



# Conservation Easements for LANDOWNERS

## Acknowledgements

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Booklet design by Carlie Marsh  
SOON Studio  
[soonstudioart@gmail.com](mailto:soonstudioart@gmail.com)



# About Legacy Land Trust Society

**Legacy Land Trust Society** is a charitable, non-profit society dedicated to conserving the environmental, agricultural, scenic, and cultural values of Mountain View County and surrounding municipalities in central Alberta.

These goals are accomplished through the acquisition of conservation easements, the promotion of land use practices that support wildlife habitat, clean water, and biodiversity as well as through communications and outreach activities with landowners and the public.

For more information about the Legacy Land Trust Society and its work, contact:

Legacy Land Trust Society

4801 – 49 Avenue

Olds, Alberta T4H 1E1

Phone: (403) 556-1029

Email: [info@legacylandtrustsociety.ca](mailto:info@legacylandtrustsociety.ca)

Web site: [www.legacylandtrustsociety.ca](http://www.legacylandtrustsociety.ca)

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# Introduction

**Conservation Easements** offer a private sector solution to the problem of fragmenting farms and ranches and disappearing natural habitats.

They are tools which individuals and communities can use to ensure the availability of unbroken landscapes and natural areas for future generations.

A conservation easement is a voluntary agreement between a landowner and a qualified organization (such as the Legacy Land Trust Society) which **limits the amount and type of development that can occur on a property in order to preserve its natural character and agricultural potential.**

When a landowner takes on a conservation easement there are associated financial benefits that can help landowners pass their property on to heirs or to new owners as a viable agricultural unit or a natural landscape.



## How to use this booklet

There are a variety of stewardship options for a landowner, and a conservation easement may or may not be for you.

**The primary goal** of this booklet is to outline what a conservation easement is and so you can decide if it is an option for you.

Although conservation easements have been used in Alberta since 1996, many people are still unfamiliar with them. They are a flexible tool that help to meet landowner and land trust needs, but can also be quite complex.

*This booklet is not a replacement for the expert advice you need related to your individual situation* – talk to your lawyer, your tax advisor, and your estate planner about what a conservation easement can mean for you.

The discussion here may create as many questions as it answers, so keep a pencil handy and jot those questions down. The website [www.ce-alberta.ca](http://www.ce-alberta.ca) is also an excellent resource.

See the Resources section for a list of books and organizations that can answer further questions.





# What is a Conservation Easement?

When you think of owning a piece of land, you can think of it as a “**bundle of rights**.” You may have the right to construct buildings, irrigate the land, cut timber, subdivide, etc.

**A conservation easement** is a legal tool by which you voluntarily relinquish some of the above rights, while retaining title to the land.

The terms of conservation easements vary, as each agreement is **tailored to the specific landowner**. However, all prevent subdivision and environmentally damaging forms of development from occurring. Conservation easements are typically granted in perpetuity and remain with the land regardless of ownership.

In most provinces, conservation easements have been made possible through specific legislation or regulations. Regulations differ between provinces.

**In Alberta** they require a conservation easement’s goals to include the **conservation of the environment, agricultural land, scenic values, and/or scientific and educational potential**.

The legislation lays out **who is eligible** to hold the conservation easement you grant. In general, a conservation easement can be held by the crown, a municipality, or land trusts.





# Benefits of a Conservation Easement

**Conservation easements** offer benefits to society in general by contributing immensely to the maintenance of biodiversity, open spaces and a healthy environment. They can safeguard watersheds and wildlife habitat, and preserve or maintain the natural landscapes which provide surrounding residents with clean air, clean water, agricultural products, and scenic beauty.

Conservation easements also provide opportunities for landowners to meet their personal goals for environmental and agricultural stewardship, some financial benefits, and succession planning. The characteristics of conservation easements that can be especially attractive to landowners and the rural community include:

## Conservation of locally valued landscapes

Easements prevent land conversion and fragmentation, maintaining agricultural opportunities and an open landscape for future generations.

As these lands are maintained, so too are the rural community values and the agricultural heritage that depend on these lands.

## Option to work with a private, local organization

Conservation easements are frequently administered by private organizations (many of which are locally based and community driven – e.g. Legacy Land Trust Society) which can bypass the unintended delays often associated with government agencies.





## Benefits

### Financial incentives

Landowners may qualify for an income tax deduction if the easement is determined to be a charitable donation.

The appraised value of the property on which an easement has been placed may be lowered through the relinquishment of development rights, which can reduce capital gains when the land is sold or transferred.

In certain circumstances, conservation easements can be sold to an eligible organization (i.e., land trust, municipality) to reduce debt loads, and to provide return for non-farming heirs.

### Accommodation of landowners' concerns

Terms are negotiated around the needs and desires of the landowner as well as the objectives of the participating organization.

Protection can be provided for both the property's environmental and agricultural features.

A landowner can grant an easement on all or on part of his or her property, and can reserve a building site for a future residence.

The landowner retains title to the land; he or she is free to sell, will, or gift the land subject to the terms of the agreement.

# What are the first steps?



## Do your homework

Deciding to put a conservation easement on your land is a big decision. It is important that you prepare yourself as best you can. You are doing the first step of your preparation right now – reading this booklet, and learning more about conservation easements. There are a number of additional references listed at the back of this booklet to help guide you and outline the other essential steps to take.

## Choose an organization to work with

Most conservation easement laws allow you to put a conservation easement on your land with the crown, a municipality, or a registered charity (e.g. a land trust) which is eligible to hold conservation easements. For a list of the eligible groups in your area, you can contact Environment Canada (see Resources Section).

Landowners decide to put conservation easements on their land for a variety of different reasons. Your piece of mind will depend on [finding an organization that you trust and can work cooperatively with for the years to come](#). Look for an organization who meets your needs, and whose values and goals for preserving the land are similar to yours.

Establishing this relationship is a long, evolutionary process, and will not happen overnight or in a single meeting. You need to take time for discussion, to tour your land together, and to understand what each other's roles and responsibilities would be. There may be weeks, months, or even years between the initial meeting and when the conservation easement is signed.

### Get expert advice

Some of the questions you have about conservation easements, and their effect on your taxes and estate planning, will be answered in this booklet. As mentioned before, you will want to consult a lawyer, tax advisor and/or estate planner.

These people can help you determine what the conservation easement legislation and [regulations are in your area](#), what the [financial benefits](#) might be for you, how a conservation easement would [affect your existing agricultural operation](#), and how granting an easement might fit into your existing [estate planning strategy](#). They can also provide an independent review of the drafted agreement.

As conservation easement legislation is relatively new, and easements can be quite intricate, you may not have a lawyer or tax advisor experienced with these issues. Organizations like Legacy Land Trust Society can help you find the expertise you need.





## First steps



### Determine your needs and desires

Spend some time thinking about what your needs and desires are relative to a conservation easement on your land. Here are some things to consider:

- Do you want to put an easement on **part or all** of your land?
- Would you prefer to put the easement in place **now** or **when you retire**?
- Do you want to **include** the conservation easement **in your will**? (See Retirement and Estate Planning later in this booklet).
- Do you want to **sell** or **donate** a conservation easement (recognizing that very few organizations are able to purchase conservation easements)?

People who have already put conservation easements on their land (who have granted an easement) are one of the best sources of information and advice. If you do not know anyone who has granted one, the organizations eligible to hold easements can put you in touch with these individuals.





## Notes

Eight horizontal light blue bars for writing notes, arranged vertically within a blue border.

# The procedure for granting a conservation easement

**Each conservation easement agreement is different,** but when it comes time to actually put the easement in place, the **procedure is relatively standard**. The organization you have chosen to work with will be knowledgeable about the steps that follow, and can lead you through the details. However, make sure you are comfortable with your understanding of the process in general.

## Review the title to the property

This will be one of the first things the grantee (the organization to whom you grant the easement) will want to do so they can **determine**, among other things, that **you are the legal owner** and what liens and encumbrances might exist on the land.







# Granting a conservation easement

## Consider “ecological gift” certification

If the conservation easement is being donated for environmental purposes, you should ask the eligible organization if it has potential to be certified as an Eco-gift property by Environment and Climate Change Canada as a gift of Ecologically Sensitive Land. This will further increase your income tax benefits (see Calculating your tax deduction or non-refundable tax credit later in this booklet).

According to [www.ec.gc.ca](http://www.ec.gc.ca), ecologically sensitive lands are areas or sites that currently or could in the future, **contribute to the conservation of Canada’s biodiversity and environmental heritage**. Some provinces, including Ontario, Quebec, New Brunswick, and Prince Edward Island, have more precise definitions of ecologically sensitive lands.

**The certification** is done by the **Ministry of the Environment** or delegated authority. The organization you are working with can provide the appropriate contact in your area. It is a good idea to **contact them early in the process** to determine what information they need from you for certification. Many organizations will **help facilitate this process for you**, but ultimately it is the **landowner who applies for Eco-gift certification**.

# Granting a conservation easement

## Draft the conservation easement document

Before formal drafting begins, many organizations will ask you to draft your long-term “vision” for the property. This might be a few bullet points or a short story. It may include some history about the property, why it is special to you, and what you think it can provide in the future.

**The formal drafting** is the core of the whole process. A document is drawn up between you and the organization to whom you have chosen to grant the easement. **The purpose of the written agreement is to outline the rights and responsibilities of each party.**

Because each property is unique, each conservation easement tends to be different. However, there are some basic elements common to all. The following is a breakdown of general sections in all conservation easements, all of which will be covered in detail in the next few pages:

- Guiding Principles
- Rights and Responsibilities
- Remedies
- Property Description
- Restrictions
- Property Management Principles





# Granting a conservation easement

## Guiding principles

The initial section of the agreement lays out the basic premises and foundations of the agreement. It describes the significance of the property, why the conservation easement was created, and the term of the agreement (usually in perpetuity). This section is the cornerstone of the agreement, and may be referred to in the future if there is a question about interpretation.

## Rights and responsibilities

The document should state explicitly what are the rights and responsibilities of the grantor (you) and the grantee (eligible organization= land trust, municipality, or crown). This would include statements regarding what property rights you retain, access rights, the rights and conditions of monitoring and enforcement, modification of the terms of the agreement, and indemnities (the degree to which the parties can or cannot hold each other responsible for actions affecting the property).

## Remedies

There will be a clear description of actions the grantee can take to ensure the spirit of the conservation easement is upheld, including an agreement to address problems in an friendly manner.





# Granting a conservation easement

## Property description

A legal description of the property on which the easement is to be placed is included.

## Restrictions

A final attachment will outline what restrictions, activities, and uses related to the easement property, are **not allowed**.

Restrictions found in conservation easements vary depending upon the desires of the landowner, the focus of organizations to which the easement will be granted, and the characteristics of the property. For example, Legacy Land Trust Society conservation easements typically include prohibitions on:

- Subdivision
- Commercial, residential, and industrial development (though future house sites may be designated within the easement)
- Cultivation of native grasslands
- Alteration of naturally occurring waterbodies.

The drafting of this legal document can perhaps be an intimidating exercise as it contains a lot of complicated legalese. However, remember that the point of the written agreement is to make clear and protect your rights and the rights of the grantee.

# Granting a conservation easement


## Property management principles

This section provides a description of actions or land uses that can or will occur to support the landowner vision. Management plans (often separate from the conservation easement) to deal with weed infestations, restoration activities, or grazing management may be referenced here or in the restrictions.

## Create a baseline report

Once the CE is very close to completed, the grantee (the organization to whom you grant the easement) will create a baseline environmental report which describes the natural values, landscape and developed features, and current uses of the property. This will be the basis for monitoring the terms of the agreement in the future. This document is done by a professional with landowner input. It will be attached to the registered conservation easement, and signed off by the landowner and the grantee.





## The procedure for granting a conservation easement

### Have the easement land appraised

As part of the process to allow a tax receipt to be provided to the landowner for the donation of the conservation easement, the value of the property being donated or sold needs to be determined. It is also necessary to have this information for calculating the tax benefits.

Appraisals of this nature are different from standard property appraisals, and you will need the services of a qualified appraiser who is familiar with conservation easements. Contact information for suitable appraisers is listed in the Resources section of this booklet. The Legacy Land Trust Society, or any eligible organization (i.e., land trust, municipality, or crown) in your area, will know of a suitable appraiser. You will also need to determine which party(s), grantor or grantee, will pay for the appraisal.

### Make the appropriate notifications

The regulations created under the conservation easement legislation in your province list which government departments will need notification of the agreement, and when. You may also need to apply to your mortgage holder for a “postponement” of your mortgage. A postponement of a mortgage is when the land title is changed so that the mortgage is registered behind the conservation easement when it is placed on title.

Finally, a conservation easement does not come into effect until it and its accompanying documentation are registered with the appropriate land titles office. These responsibilities are typically assumed by the organization to whom you granted the easement.





# Notes

A large rectangular area with a thick, hand-drawn orange border. Inside the border, there are eight horizontal, light orange bars of equal length, spaced evenly apart, providing a template for writing notes.



## After the CE is granted

### What happens after the conservation easement is granted?

The conservation easement document will describe several aspects of your future relationship with the grantee.

It is important to note that organizations that can hold conservation easements (i.e., land trusts, municipalities, and the crown) are not interested in becoming the day-to-day managers of the easement property.

What the easement will specify are the terms for environmental monitoring activities, enforcement options, access, proposed changes in land use, alteration of the agreement, and what will happen if the grantee is no longer able to hold the conservation easement.

### Access

There is no requirement under conservation easement legislation to allow public access beyond what you desire. The agreement you work out will allow for the grantee to come onto the land for the purposes of compiling the baseline environmental report, future monitoring, and enforcement. When they plan to do so, the conservation easement agreement usually stipulates that the grantee will provide advance notice, and will ensure they do not interfere with your use and enjoyment of the property.

The legislation in your area regarding your liability for visitors (legal or otherwise) should not be affected, except by any indemnity clauses included in the agreement.

### Monitoring

The grantee will come onto the property periodically to monitor it and ensure the terms of the agreement are being upheld. This usually happens no more than once a year, or when a violation is known or suspected to be occurring.

Establishing the enforcement details may be uncomfortable, but is a necessary part of the conservation easement granting process. **Remember that these provisions will be in place after you pass the land on, so they need to be comprehensive.** It is important to have a clear understanding of what will happen if a violation of the agreement occurs.

The conservation easement agreement should outline a **process for addressing problems**. The first step is always to talk and pledge to pursue solutions in good faith and in a friendly manner. If the grantee reasonably believes you are failing to meet the terms of the agreement, they should agree to notify you immediately. You should then have the opportunity to pursue remediation on your own, and/or be involved in the creation of an action plan to address the problem. If that proves unsuccessful, the matter may go to some sort of arbitration process. If arbitration finds you were not causing a problem, the agreement should state that the grantee will cover the costs of the exercise.

If the conservation value of the land is being permanently damaged by the landowner's activities, the grantee usually has the right to obtain an injunction until an agreement can be reached.

## After granting

### Changes in land use

Land and landowners do not remain static, so neither should the conservation easement agreement. Both parties are involved in making sure the natural and productive values are maintained over time. The conservation easement agreement should take this into account by **laying out your responsibilities in the future regarding physical changes to the property, and proposed changes in its use.**

Occasionally, **something beyond your control may occur (such as a fire or flood), where you are forced to take measures to protect yourself or your property.**

Such cases will be specified in the agreement. In these events, you will likely be required to notify the grantee as soon as possible, but the agreement should ensure you will not be held liable.

As both you and the grantee have an interest in the land, the agreement should provide for **joint involvement in making decisions regarding proposals related to water resources, energy or utility applications, expropriations, reclamation or any activity which may affect the conservation values of the property.**





## Renegotiation / termination of the agreement

Both you and the grantee will want the conservation easement agreement to be **lasting, but at the same time capable of responding to unforeseen factors.**

Conservation easement legislation usually dictates that the terms can be modified by agreement of the parties, provided the amendments do not affect the conservation values of the easement. It should be noted that conditions can also be modified by the appropriate Minister if he/she feels doing so is in the 'public interest.'

The same processes can be used to terminate the agreement, if, for example, the property is no longer able to provide a conservation function. In these cases, (if the easement was donated), **Revenue Canada** must be consulted, as they will assess a penalty of 50% of the fair market value of the donation if the land use changes or easement termination is not approved.

## Dissolution or bankruptcy of the easement holder

It is possible that the conservation easement agreement held by your chosen qualified organization goes into bankruptcy. To prepare for such a case, the agreement should **list an alternative organization who could take over** the easement. Gazing into the future like this is difficult, and it may be more appropriate to simply state in the agreement that the current landowner will decide on the new easement holder, if and when that decision arises. Each organization will also have a statement in its bylaws about what would happen if the organization were to dissolve.

## Tax implications of granting a CE

### What are the tax implications of granting a conservation easement?

Landowners can obtain significant [tax benefits](#) through granting a conservation easement. These benefits can arise in your income tax, your property tax, and/or your estate plan.

#### Income tax benefits

If you [donate](#) a conservation easement, there are [four basic steps](#) for determining the effect on your income taxes:

- Determine the fair market value of the easement
  - Calculate your resulting capital gains
  - Calculate the income you report
  - Calculate the allowable tax deduction or non-refundable tax credit
- (The process is the same if you sell an easement, except that you omit the fourth step).

You may want to follow the example numbers at the end of this section as you read through the description that follows in the next few pages.

### Determining Fair Market Value

Revenue Canada has traditionally used the “before and after” approach for calculating the Fair Market Value of a conservation easement.

Step 1: determine the value of the bare land portion of the property without the conservation easement on it.

Step 2: determine the value of the bare land portion of the property with the conservation easement on it.

The difference between the value of the bare land property without an easement and with an easement is deemed to be the fair market value of the conservation easement. NOTE: the value of any residence on the whole property is not factored in-only the bare land the conservation easement applies to.

The resulting fair market value of an easement will also depend on the potential land uses and how restrictive or non-restrictive the easement is.

For restrictive easements that keep the land in a state that is natural, the value of the easement will be high. For easements with loose restrictions, that allow some development of the land (e.g., tree harvesting), the value of the easement will be low. An example of this is provided on the next page.



# Tax implications

## Fair Market Value example

Original Land Value	Restrictive	Non-Restrictive
\$100 000	\$90 000	\$50 000

**The before-and-after approach** is straightforward, but can be rather tricky in practice, especially if you are granting an easement only on a [portion](#) of your property (i.e., treed or riparian areas). [You will need the services of a qualified appraiser with knowledge of conservation easement appraisal processes.](#) The organization you choose to work with will be able to direct you to a qualified individual.

## Calculating your taxable capital gains

In order to calculate your [tax benefit](#), first you need to know the [effect of the donation on your taxable capital gains](#). The Income Tax Act assumes that you have a capital gain because you have donated your land.

This donation is referred to as a disposition.

To calculate the capital gain resulting from the disposition of your land, the fair market value of the easement lands (CE value) must be determined. The value of the easement is determined from the appraisal. Once you know the [value of the easement, it is subtracted from the adjusted cost base](#). The adjusted cost base calculation is complex and [each person's situation is unique](#), therefore a tax expert should be consulted to determine this.

Taxable Capital Gain Calculation:

Conservation Easement Value (\$) – Adjusted Cost Base (\$)



## Calculating your reported income

The income you report is:

**your regular income + your taxable capital gain** (calculation from p.28)

If the easement has not been certified, or is being **sold rather than donated**, the taxable portion of the capital gain is **half** (1/2). If the easement donation has been certified as a gift of Ecologically Sensitive Land there is no capital gain realized.

**It is necessary to consult the experts** here because determining the adjusted cost base for only the easement is complicated. When it comes to tax time, you will also have to factor in:

- whether you have any other capital gains
- that any capital gain which accrued prior to 1972 is not taxed
- that the easement lands may be considered “qualified farm property” and eligible for a further capital gains exemption.



### Calculating your tax deduction or non-refundable tax credit

If you have [donated](#) a conservation easement, you will be eligible for a federal income tax receipt based on the fair market value of the easement as calculated on the previous pages. The rules for this calculation have changed a couple of times in the last few years to more appropriately reward easement donors. These rules were current as of March, 2016. [The annual donation amount you can claim usually falls under two situations.](#)

The first situation is where the conservation easement you have donated has been certified as a gift of Ecologically Sensitive Land. When this occurs your donation is equal to 100% of your income.

The second situation is where the conservation easement you have donated is a regular gift. The donation limit is the sum of:  
75% of your reported net income; plus  
25% of the taxable capital gain

If the [donor is incorporated](#), this amount is deducted from the corporation's income.

If the [donor is an individual](#), this amount is used to calculate a non-refundable tax credit in the same fashion other charitable donations are factored into your taxes. This tax credit can be used to reduce tax in the year of the donation, to a maximum of 100% of the tax.

**If the donation** has been certified as a [gift of Ecologically Sensitive Land](#), any unused portion can be carried forward for corporations and for individuals for use over as many as ten (10) years. If the gift has [not been certified](#), any extra amounts can be carried forward up to five (5) years.

Tax implications may be critical to your decision to grant a conservation easement.

It is worthwhile noting that the Revenue Canada Rulings Directorate Service can provide a binding, advance ruling on how it will treat the proposed conservation easement donation.

## Examples

Following are two examples of a [regular gift](#) and a [certified Eco-gift](#) donation.

### Regular Gift

Let's assume that a donor has a property worth \$500,000 without a conservation easement, but that value changes to \$350,000 once the conservation easement has been granted on that property. The adjusted cost base on the property is \$25,000 and costs of disposition are \$2,500. The donor has regular income of \$45,000 (and remains at that level for the example), and claims no capital gains deductions.

# Tax implications

Calculations	Sample #'s	Notes
Fair Market Value (FMV) of conservation easement	\$500 000 - \$350 000 \$150 000	- FMV of property before CE minus FMV of property after CE equals the CE value - Landowner is issued a tax receipt for \$150,000 by the organization they donated
Capital Gain Calculation	\$150 000 - \$25 000 - \$2 500 \$122 500	- Assume adjusted cost base of \$25,000 - Costs of disposition of \$2,500 - No other capital gains, nor exemptions
Taxable Capital Gain	\$61 250	- Half of the capital gain related to the CE
Reported net income for year	\$45 000 + \$61 250 \$106 250	- Regular income of \$45,000 - Taxable capital gain (\$122,500 x 50%)
Tax deduction/credit *		
Annual donation limit in the first year	\$79 687.50 + \$15 312.50 \$95 000	- 75% of net income - Plus 25% of taxable capital gain (61,250 x 25%) - The same rule applies until the total receipt is used up (see successive Tax years table)
Individual donor's non-refundable tax credit	\$95 000 x .54**	- Assume no other charitable gifts - Any unused portion can be used for five successive years until the entire receipt is used up
Maximum for the year	\$51 300	

\* Incorporated donors receive an income tax deduction; individuals use the donation limit to calculate a non-refundable tax credit.

\*\* Tax credits for donations are calculated at a combined Federal and Provincial rate; 25% for the first \$200 and 54% for the remainder. For the purposes of this example, the entire amount is calculated using 54%.



## Successive tax years

As the entire receipt was not used in the year of donation, the donor can carry the remaining amount forward for as many as five additional years. In each of those years the donor can deduct up to 75% of their income, until the full value of the tax receipt has been used. Assuming the donor's net income stays at \$45,000 per year the calculation would look like this:

Tax year	Annual donation limit (75% of net income)	Unused donation available	Federal and Provincial Charitable Tax Credit
Year 1*	95 000	150 000	34 050**
Year 2	33 750	86 944	9 092***
Year 3	33 750	70 170	9 092***
Year 4	33 750	52 270	9 092***
Year 5	33 750	36 433	9 092***
Year 6	33 750	nil (expired)	

\* As calculated above

\*\* The recipient would use as much of the \$150,000 to reduce his or her taxes to nil and carry the remaining amount to future years. We have estimated this to be \$63,056 for the current year. This will result in Donation Tax Credit of \$34,050 ( $63,056 \times 54\%$ )

\*\*\*In subsequent years he or she will only need to use \$16,837 of the available donations to bring their taxes to nil. This results in a tax credit of \$9,092. ( $16,837 \times 54\%$ )

# Tax implications

## Eco-Gift

Let's assume the same situation but the conservation easement has been certified as Ecologically Sensitive Land. The property is worth \$500,000 without a conservation easement, but that value changes to \$350,000 once the conservation easement has been granted on that property. The adjusted cost base on the property is \$25,000 and costs of disposition are \$2,500. The donor has regular income of \$45,000 (and remains at that level for the example), and claims no capital gains deductions.

Calculations	Sample #'s	Notes
<b>Fair Market Value</b> (FMV) of conservation easement	\$500 000 - \$350 000  \$150 000	- FMV of property before CE minus FMV of property after CE equals the CE value - Landowner is issued a tax receipt for \$150,000
<b>Capital Gain</b> Calculation	\$150 000 - \$25 000 - \$2 500  \$122 500	- Assume adjusted cost base of \$25,000 - Costs of disposition of \$5,000 - No other capital gains, nor exemptions
<b>Taxable Capital Gain</b>	\$0	- Donation is certified as an Eco-gift
<b>Reported net income</b> for year	\$45 000 + \$0  \$45 000	- Regular income of \$45,000 - No capital gain due to gift being eco-gift certified

# Tax implications

Calculations	Sample #'s	Notes
Tax deduction/credit *		
Annual donation limit in the first year	\$45 000	<ul style="list-style-type: none"> <li>- Because the donation has been certified as an Eco-gift, the donation can be up to 100% of the reported net income</li> <li>- The same rule applies until the total receipt is used up (see successive Tax years table)</li> </ul>
Individual donor's non-refundable tax credit	\$45 000 x .54**	<ul style="list-style-type: none"> <li>- Assume no other charitable gifts</li> <li>- Any unused portion can be used for ten successive years until the entire receipt is used up</li> </ul>
Maximum for the year	\$24 300	

\* Incorporated donors receive an income tax deduction; individuals use the donation limit to calculate a non-refundable tax credit.

\*\* Tax credits for donations are calculated at a combined Federal and Provincial rate; 25% for the first \$200 and 54% for the remainder. For the purposes of this example, the entire amount is calculated using 54%.



# Tax implications

## Successive tax years

As the entire receipt was not used in the year of donation, the donor can carry the remaining amount forward for as many as 10 additional years. Since this is an example of an [Eco-gift donation](#), in each of those years the donor can deduct up to 100% of their income until the full value of the tax receipt has been used. Assuming the donor's net income stays at \$45,000 per year the calculation would look like this:

Tax year	Annual donation limit	Unused donation available	Federal and Provincial Charitable Tax Credit
Year 1*	45 000	150 000	9 092
Year 2	45 000	105 663	9 092
Year 3	45 000	88 826	9 092
Year 4	45 000	71 989	9 092
Year 5	45 000	55 152	9 092
Year 6	45 000	38 315	9 092
Year 7	45 000	21 478	9 092
Year 8	45 000	4 641	9 092
Year 9	45 000	0	2 506
Year 10	45 000	0	
Year 11	45 000	0	
Total tax credits			\$66 150

\* As calculated above

\*\* The recipient would use as much of the \$150,000 to reduce his or her taxes to nil and carry the remaining amount to future years. We have estimated this to be \$63,056 for the current year. This will result in Donation Tax Credit of \$34,050 ( $63,056 \times 54\%$ )

\*\*\*In subsequent years he or she will only need to use \$16,837 of the available donations to bring their taxes to nil. This results in a tax credit of \$9,092. ( $16,837 \times 54\%$ )



### Property taxes

Whether or not there is a change in your property taxes as a result of granting a conservation easement is difficult to determine, and is dependent entirely on [individual circumstances](#). The factors that might affect this are [a change in the assessed value of the property](#), and [whether the land is re-classified as a result of the easement](#).

The land on which the easement is placed may already be classified as agricultural land, and taxed at a rate based on that assumption. An easement that prohibits sub-division, and allows grazing will likely still be classified (and taxed) as agricultural land.

Every case is different. Check with your local taxing authority and possibly your lawyer to understand the property tax ramifications of granting an easement.

### Retirement and estate planning

All of the benefits of conservation easements described previously can easily translate into retirement planning tools.

The sale of your property can lead to a significant capital gain, even if you are eligible for the one-time \$1,000,000 capital gains exemption for qualified farm property. The donation of a conservation easement on one part of your land, for example, can help offset the capital gains payable after the sale of the rest of your land. It also leads to great [peace of mind knowing that the land you stewarded will have its productive capability guaranteed after your retirement](#).





## Tax implications

Conservation easements can also be used as an [estate planning tool](#). On death, income taxes can be 46%, or higher depending on your provincial tax rate. Even if you are eligible to roll the land over to your spouse, he or she may face those taxes on death. Heirs can be forced to sell part or all of the property to pay those taxes. There is, again, no assurance that the land will continue to be stewarded as you have taken care of it.

A conservation easement can help by [reducing the value of your taxable estate, and by ensuring that the land will retain its agricultural productivity](#). As well, you can make a [provision in your will for a conservation easement to come into effect](#) on your death. This will help offset the income taxes that might be payable at that time. Be sure you understand all the implications of waiting until your death for a conservation easement to be granted. For example, if the land is sold prior to your death, the gift of a conservation easement in the will lapses. A will can also be challenged, with the possible result that anything which reduces the value of the estate (like a conservation easement) is disallowed.

As mentioned before, the process of granting a conservation easement can take up to a year or years. [If you are certain that you want to put a conservation easement on our land you may want to have your will modified to ensure the procedure will continue through your executor in the event of your death](#). A similar precaution can be taken through enduring power of attorney to safeguard the process in the event of your incapacity.

Like most aspects of conservation easement agreements, their use as retirement or estate planning tools can be quite complicated. Talk to your lawyer, tax advisor and estate planner to understand the implications for you.



A large rectangular area with a dark, textured border, containing eight horizontal grey lines for writing.



## Resources

This booklet provides an **overview** of what is a complicated body of knowledge. There are a variety of **organizations and publications listed below** that can give you more information about conservation easements, or who you may need to contact in the process.

The **flexibility** that the donor and grantee have in designing conservation easements is one of this tool's greatest strengths. However, that means you need to get detailed information specific to your situation from your lawyer, tax advisor, and estate planner. An eligible grantee / organization like **Legacy Land Trust Society** can put you in touch with people who have specialized knowledge of conservation easements.

### Organizations

Appraisal Institute of Canada  
National Office  
613-234-6533  
info@aicanada.ca  
1-888-551-5521

Appraisal Institute of Canada  
Alberta Office  
403-207-7892  
aic.alberta@shawlink.ca

Canada Customs and Revenue Agency  
Charities Directorate  
Ottawa, ON K1A 0L5  
1-800-267-2384  
Website: <http://www.cra-arc.gc.ca/chrts-gvng/chrts/cntct/cntct-eng.html>



### Canadian Association of Gift Planners

14 Chamberlain Avenue, Suite 201A

Ottawa, ON K1S 1V9

Ph: (613) 232-7991

Fax: (613) 232-7286

Toll Free: 1-888-430-9494

[www.cagp-acpdp.org](http://www.cagp-acpdp.org)

### Environment Canada

9250 49th ST NW

Edmonton AB T6B 1K5

Telephone: (780) 951-8826

Fax: (780) 495-2615

Email: [ec.pde-egp.ec@canada.ca](mailto:ec.pde-egp.ec@canada.ca)

(Environment Canada maintains a list of organizations eligible to hold conservation easements)

[www.ce-alberta.ca](http://www.ce-alberta.ca)

The Environmental Law Centre and the Miistakis Institute have conducted research and supported practice in relation to conservation easement policy and implementation since the tool was initially considered in Alberta. It has increasingly become apparent through the organizations' work that adoption of conservation easements as a planning and preservation tool needed an up-to-date hub for relevant information. This information would help landowners, municipalities, decision-makers, and land trusts when considering how to fulfill their conservation needs using easements.

This website fills that information gap by answering basic and advanced questions about conservation easements in Alberta: the who, what, where, when, why, and how of conservation easements. It answers the fundamental questions of how conservation easements work, and includes practical resources like checklists, templates, and links to relevant resources such as land trust profiles.

