

THE ECOLOGICAL GIFTS PROGRAM



*A legacy for tomorrow ...
A tax break today*



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Canadian Wildlife Service



Environment and
Climate Change Canada

Environnement et
Changement climatique Canada

Canada

Presentation Overview

- Program basics, tax benefits
- Step by step process summary
- Additional details
- 2 examples
- Errors to avoid
- Donations from Estates
- Associated property tax reductions
- Program Results
- Resources



What is the Ecological Gifts Program?

A federal tax incentive program
that offers
income tax benefits to
private and corporate landowners
who donate
ecologically sensitive lands and
partial interests in lands
to qualified recipients



Terminology

- Donor
 - Individual or corporation making the donation
- Recipient
 - Eligible nature charity or government body that accepts the donation
- Appraiser
 - Qualified individual commissioned to value the donation
- Ecological Gift
 - Gift = voluntary transfer, without consideration to the donor
 - Ecological gift is a 'gift' of land or interest in land certified as ecologically sensitive



Benefits to the Donor

- A non-refundable income tax credit for individuals, and an income tax deduction for corporate donors
- No capital gain on the transfer
- No limit to the total value of Ecogift donations eligible for deduction
- Tax credit must be used over 11 years
- Land is protected in perpetuity
- Marketing and PR opportunity



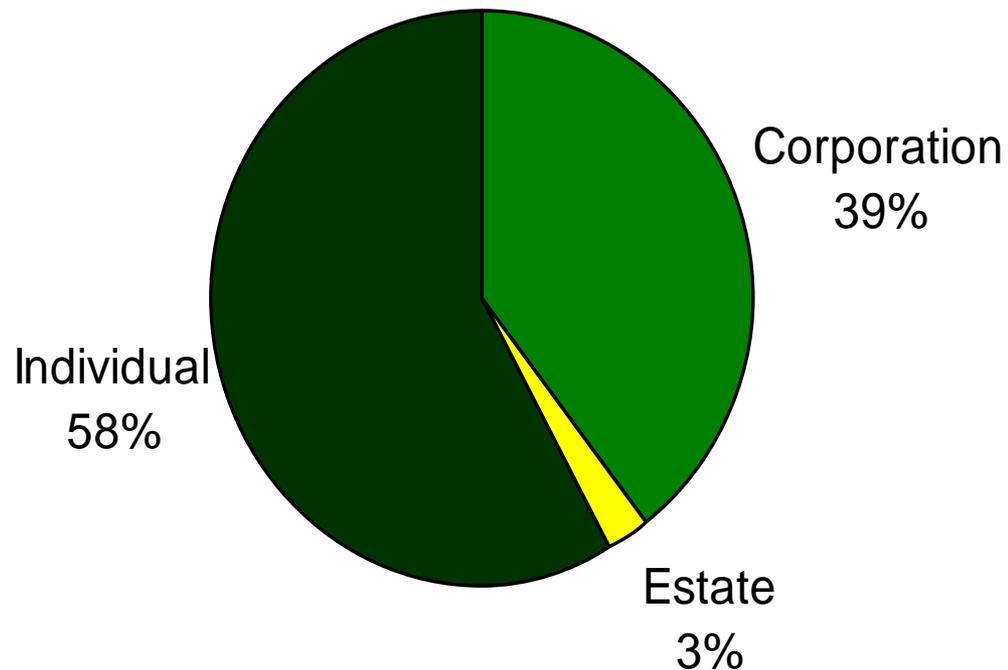
Process Overview

1. Donor and Recipient arrange gift
2. ECCC confirms the ecological sensitivity with help from Donor and/or Recipient
3. Donor and ECCC determine the value of the donation
4. Donor transfers the gift to the recipient
5. Donor claims the tax benefits

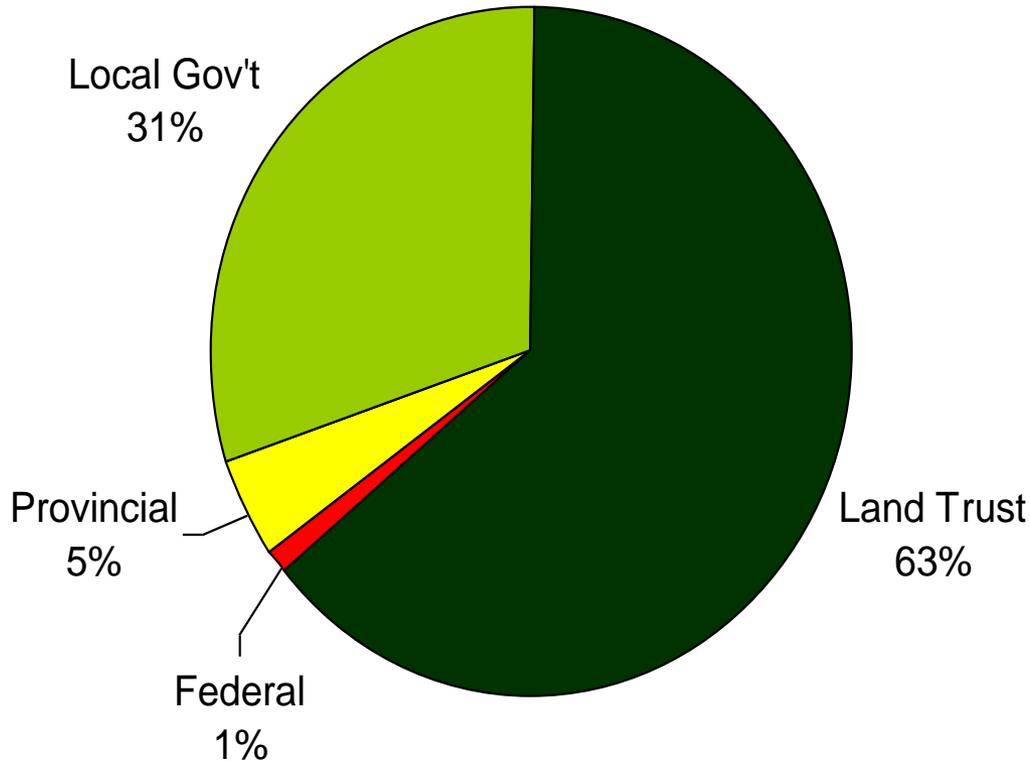


Step 1: Donors

- Primarily interested in protecting their property(84%)
- Support conservation organizations (65%)
- Retired (53%)



Step 1: Who are the Eligible Recipients?



- ECCC maintains a national list of more than 160 eligible Land Trusts



Step 1: What can be donated?

- Fee Simple lands
- Conservation Covenants:
 - Restrict land use, building, subdivision
 - Preserves the land in its natural state
 - Registered on title and binds future owners
 - For [Québec](#) click here.
- Life Estates



Step 2: What is Ecologically Sensitive Land?

- 6 national criteria exist (see the [Ecological Gifts Handbook](#) p. 8)
- Generally:
 - Undeveloped land
 - Wetlands, areas adjacent to water bodies (riparian)
 - Rare species and ecosystems



Step 2: How to Prove Ecological Sensitivity

- Recipients usually provide ecological expertise
- [Sensitive Ecosystem Inventory](#) provides maps of sensitive areas
- Small properties (<1 ha) require additional proof
- Sample letter in appendix A of Handbook
 - Location
 - Type of donation (include draft covenant)
 - Assessment of ecological character
 - Species present, including rare species
 - Maps
- ECCC issues *Certificate of Ecologically Sensitive Land*



Step 3: Determine the Value of the Donation

- Donor or Recipient hire Appraiser
 - Appraiser knows it is for the Ecological Gift Program
 - Appraiser uses the “Guidelines for Appraisals”
 - Appraisals must be recent (effective date < 6 months before application)
- Donor sends an Application and the Appraisal
- ECCC issues Notice of Determination, Donor signs and returns Notice



Step 4: Donor transfers the gift to the recipient



- Donor transfers the gift
- Donor or Recipient provide ECCC with evidence of the transfer
- ECCC issues the *Statement of Fair Market Value*
- Recipient issues tax receipt



Step 5: Donor claims the tax benefits

Environment Canada / **Environnement Canada**

Gift ID: ON499

Certificate of Ecologically Sensitive Land, Recipient Identification, and Registered Charity Approval Pursuant to the Income Tax Act of Canada

This Certificate must be completed by the Minister of the Environment or a representative of a provincial ministry or other agency delegated by the Minister of the Environment to:

- certify that the land that is the subject of this proposed ecological gift is ecologically sensitive;
- certify that the proposed ecological gift addresses the conservation and protection of the subject ecologically sensitive land; and,
- identify the recipient of the proposed ecological gift and where the recipient is a registered charity that has as one of its main purposes the conservation and protection of Canada's environmental heritage to approve that recipient to receive this ecological gift.

By issuing this Certificate, neither the Minister nor the Minister's delegate assess whether or not the transfer of land, covenant, easement or servitude qualifies as a gift for the purposes of the Income Tax Act.

In order to obtain a deduction in taxable income or a non-refundable tax credit, the donor shall file, along with an annual income tax return to the Canada Revenue Agency, this Certificate, a Statement of Fair Market Value, and the official donation receipt from the recipient.

Special Notes or Comments: This is an example Certificate.

Identification of Donor(s)

Name(s): Jane Smith
Address(es): 123 Elm Street, Whatsitville, ON A1A 1A1

Certification of the Ecological Sensitivity of the Land

Type of Donation: Land Covenant Easement Servitude
Area: 45 hectares acres

Legal Description: Part of Lot 27, Concession 5, Municipality of Whatsitville, Wherever Co.
PIN: 14892-55(LT)

The Minister of the Environment certifies that the land that is the subject of this proposed ecological gift is ecologically sensitive.

Statement of Fair Market Value of an Ecological Gift Pursuant to the Income Tax Act of Canada

Gift ID: ON499

Donor(s): Jane Smith
Address(es): 123 Elm Street, Whatsitville, ON A1A 1A1
Legal Description: Part of Lot 27, Concession 5, Municipality of Whatsitville, Wherever Co.
PIN: 14892-55(LT)

Area of Donation: 45 hectares acres
Type of Donation: Land Covenant Easement Servitude

Fair Market Value (numerical): \$ 126,400.00
(text): One hundred twenty six thousand four hundred dollars only.

This value has been certified by the federal Minister of the Environment as the fair market value of an ecological gift pursuant to subsection 118.1 (10.5) of the Income Tax Act. This value has been reviewed by qualified professionals using standard real estate appraisal practices.

Certified on behalf of the federal Minister of the Environment:

Signature: _____
Name and Title: _____
Date: _____

Director, Canadian Wildlife Service – Ontario
O, M3H 5T4

...ing the fair market value of the ecological gift
... fair market value of the ecological gift

Taxation Act in... with respect to whether the donor or recipient is a resident of Canada nor any other

Happy Creek Land Trust
Charitable Receipt
\$126,400.00

Some additional details

Timing:

- To get the *Notice* by Dec 31, apply before Sept 15
- 80% of donations complete the process in less than 10 months
- Gifts that have already been made - 3 years to apply

Advanced topics:

- Split Receipt donations - a combination of donation and sale
- Inventory land
- Donations from beneficial trust
- Donation costs: appraisals, professional advice, endowments
- Donations from US citizens



Recipient Responsibilities

Under the provisions of the *Income Tax Act* s.207.31 recipients are responsible for the long term conservation of the donation.

Unauthorized changes in use or dispositions of ecological gifts could result in a tax of 50% of the land's current market value.



Example 1: Donation of a Covenant

- Benoit and Jeannine earn a combined income of \$50,000 / yr.
- They purchased a home on rural acreage
- Today, it is worth \$150,000
- They want to protect the forest on their property but continue to live in their house

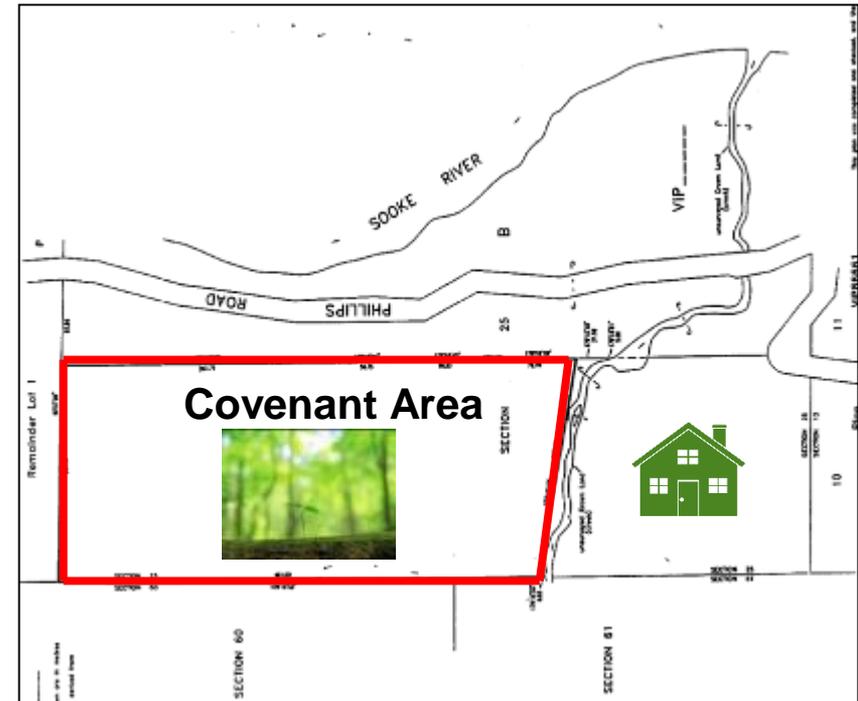
Scenario 6 of factsheet



Example 1: Donation of a Covenant

- **Donation of conservation covenant worth \$60,000** (before and after valuation)
- Ben and Jen's yearly net federal income tax would have been \$3,875 each
 - Now \$0

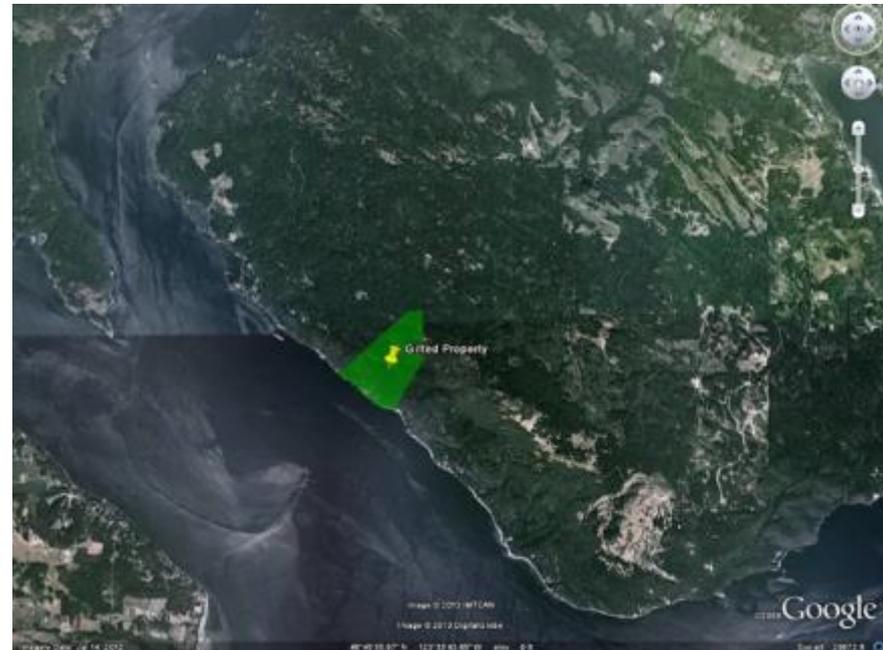
Scenario 6 of factsheet



Example 2: Donation of Land

Scenario 2 of factsheet

- Fiona earns \$80,000 / yr.
- She purchased undeveloped ocean front property on SSI for \$200,000 as an investment
- Today, it is worth \$600,000
- She now wants leave a legacy by protecting the habitat in perpetuity



Example 2: Donation of Land

- **Fee simple donation of \$600,000 property**
- Capital gain is \$400,000
 - Taxable Capital Gain is eliminated
- Yearly net federal income tax would have been \$15,409
 - Now \$0

Scenario 2 of factsheet



When gifts go wrong...

- Ensure the gift is truly a gift (e.g. not a development requirement)
 - CRA website, P113 Gifts and Income Tax
 - CRA can provide advanced tax ruling
- Ensure appraisal follows Guidelines to Appraisers
 - supportable assumptions and hypothetical conditions
 - correct certification statements
- Ensure title is stable and *all* owners are in agreement



Donation from Estates

- Include documentation (will, power of attorney) with application
- See Canada Revenue Agency website, P113 on “Gifts in the Year of Death”
- Ecological Gifts are exempt from capital gains tax
- Reminder – seek independent legal advice



Resources

- [Website of the Ecological Gifts Program](#)
- Key publications:
 - [Brochure](#)
 - [Handbook](#)
 - [Donation and Tax Scenarios](#)
 - [Engaging an Appraiser](#)
 - [Application form](#)
 - [Disposition or Change in Use - What Recipients Need to Know](#)



Thank you



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Disclaimer

- Not advice: Simplified information provided for education purposes
- Donors should obtain advice (legal, financial) specific to their own situation

