



# Conservation Easements for LANDOWNERS



**LEGACY**  
LAND TRUST  
SOCIETY

# Acknowledgements

Legacy Land Trust Society is grateful to Southern Alberta Land Trust Society for drafting the first version of this booklet; and to the Environmental Law Centre and the Miistakis Institute for the information provided on the “Conservation Easements In Alberta” ([www.ce-alberta.ca](http://www.ce-alberta.ca)) that was used to update and adapt this version of a Landowner’s Guide to Conservation Easements.

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



Booklet edit and redesign  
by Rachel Andres  
[mail@rachelandres.ca](mailto:mail@rachelandres.ca)



Legacy Land Trust Society is grateful for the support provided by:



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## About Legacy Land Trust Society

**Legacy Land Trust Society** is a charitable, non-profit society dedicated to conserving the ecological, agricultural, and historical 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 Legacy Land Trust Society and its work, contact:

Legacy Land Trust Society  
4801 – 49 Avenue  
Olds, Alberta T4H 1E1  
403-556-1029

[info@legacylandtrustsociety.ca](mailto:info@legacylandtrustsociety.ca)  
[www.legacylandtrustsociety.ca](http://www.legacylandtrustsociety.ca)





# Contents

Acknowledgements	1
About Legacy Land Trust Society	2
Introduction	4
How to use this booklet	5
What is a Conservation Easement?	6
Benefits of a Conservation Easement	7
What are the first steps?	9
Granting a Conservation Easement	13
After the CE is granted	21
Tax implications of granting a CE	25
Resources	39



# Introduction

**Conservation Easements** offer an option for private landowners to participate in long-term conservation and stewardship.

These agreements with private landowners support the broader community by helping keep land intact as working landscapes, wildlife habitat and viewsapes, as well as contributing to air and water filtration.

As a landowner, if you enter into a conservation easement, there are associated financial benefits that can help you to pass your property onto the next generation or future landowners, while conserving it as an agricultural property or natural landscape, while also protecting it's historical or heritage values.



## How to use this booklet

A variety of stewardship options—including conservation easements—are available to landowners.

**The primary goal** of this booklet is to outline what a conservation easement is 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. Although they are a flexible tool that helps both the landowner and the land trust meet their conservation goals, they 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 exchange some rights for other forms of compensation while still retaining title to the land.

The terms of conservation easements vary, as each agreement is **tailored to the specific landowner**. However, they normally restrict 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** the province requires 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 a province, a municipality, or a land trust **such as Legacy**.





# 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 them.

## Option to work with a charitable organization dedicated to conservation

Conservation easements are frequently administered by private organizations, many of which are locally based and community-driven such as Legacy Land Trust Society. Community organizations like Legacy are dedicated to conservation and charitable objectives within the community.



## Benefits

### Financial incentives

Landowners may receive a tax receipt for the value of the conservation easement.

The fair market value of the property on which an easement has been placed may be lowered by relinquishing certain development rights. The difference between fair market value of the property *before* the conservation easement and *after* the conservation easement equals the value of the tax receipt, which can reduce capital gains when the land is sold or transferred.

In certain circumstances, conservation easements may be purchased by an eligible organization such as a land trust or municipality to reduce farm debt loads, and to provide funds for non-farming heirs.

### Meeting the landowner's concerns

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

Legislation that enables conservation easements allows for protection of a property's environmental, aesthetic, and agricultural features.

A landowner can place an easement on all or 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

Alberta conservation easement legislation allows you to enter into a conservation easement on your land with the province, a municipality, or a registered charity with a land conservation purpose. 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 peace 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 that 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 will 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 an 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 direct your advisors to useful resources to help you find the expertise you need.



## First steps



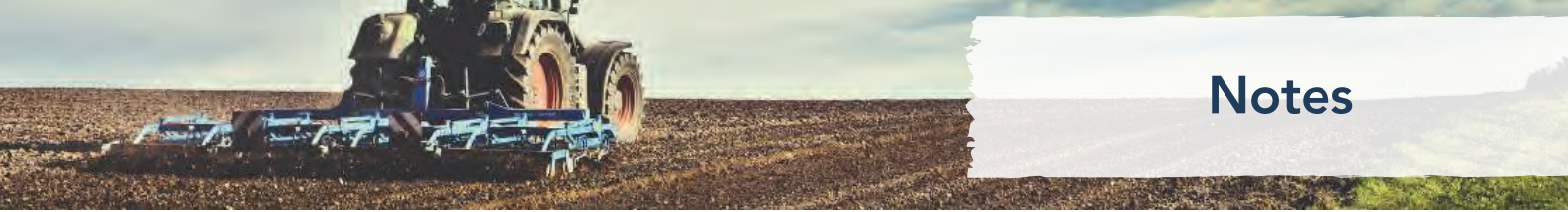
### Determine your needs and desires

Spend some time thinking about your long-term vision for the land, and then consider your needs and desires with respect to a conservation easement. Here are some things to give thought to:

- 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” page 36.)
- 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 are one of the best sources of information and advice. If you do not know anyone who has granted an easement, Legacy Land Trust can put you in touch with these individuals.





## Notes

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# 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 granted for environmental purposes, you should ask the eligible organization if it has potential to be certified as an Ecogift property by the government of 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 **Environment and Climate Change Canada** 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 Ecogift certification.

# Granting a Conservation Easement

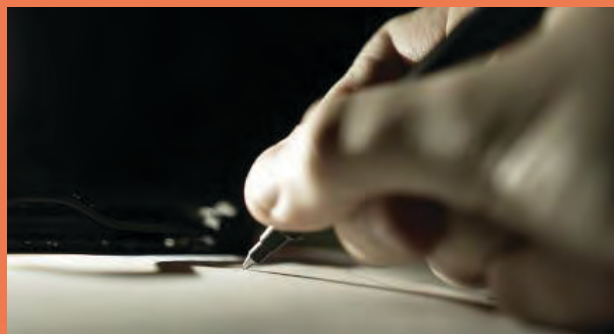
## Draft the conservation easement document

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 is included in the rights and responsibilities of the grantor (you) and the grantee (eligible organization: land trust, municipality, or province). 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

This section will outline what restrictions, activities, and uses related to the easement property are not allowed. And which are allowed, but with limitations. 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 extensive legalese. However, remember that the point of the written agreement is to make clear and protect your rights, the rights of future landowners, and the rights of the conservation easement holder.

# 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 conservation vision of the property. 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, you and the organization you choose to work with will hire a professional to create a baseline documentation report which provides a snapshot of the natural values, landscape and developed features, and the current and potential 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 is signed off by the landowner and the qualified organization.







# Granting a Conservation Easement

## Have the easement land appraised

In order to issue 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.

Appraisals of this nature are unique compared to standard property appraisals. 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. Legacy Land Trust Society, or any eligible organization in your area, will know of a suitable appraiser.

Often the conservation organization will cover the cost of the appraisal, but sometimes the cost of the appraisal will be the landowners' responsibility.

## Make the appropriate notifications

The conservation easement registration regulations created under the Alberta Land Stewardship Act lists 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

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## 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.

The easement will specify 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 make provision for the grantee to come onto the land for the purposes of compiling the baseline documentation report, future monitoring, and enforcement.

The conservation easement agreement will stipulate that the grantee will provide notice in advance of monitoring.

### Monitoring

The grantee will come onto the property periodically to monitor the conservation values and ensure the terms of the agreement are being upheld. This usually happens no more than once a year, or when an infraction 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 will agree to notify you immediately. You will 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 involved.

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.



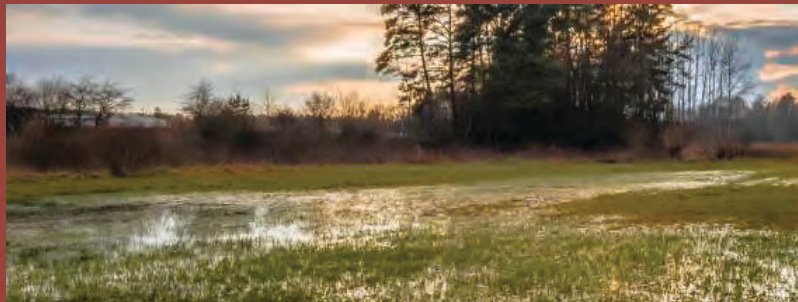
### Changes in land use

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 regarding future physical changes to the property, and proposed changes in the use of the property.**

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 parties 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.**

Alberta's conservation easement legislation indicates 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), **Canada Revenue Agency (CRA)** must be consulted, as it may assess a 'change of use' 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 qualified organization holding your conservation easement may have to wind up operations as a result of insolvency or other reasons. To prepare for such a case, the agreement should **identify that an alternative organization will take over the easement.** Each organization also has 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 may apply to 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

Canada Revenue has traditionally accepted 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 with an easement and with an easement is deemed to be the fair market value of the conservation easement. NOTE: Since the value of any residence and typical building is rarely affected by the conservation easement, only the value of the bare land is factored in.

The resulting fair market value of an easement will **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 higher. For easements with loose restrictions—for example, those that allow some development of the land such as tree harvesting—the value of the easement will be more modest. An example of this is provided on the next page.



# Tax implications

## Fair market value example for conservation easements

Original Land Value

More Restrictive

Less Restrictive

\$100 000

\$75 000

\$35 000

**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 and, often, the organization will help facilitate this process.

## 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 deems that you have triggered a capital gain because by donating a conservation easement, you have disposed of an interest in your land.

This type of donation is referred to as a deemed disposition.

To calculate the capital gain resulting from a deemed 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](#), so consult a tax expert to perform the calculations for you.

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.27)

If the easement has not been certified as an Ecogift, 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
- any capital gain which accrued prior to 1972 (this is not taxed)
- 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 described above. 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 there is no limit to the total value of the ecological gift tax receipt eligible to be claimed in a given year.

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 otherwise payable.

**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 CRA Rulings Directorate Service can provide a binding, advance ruling on how it will treat the proposed conservation easement donation.

## Examples

Following are examples of a [regular gift](#) and a certified [Ecogift](#) 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	$\$500\,000$ $- \$350\,000$ $\$150\,000$	<ul style="list-style-type: none"> <li>• FMV of property before CE minus FMV of property after CE equals the CE value</li> <li>• Landowner is issued a tax receipt for \$150,000 by the organization they donated to</li> </ul>
Capital Gain Calculation	$\$150\,000$ $- \$25\,000$ $- \$2\,500$ $\$122\,500$	<ul style="list-style-type: none"> <li>• Assume adjusted cost base of \$25,000</li> <li>• Costs of disposition of \$2,500</li> <li>• No other capital gains, or exemptions</li> </ul>
Taxable Capital Gain	$\$61\,250$	<ul style="list-style-type: none"> <li>• Half of the capital gain related to the CE</li> </ul>
Reported net income for year	$\$45\,000$ $+ \$61\,250$ $\$106\,250$	<ul style="list-style-type: none"> <li>• Regular income of \$45,000</li> <li>• Taxable capital gain (<math>\\$122,500 \times 50\%</math>)</li> </ul>
Tax deduction/credit*		
Annual donation limit in the first year	$\$79\,687.50$ $+ \$15\,312.50$ $\$95\,000$	<ul style="list-style-type: none"> <li>• 75% of net income</li> <li>• Plus 25% of taxable capital gain (<math>61.250 \times 25\%</math>)</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	$\$95\,000$	<ul style="list-style-type: none"> <li>• Assume no other charitable gifts</li> <li>• Any unused portion can be used for five successive years until the entire receipt is used up</li> </ul>
Maximum for the year	$\times .54^{**}$ $\$51\,300$	

\* 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 four 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	26 320**
Year 2	33 750	89 102	7 329***
Year 3*	33 750	72 572	7 329***
Year 4	33 750	56 042	7 329***
Year 5	33 750	39 512	7 329***
Year 6	33 750	22 982	7 329***

\* As calculated on page 31.

\*\* The recipient would use as much of the \$150,000 necessary to reduce taxes to nil in year 1. The remaining amount would be carried forward to future years. We have estimated this to be \$60,898 in year 1. This will result in a Donation Tax Credit of \$26,320 (\$200 at 25% plus 50% x \$41,270 which takes Alberta provincial tax to \$0, then 29% of \$19,428 to eliminate the remaining federal tax).

\*\*\*In subsequent years, using \$16,530 of the available donation receipt is needed to bring taxes to nil. This results in a tax credit of \$7,329 (\$200 at 25% plus 50%\* \$12,105 which takes Alberta provincial tax to \$0, then 29% of \$4,225 to eliminate the remaining federal tax).

# Tax implications

## Ecogift

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.

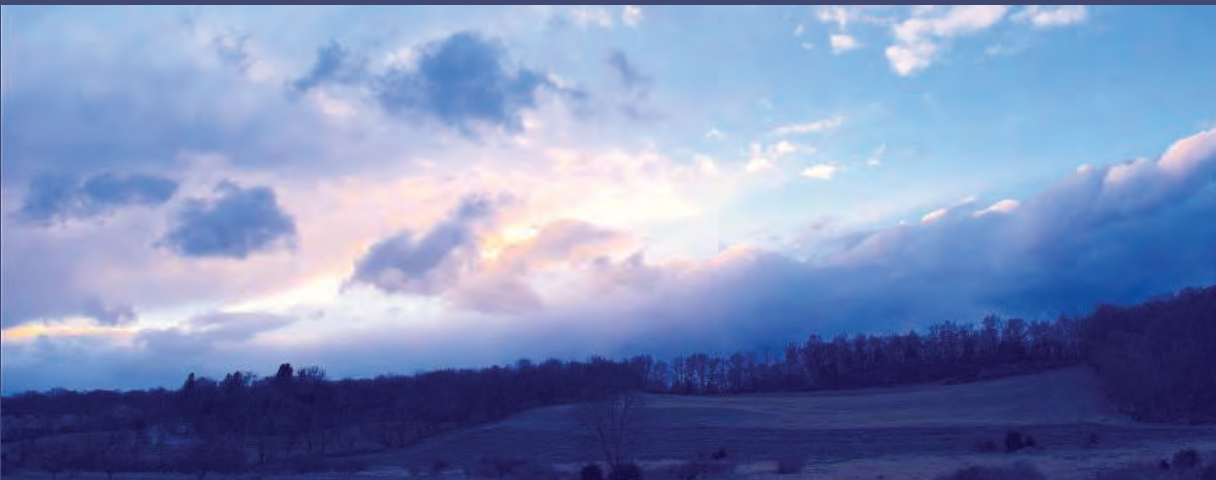
Calculations	Sample #'s	Notes
Fair market value (FMV) of conservation easement	\$500 000 - \$350 000 \$150 000	<ul style="list-style-type: none"><li>• FMV of property before CE minus FMV of property after CE equals the CE value</li><li>• Landowner is issued a tax receipt for \$150,000</li></ul>
Capital gain Calculation	\$150 000 - \$25 000 - \$2 500 \$122 500	<ul style="list-style-type: none"><li>• Assume adjusted cost base of \$25,000</li><li>• Costs of disposition of \$5,000</li><li>• No other capital gains, nor exemptions</li></ul>
Taxable capital gain	\$0	<ul style="list-style-type: none"><li>• Donation is certified as an Ecogift</li></ul>
Reported net income for year	\$45 000 + \$0 \$45 000	<ul style="list-style-type: none"><li>• Regular income of \$45,000</li><li>• No capital gain due to gift being Ecogift certified</li></ul>

# 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 Ecogift, 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	x \$45 000 .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

If the entire receipt was not used in the year of donation, the donor can carry the remaining amount forward for as many as 9 additional years. Since this is an example of an Ecogift 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	7 329
Year 2	45 000	133 470	7 329
Year 3	45 000	116 940	7 329
Year 4	45 000	100 410	7 329
Year 5	45 000	83 880	7 329
Year 6	45 000	67 350	7 329
Year 7	45 000	50 820	7 329
Year 8	45 000	34 290	7 329
Year 9	45 000	17 760	7 329
Year 10	45 000	1 230	565
Year 11	45 000	0	0

Total tax credits

\$66 526

\* As calculated on page 34.

\*\* The recipient would use as much of the \$150,000 necessary to reduce taxes to nil in year 1. The remaining amount would be carried forward to future years. We have estimated this to be \$16,530 in year 1 and subsequent years, as no capital gain is realized in year 1. This results in a tax credit each year of \$7,329 (\$200 at 25% plus 50% x \$12,105 which takes Alberta provincial tax to \$0, then 29% of \$4,225 to eliminate the remaining federal tax). In year 10 only \$1,230 of the donations remain which result in a donation tax credit of \$565 (being 25% of the first \$200 then 50% x \$1,030).

\*\*\*As the donations run out before the end of the carryforward period, and income is the same every year - the donations could be averaged out over the donation year, and subsequent 10 carry forward years (11 claiming periods in total) to achieve higher donation tax credits (due to utilizing more of the 50% donation tax credit rate). This would result in additional tax credits of \$4,851 over the 11 year period.

### 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 the [local municipality](#). 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.

Check with your local taxing authority to understand any 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 greater [peace of mind knowing that the land you stewarded will have its productive capability guaranteed after your retirement](#).

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 their death. Heirs can be forced to sell part or all of the property to pay those taxes. Also, without a conservation easement, there is no assurance that the land will continue to be stewarded as you have taken care of it.


## Tax implications

A conservation easement can help by reducing the value of your taxable estate and by ensuring that the land will retain its environmental values and/or agricultural productivity. 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. It is essential when considering this type of conservation easement that the land trust you are planning to donate the conservation easement to is engaged early in the process. This will ensure they are able to accept your donation at some future date. Each land trust has an array of conditions such as type of property, financial resource requirements, suitability of restrictions, etc. which must be aligned before they could accept the donation. Most land trusts will work with the landowner in life to draft the conservation easement so that, when it is time to execute the agreement, everything is ready.

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 transferred prior to your death, the gift of the 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) may be disallowed.

As mentioned before, the process of granting a conservation easement can take more than a year. If you are certain that you want to put a conservation easement on your land, you may want to have your 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 easements, their use as retirement or estate planning tools are unique to each situation. Talk to your lawyer, tax advisor, and estate planner to understand the implications to your personal circumstances.



A large rectangular area with a dark, hand-drawn border. Inside the border are eight horizontal light blue lines, providing space for writing notes.



## Resources

This booklet provides an **overview** of a significant body of knowledge. There are a variety of **resources 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 grantor 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 Revenue Agency  
Charities Directorate  
Ottawa, ON K1A 0L5  
1-800-267-2384  
<https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/claiming-charitable-tax-credits.html>

Canadian Association of Gift Planners  
14 Chamberlain Avenue, Suite 201A  
Ottawa, ON K1S 1V9  
613-232-7991  
1-888-430-9494  
[www.cagp-acpdp.org](http://www.cagp-acpdp.org)

Environment and Climate Change Canada  
9250 49th ST NW  
Edmonton AB T6B 1K5  
780-951-8826  
[ec.pde-egp.ec@canada.ca](mailto:ec.pde-egp.ec@canada.ca)

<https://www.canada.ca/en/environment-climate-change/services/environmental-funding/ecological-gifts-program/publications/donation-income-tax-scenarios.html>

[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 become increasingly 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.

