total of $1.25M over their lifetime.[6]

Capital Gains Taxes and Donations

It can feel counterintuitive that a landowner has to pay the capital gains taxes on a property even if they _donate_ that property or an interest in it (i.e., a conservation easement). However, there are two important elements to keep in mind here.

First, it is not unreasonable to require that taxes owing are paid when a property is disposed of. These taxes have



[6] *See Canada Revenue Agency's Capital Gains Guide T4037 for more detail.*

accumulated over time, completely separate from the decision to donate the property. Imagine a person decided to donate a second home cottage to a charity, but that cottage-owner had deferred their property taxes for several years. The local municipality would understandably still expect those property taxes to be paid.

Second, that increase in capital value is recognized in the compensation for the donation. When a conservation easement (or fee simple property) is donated, a qualified land appraiser is hired to determine the *current* value of the property or easement, and the value of the charitable donation receipt is based on that.

For more information on this topic, see *Finances of Conservation Easements – Valuation and Compensation*.

Inventory Lands

Both the benefits and challenges with capital gains taxation described above change significantly, if the property in question is deemed to be 'inventory lands.' When a conservation easement is being granted in exchange for a tax receipt (or even payment), both parties must be conscious of whether the encumbered land is held by the landowner as 'capital' or as 'inventory.'

Generally, if land is acquired by a business for the purpose of re-selling it, it is 'inventory,' and the business can avail itself of any tax deductions available against the costs of acquiring and maintaining that 'inventory.' A gain in the value of that land, however, is considered profit, and is therefore taxed as profit.

Land that is deemed 'capital' is land that is used to produce rents or goods and services, or for personal enjoyment. As described above, any change in the value from acquisition to disposal is considered a 'capital gain', and taxable as such.

This distinction is important because only 50% of a capital gain is taxable, while 100% of the profit is taxable. As described above, even in the case of a donated parcel, tax is still payable on the realized capital gain or business profit associated with that parcel.

Alternative Minimum Tax

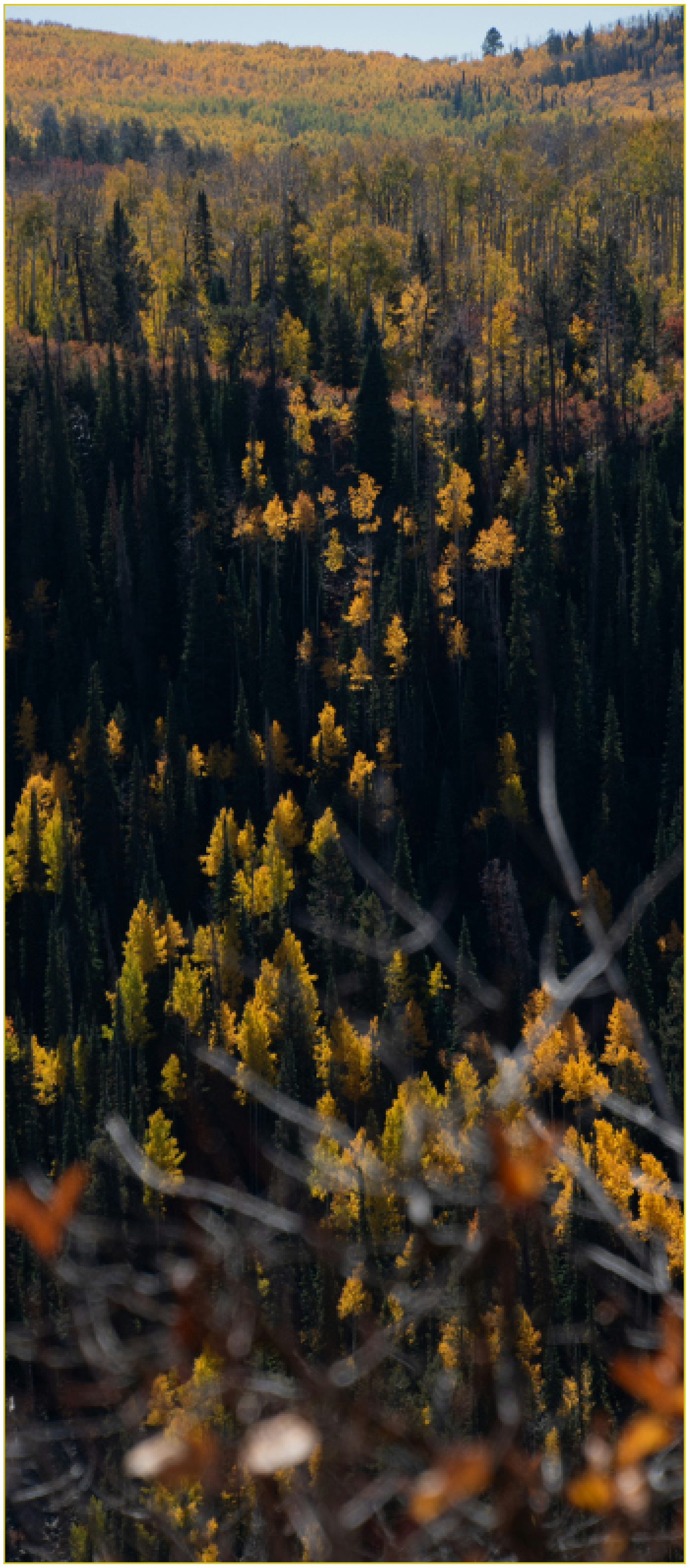
The Alternative Minimum Tax (AMT) is used by the Canada Revenue Agency to ensure everyone pays at least a minimum amount of taxes, regardless of how many tax breaks and tax shelters they can assemble. It uses a simplified tax form that excludes a number of preferential tax credits and deductions, then compares that to the results of the 'regular' tax form. The individual pays the higher of the two amounts. The vast majority of Canadians do not need to calculate the AMT as their income is too low, and their tax shelters too few.

Changes to the AMT in 2023 garnered significant attention from the charitable land conservation sector because of the potential impact on a donor of capital property, which includes conservation easements and fee simple lands. Because the donation of a conservation easement may add significantly to the amounts flowing through a donor's tax forms, this could trigger the need to do an Alternative Minimum Tax (AMT) calculation.

In simplified form, these are the changes to the AMT to be aware of that may affect the taxes of a conservation easement donor:

- Increased AMT basic exemption
  - The basic exemption – that is, the amount of income an individual would need to trigger the AMT – was raised from $40 000 to a $173 000.
- Increased AMT tax rate
  - The flat tax applied to the AMT income calculation was raised from 15% to 20.5% (regular tax rates range from 15% to 33%).
- Decrease in donation tax credit amount that can be applied
  - Only 80% of all donations (including capital gifts, EcoGifts or other donations) can be applied to the AMT taxable income calculation.
- Decreased capital gains inclusion rate for donations of capital property
  - The amount of a capital gain on an 'in kind donation of capital property' (including conservation easements) subject to taxation is usually 50%, but with the AMT it is 30%.
- No change on the capital gains inclusion rate for EcoGifts
  - The amount of a capital gain on an 'gift of ecologically sensitive property' (EcoGift) remains at 0% within the AMT calculation.[7]

The actual AMT situation for a given landowner making a donation of land is very complicated because it involves every aspect of their tax situation calculated two ways and then compared. It is hard to overstate that ***advice from an accountant or tax advisor specific to your circumstances is a must*** to properly understand the potential impact on a person's taxes.



[7] *Adapted from Imagine Canada's "How Changes to the Proposed Alternative Minimum Tax Could Affect Charitable Donations In the Nonprofit Sector"*

Ecological Gifts

Since the mid-1990's, land or conservation easements being donated to a qualified organization may be eligible to be certified as Gifts of Ecologically Sensitive Property – or EcoGifts. The program was initiated to further protect fee-simple properties, encourage landowners to participate in nature conservation, and remove uncertainty associated with charitable tax receipts. While it is a boon for donating landowners, it also carries significant liabilities for land trusts and conservation easement agreements.

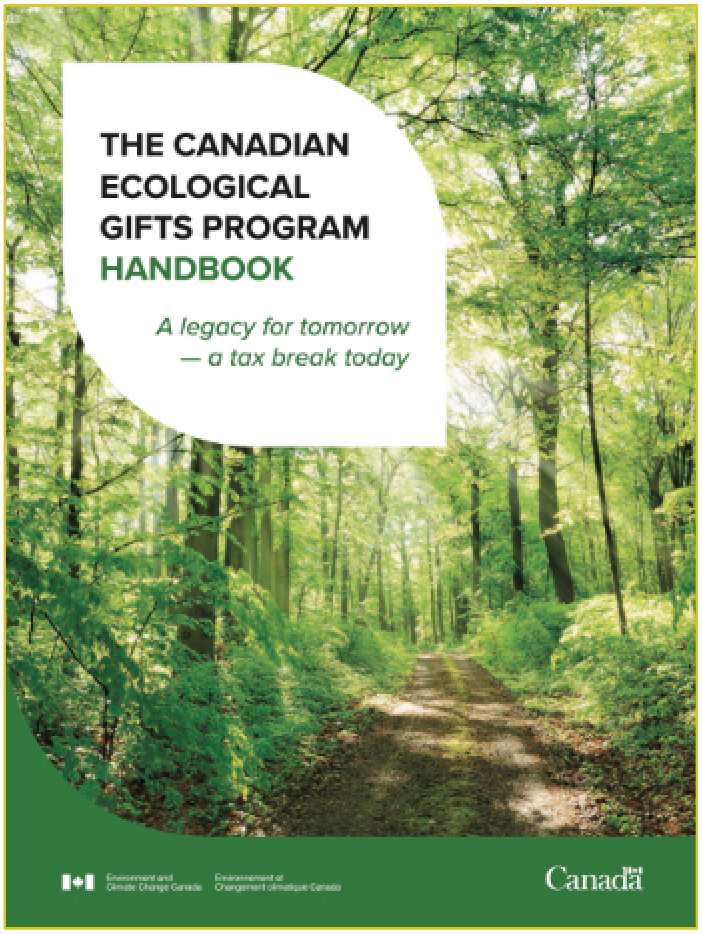
As noted above, the benefits for landowners are considerable, and include:

- The ability to apply a tax receipt against 100% of a donor's income in any given year (vs the usual 75%);
- An extension in the period a tax receipt can be applied against a donor's income from 6 to 11 years;
- A reduction in the Capital Gains Inclusion Rate from 50% to 0%
- Guarantee of the appraised value of the charitable tax receipt (normally the Canada Revenue Agency has three years to review a charitable tax receipt and potentially change its value retroactively)

However, there are significant challenges with the Ecological Gifts certification a landowner needs to be aware of:

- EcoGift certification functionally adds an outside party to the agreement between the landowner and the conservation easement holder which forbids any change in the land use management of the property without prior approval of Environment and Climate Change Canada (ECCC);
- An amendment to the Income Tax Act enables Environment and Climate Change Canada (ECCC) to levy a tax equal to 50% of the value of the conservation easement gift on the conservation easement recipient, if either the easement holder or the landowner initiate a 'change in use' without prior approval from ECCC; what constitutes a 'change in use' can vary.[8]

The EcoGifts program represents a tremendous benefit for landowners in terms of tax bonuses and protection of the value of their charitable tax receipt. Unfortunately, the 'change in use' clause has caused several eligible conservation easement holders to either refuse participation altogether, or to only pursue EcoGift certification on properties where they deem the potential liability to be relatively low. Therefore landowners need to check whether the potential easement holder they choose to work with accepts EcoGift certified properties.



[8] *See [Disposition or Change in Use Of Ecological Gifts: What Recipients Need to Know] for more information.*

Using a Tax Receipt

"I can't use a tax receipt – I'm land rich and cash poor!"

This is a common sentiment when landowners – especially agricultural landowners – consider the utility of a charitable tax receipt in exchange for a conservation easement donation.

There is some reality to this – it is easy to use up a $1 million tax receipt when a person makes $5million per year – but the full reality is more nuanced. There are, in fact, numerous ways that a landowner with a more modest income can fully use a charitable tax receipt. Some of these possibilities are 'blanket' options that apply to most everyone. But some require digging deeper into a person's specific tax and income situation. A savvy tax accountant, fully versed in a given landowner's specific circumstances, can likely find thoughtful and innovative ways to astutely apply the donation receipt.

The following are few examples that can help get the creative juices flowing.

Erasing the Capital Gains Taxes Owing

For many landowners, the deferred capital gains tax bill on their property can have a huge impact, and while that tax bill may be deferred it generally comes due at some point. This can be particularly problematic for the landowner's heirs, as they inherit that burgeoning tax bill when qualified farm property is passed on to them. The Lifetime Capital Gains Exemption may only go so far with high-value land (i.e., land facing significant development pressure). Even with an EcoGift certification, the capital gains taxes owing are forgiven for the gift (i.e., the conservation easement) not the entire value of the property, meaning a good portion of the accumulated capital gains tax owing is still in place.

The tax receipt associated with the donation of a conservation easement can be applied to both the capital gains tax now payable as that portion of the land (i.e., the conservation easement) is disposed of, *as well as* the accrued capital gains tax owing on the property as a whole. If the landowner disposes of the property (sells or passes land on that is not qualified farm property), the charitable donation receipt can be used to offset the capital gains taxes that have now come due.

Pre-paying the Capital Gains

The charitable tax receipt from the donation of a conservation easement can be used to "pre-pay" the capital gains taxes when rolling over qualified farm property to a child.

As noted above, passing qualified farm property on to an heir does not eliminate the capital gains taxes owing, it just passes them on. A parent can pass on 'qualified farm property' (considered a 'disposition' of the property) without having to pay the accumulated capital gains taxes at that time. This is referred to as a 'tax-deferred rollover,' meaning the taxes come due when the new owner eventually disposes of the property. But that accumulated tax burden does not go away. This means the child is now responsible for paying the taxes owning on the gain in land value that occurred while the parents owned the land.

> *There are, in fact, numerous ways that a landowner with a more modest income can fully use a charitable tax receipt.*

However, the parents passing on the land can choose to pass on that land at any amount between the Adjusted Cost Base (essentially the price at which the parents purchased it) and the Fair Market Value at the time of the transfer. If the parents pass it on at the ACB value, their entire capital gain tax burden passes to their child. However, if they choose to pass it on at the current FMV, they will be required to pay the taxes on the capital gain incurred during their ownership.

The tax receipt from donating a conservation easement can be used to decrease (and often eliminate) that capital gains tax bill, meaning the child does not inherit the parents' capital gains tax liability.

Staggering Conservation Easement Donations

Granting a conservation easement is not necessarily a "one and done" proposition. Landowners can strategically stagger their conservation easement donations to maximize the tax advantages.

A landowner can choose to place a conservation easement on an entire parcel, or on a portion of it (without subdividing). They can choose to grant a conservation easement on one quarter section this year, and on another quarter section in the future.

This flexibility provides significant tax planning advantages. For example, if a landowner has calculated that they would be unlikely to use up the tax receipt for a conservation easement on their entire property within the standard 6 years, they can choose to make multiple donations strategically staggered to match their projected tax situation.

Offsetting Other Tax Burdens

A landowner's – especially an agricultural landowner's – tax situation is always complex. Considering the use of a charitable tax receipt simply in the context of a person's gross income in a given year will miss the whole picture, and likely miss other opportunities to apply a tax receipt.

One example involves an agricultural producer couple involved in the negotiation of a conservation easement. They happened to mention to the land trust they were working with that they had borrowed a significant amount to buy the adjacent quarter section from one of their parents. Interest payments on the loan were significant. They lamented that they had managed to build a significant nest egg in a registered retirement plan, but removing that money and applying it to the loan would require taking a significant tax hit.

The land trust suggested they explore with their accountant whether using the tax receipt from a conservation easement to offset that tax hit would represent a win. At that consultation, their accountant suggested withdrawing the entire registered retirement plan amount to pay off the loan, using the tax receipt to eliminate the taxes payable for doing so, and reinvesting the money they were paying to service the loan. This in effect switched their retirement plan to rely on the disposition of the land at the end of their ranching career, and turned their interest payments into investments.

Another example involved a landowner with a second home on an ecologically-valuable acreage property. Neither conservation easement they granted, not their income were represented high dollar values. Nevertheless, they had no intention of developing the property, but simply wanted to maintain the hiking and birdwatching opportunities for their family and friends. After granting the conservation easement, their use of the property did not change, their accountant was able to reduce their taxes to $0 for three straight years.

Does everyone have these same situations? Definitely not. But the key point is that there can be great value in a landowner exploring the use of a charitable tax receipt specific to their own circumstances and with their tax advisor, even for cases where the landowner has a modest income.

Property Taxes

Though this guide is focused primarily on the impact of a conservation easement on a landowner's income tax, it is worth briefly mentioning the impact – or lack thereof – on property taxes.

Registration of a conservation easement has no impact on the municipal property taxation method, and provides no tax exemption unless the local government explicitly decides to provide one. Conservation lands – included those encumbered by a conservation easement and those owned by a conservation organization – enjoy no special property tax assessment status in Alberta.

For the purposes of taxation, a parcel with a conservation easement will be assessed – like any other parcel – at market value, unless it meets the standard for agricultural use. The landowner is required to pay the annual property taxes as calculated.

Some municipalities, at their own discretion, have chosen to provide a full or partial tax rebate for conservation properties of various types. That is a decision of the local council, and must be formally adopted by that council, and is based on whether such action would support the conservation goals of the municipality as laid out in their Municipal Development Plan.

Frequently Asked Questions

Does a conservation easement donation have to be an EcoGift to get a tax receipt?

No. All eligible recipients of conservation easements can provide a charitable tax receipt in return for a donation. However, a certified EcoGift can provide increased tax benefits.

Do I have to use up a tax donation receipt in the year I donate?

No. The Canada Revenue Agency (CRA) gives taxpayers 6 years in which to use up the full value of a tax receipt (the year of donation, plus 5 additional years. If the gift is certified as an EcoGift, this extends to 10 additional years.

Are conservation easement donations by individuals treated the same as donations by corporations?

Not exactly. While both receive the same donation receipt, individuals use it to calculate a tax credit, while corporations use it to lower their taxable income. Also, if a business is holding land as 'inventory' rather than 'capital property,' any gain in value over time (prior to the donation) is considered income rather than capital gain, and taxed accordingly.

Why do I pay capital gains taxes when I am making a conservation easement donation?

Capital gains taxes are due at the time a property is disposed of (e.g., sold, donated), but they accumulate over the years prior. Each year a landowner is allowed to forgo paying those taxes owing until the land is disposed of, but that does not erase the accumulated tax bill. As well, a landowner is compensated (cash payment and/or tax receipt) based on the current assessed value of the property, meaning any increase in value over time is accounted for in the compensation calculation.

How is the dollar value of my conservation easement donation determined?

The charitable tax receipt for the donation of a conservation easement is equal to the assessed financial value of the easement. For more information on how that valuation assessment is calculated, see *Finances of Conservation Easements – Valuation and Compensation*.

Sample Conservation Easement Donation Tax Calculations

One of the of the best ways to understand the tax implications of donating a conservation easement is to see an actual case example broken down by the numbers.

It's also one of the worst.

Every situation is completely different because every conservation easement donor's tax circumstances are different and very complex. That means any example is immediately misleading or incomplete to some degree in terms of understanding general applicability. **You will only know how a conservation donation affects *your* taxes by having your accountant or tax advisor run *your* specific numbers.**

So that must be borne in mind when viewing the following two examples. These cases roughly illustrate the tax implications of donating a conservation easement for two relatively representative scenarios.

How were these calculations made? Using the [Conservation Lands Donation Tax Estimator](), an estimation tool that allows a user to enter basic financial and easement donation information, and get a rough sense of how different scenarios might play out.

This simple, free, online tool requires the to enter/change only six numbers and answer four yes/no questions. (Note: Microsoft Excel required).

Case Example 1 - Donation on Agricultural Land

An agricultural producer grants a conservation easement on a quarter section to a local land trust. The Fair Market Value of the property before granting the easement is $240,000, and the value after the easement is $150,000, meaning the value of the 'gift' was $90,000. When purchased, the quarter cost $200,000. The producer's net farm income is $40,000/year.

The 'Inputs' and 'Calculations' on this page show the results if the gift was not certified as an EcoGift. Those on the next illustrate the EcoGift-certified case.

INPUTS	
FMV before conservation easement	$640,000
FMV after conservation easement	$512,000
Value of the Gift	$128,000
Certified as EcoGift?	No
Capital gains information	
Value of parcel when acquired	$200,000
Costs of disposing of CE	$5,000
Accrued capital gain on CE prior to gift	$20,600
Qualified Fish and Farm Property?	No
Income	$40,000
65 or older?	Yes
LCGE?	Yes

CALCULATIONS	
Capital gain calculation	
Capital gain on the gift	$20,600
Taxable capital gain	$10,300
Total income	
Net farming and self-employed income	$40,000
Taxable capital gain	$10,300
Reported income for year	$50,300
Donation limit	
75% of income	$37,725
25% of donated capital property	
Donation limit in first year	$37,725
Federal tax	
Federal tax payable	$6,000
(-) minus Federal tax credits	$14,452
Federal tax owing	$0
Provincial tax	
Provincial tax payable	$4,000
(-) minus Provincial tax credits	$10,725
Provincial tax owing	$0
Total taxes	
Taxes payable in year of donation	$0
Donation receipt carry forward	
Unused federal tax credit*	$8,452
Tax receipt to carry forward	$90,275
Years to use up tax receipt	5

** In fact, the amount of tax receipt used in the first year would be shifted down until taxes payable just equaled zero, and the remaining tax receipt carried forward*

INPUTS	
FMV before conservation easement	$640,000
FMV after conservation easement	$512,000
Value of the Gift	$128,000
Certified as EcoGift?	Yes
Capital gains information	
Value of parcel when acquired	$200,000
Costs of disposing of CE	$5,000
Accrued capital gain on CE prior to gift	$20,600
Qualified Fish and Farm Property?	No
Income	$40,000
65 or older?	Yes
LCGE?	No

CALCULATIONS	
Capital gain calculation	
Capital gain on the gift	$20,600
Taxable capital gain	$0
Total income	
Net farming and self-employed income	$40,000
Taxable capital gain	$0
Reported income for year	$40,000
Donation limit	
100% of income	$40,000
Donation limit in first year	$40,000
Federal tax	
Federal tax payable	$6,000
(-) minus Federal tax credits	$15,246
Federal tax owing	$0
Provincial tax	
Provincial tax payable	$4,000
(-) minus Provincial tax credits	$11,276
Provincial tax owing	$0
Total taxes	
Taxes payable in year of donation	$0
Donation receipt carry forward	
Unused federal tax credit*	$9,246
Amt available to carry forward	$88,000
Years to use up tax receipt	10

** In fact, the amount of tax receipt used in the first year would be shifted down until taxes payable just equaled zero, and the remaining tax receipt carried forward*

Case Example 2 - Donation on Recreational Property

A parent grants a conservation easement on a 20-acre, ecologically-significant property just outside of the city that the family uses for getaways. The current Fair Market Value of the parcel is $400,000, but drops to $160,000 after granting the easement, meaning a 'gift' value of $240,000. The owner originally bought the property for $100,000, and has a current income of $120,000.

Again, the 'Inputs' and 'Calculations' on this page show the results if the gift was not certified as an EcoGift, while those on the next illustrate the EcoGift-certified case.

INPUTS	
FMV before conservation easement	$400,000
FMV after conservation easement	$160,000
Value of the Gift	$240,000
Certified as EcoGift?	No
Capital gains information	
Value of parcel when acquired	$100,000
Costs of disposing of CE	$5,000
Accrued capital gain on CE prior to gift	$139,000
Qualified Fish and Farm Property?	No
Income	$120,000
65 or older?	No
LCGE?	No

CALCULATIONS	
Capital gain calculation	
Capital gain on the gift	$139,000
Taxable capital gain	$69,500
Total income	
Net farming and self-employed income	$120,000
Taxable capital gain	$69,500
Reported income for year	$189,500
Donation limit	
75% of income	$142,125
25% of donated capital property	$17,375
Donation limit in first year	$159,500
Federal tax	
Federal tax payable	$43,541
(-) minus Federal tax credits	$48,531
Federal tax owing	$0
Provincial tax	
Provincial tax payable	$19,890
(-) minus Provincial tax credits	$35,762
Provincial tax owing	$0
Total taxes	
Taxes payable in year of donation	$0
Donation receipt carry forward	
Unused federal tax credit*	$4,990
Amt available to carry forward	$80,500
Years to use up tax receipt	5

** In fact, the amount of tax receipt used in the first year would be shifted down until taxes payable just equaled zero, and the remaining tax receipt carried forward*

INPUTS	
FMV before conservation easement	$400,000
FMV after conservation easement	$160,000
Value of the Gift	$240,000
Certified as EcoGift?	Yes
Capital gains information	
Value of parcel when acquired	$100,000
Costs of disposing of CE	$5,000
Accrued capital gain on CE prior to gift	$139,000
Qualified Fish and Farm Property?	No
Income	$120,000
65 or older?	No
LCGE?	No

CALCULATIONS	
Capital gain calculation	
Capital gain on the gift	$139,000
Taxable capital gain	$0
Total income	
Net farming and self-employed income	$120,000
Taxable capital gain	$0
Reported income for year	$120,000
Donation limit	
100% of income	$120,000
Donation limit in first year	$120,000
Federal tax	
Federal tax payable	$21,952
(-) minus Federal tax credits	$37,128
Federal tax owing	$0
Provincial tax	
Provincial tax payable	$10,000
(-) minus Provincial tax credits	$27,467
Provincial tax owing	$0
Total taxes	
Taxes payable in year of donation	$0
Donation receipt carry forward	
Unused federal tax credit*	$15,146
Amt available to carry forward	$80,500
Years to use up tax receipt	10

** In fact, the amount of tax receipt used in the first year would be shifted down until taxes payable just equaled zero, and the remaining tax receipt carried forward*

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