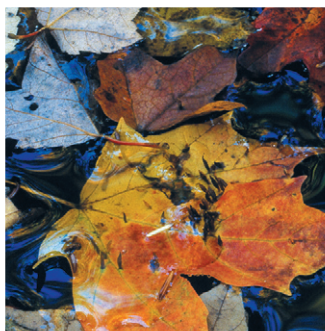


THE ECOLOGICAL GIFTS Program IN QUEBEC A STEP-BY-STEP GUIDE!

A Guide for Landowners
and Recipient Organizations



Environment
Canada

Environnement
Canada

Canada



To contact the regional office of Environment Canada:

Ecological Gifts Program
Environment Canada
1141, route de l'Église
P.O. Box 10100
Québec, QC G1V 4H5
Tel.: (418) 649-6857
Fax: (418) 649-6475
Ecological Gifts Program regional Web page:
www.qc.ec.gc.ca/faune/pde-egp/pde-egp.html

**To contact the Ministère du Développement durable,
de l'Environnement et des Parcs:**

Information Centre
Édifice Marie-Guyart, 29th Floor
675, boul. René Lévesque E.
Québec, QC G1R 5V7
Tel.: (418) 521-3830 ou 1 800 561-1616
Fax: (418) 646-5974
info@mddep.gouv.qc.ca

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THE ECOLOGICAL
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IN QUEBEC
A STEP-BY-STEP GUIDE!



Administered by Environment Canada, the Ecological Gifts Program encourages private landowners to ensure the conservation of their ecologically sensitive lands for future generations by donating their property or a partial interest in land (e.g., a servitude) to a recipient organization. Landowners who make donations can benefit from tax incentives under the provisions of the *Income Tax Act* of Canada. Additional tax benefits may also be provided under provincial tax legislation.

Three certification processes are required to benefit from the preferential tax treatment of an ecological gift. In Quebec, in accordance with administrative agreements, Environment Canada and the Ministère du Développement durable, de l'Environnement et des Parcs share responsibilities relating to ecological gifts.

This brochure, which is intended for owners of private lands in Quebec and recipient organizations, outlines the steps required to make an ecological gift. Each step explains what has to be done, the documents that must be provided, and the responsibilities of those involved¹.

1. The steps as described here have been simplified. Some details have been omitted for conciseness. Please contact the regional office of Environment Canada for more information.



1. First contacts

Initial steps taken by the landowner (donor) with regard to the recipient organization of his or her choice

Lands or servitudes may be donated to the following eligible recipients: the Canadian government, the Quebec government, municipalities, municipal or public bodies that perform a function of government, and environmental charities, such as nature conservation groups.

- A meeting between the two parties to discuss the proposed gift.
- Ensuring landowner (donor) awareness of the donation process.
- A visit to the property.
- Verification of the terms and requirements of the Ecological Gifts Program.

Obtain professional advice

At this stage, it is important that the donor be fully informed about the legal and fiscal implications of an ecogift.

- THE DONOR SENDS A LETTER TO THE RECIPIENT INDICATING HIS OR HER INTENTION TO DONATE A PROPERTY OR A SERVITUDE FOR CONSERVATION PURPOSES.

Before accepting an ecogift, a recipient should ensure that it has the necessary human and financial resources for long-term conservation of the property.









2. The donor submits a request for a tax certificate (Visa fiscal)

**Donor's request to the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP)
(in cooperation with the recipient organization)**

The tax certificate, or *Visa pour dons de terrains ou de servitudes ayant une valeur écologique* (Visa fiscal), certifies the ecological value of the property and the recipient of the ecogift.

THE DONOR SENDS A WRITTEN REQUEST TO THE REGIONAL OFFICE OF THE MDDEP IN ORDER TO RECEIVE A TAX CERTIFICATE (VISA FISCAL).

The request must include the following:

-  a letter to the MDDEP signed by the donor confirming the donor's intention to donate a property or a conservation servitude to an identified recipient. The letter should include the full contact details of the donor and the recipient;
-  a legal description of the property: lot number(s) of the proposed donation, cadastre, and registration division;
-  the surveyed area of the property or the servitude to be donated (or the approximate area, if not surveyed);
-  a copy of the title to property;
-  in the case of a servitude, a description of the servitude, its location on the property, and any attached terms and conditions;
-  a copy of the property tax account;
-  a plan or map of the property delineating the area of the proposed gift, whether title to property or a servitude;
-  information on the property's physical and ecological characteristics.

All relevant information that describes the property's ecological character should be sent to the MDDEP: for example, a list of reports or documents about the flora, the fauna, the natural areas of the property or the region, the species surveyed, or the presence of species at risk.



3. Analysis of the donor's request for a tax certificate (Visa fiscal)

Certification process followed by the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) when issuing a tax certificate (Visa fiscal)

Certification of the property's ecological value

In Quebec, the determination of a land's ecological value (or ecosensitivity) is based on one or more of the following criteria:

- The property shows natural features that justify an interest in conserving its biological, ecological, floristic, faunal, geological, geomorphic, or landscape elements.
- The property is a natural area serving as a buffer between a development zone and an environmentally sensitive site (e.g., a body of water, wetland, exceptional forest, plant or wildlife habitat).
- The property is a natural space of environmental significance because of its geographic or social role.
- The property is a degraded natural site that is uncontaminated and has a good chance of being restored within a reasonable time period.

The MDDEP also makes a site visit.

Certification of the recipient

Charities must apply (or must have applied) to Environment Canada to be eligible to receive ecological gifts. Governments, municipalities, and municipal or public bodies that perform a function of government are automatically eligible as recipients.

Request for eligibility status from Environment Canada

To qualify as an eligible recipient of an ecological gift, a charitable organization must demonstrate that it has registered charity status with the Canada Revenue Agency and that its primary purpose is conservation and protection of natural heritage or that its objectives include a similar intention.

The request for eligibility must be sent to: National Coordinator, Ecological Gifts Program, Environment Canada, Canadian Wildlife Service, 351 St. Joseph Blvd., Gatineau, QC K1A 0H3 or by fax at (819) 953-3575.

Environment Canada keeps an up-to-date list of eligible charities. However, an eligible charity must be certified each time it receives an ecogift.

In Quebec, a charity that receives an ecogift is certified by the MDDEP.

The MDDEP certifies charitable organizations that have registered charity status with Revenu Québec and whose primary purpose is the conservation of Quebec's ecological heritage and natural spaces. The organization's charter must contain provisions that, in the event the organization is dissolved, the lands or servitudes that they own will be transferred to an organization with a similar mission.

☐ THE RECIPIENT PROVIDES THE MDDEP WITH THE FOLLOWING INFORMATION:

- ☐ full contact details of recipient;
- ☐ for a charity, its charitable registration number issued by Revenu Québec and the Canada Revenue Agency;
- ☐ a copy of its letters patent or incorporation papers and its general bylaws;
- ☐ the resolution from the board or the municipal council, or a letter from the recipient indicating its interest in receiving the donation;
- ☐ a brief explanation of the organization's mission and, if possible, examples of previous projects undertaken;
- ☐ its intentions about the management and future use of the property.

If the result of the analysis of the property's ecological value is positive, the regional director of the MDDEP sends a letter of intent notifying the donor that a tax certificate (Visa fiscal) will be issued once the donation that conforms to the agreed terms has been completed before a notary.

The letter of intent is issued within 10 to 15 days.



4. What is the value of the gift?

Appraisal review and determination of fair market value by Environment Canada (EC)








THE DONOR COMMISSIONS AN INDEPENDENT APPRAISAL TO ESTABLISH THE PROPERTY'S FAIR MARKET VALUE.

- For straightforward ecogifts appraised at less than \$25,000, the appraisal report must be prepared by a chartered appraiser or a person with established competence in real estate.
- For all other ecogifts, the appraisal report must be prepared by a chartered appraiser who is a member of the *Ordre des évaluateurs agréés du Québec* or by an individual holding one of the designations listed in the *Guidelines for Appraisals* (available from the regional EC office).
- The selected appraiser must follow the *Guidelines for Appraisals* established by EC.
- If the gift is a servitude, the appraiser must have a dated copy of the servitude and append it to the appraisal report.

THE DONOR SUBMITS THE APPLICATION FOR APPRAISAL REVIEW AND DETERMINATION OF FAIR MARKET VALUE TO EC.

Once the appraisal report is completed, the donor must send his or her application to the regional office of EC.

Contents of the application:

-  an *Application for Appraisal Review and Determination* form (available from the regional EC office) signed and dated by the donor;
-  a copy of the tax certificate (Visa fiscal) or a copy of the letter of intent from the MDDEP;
-  the property appraisal report (three colour copies);
-  the *Certification Statement* from the appraiser, including the elements described in the *Guidelines for Appraisals*;
-  a copy of the registered transfer document (deed) or the registered servitude agreement if the donation is completed;
-  a description of the property's ecological character;
-  a letter of intent from the recipient about the future use of the property.

Other documents could be required on a case-by-case basis.

File review by EC's Appraisal Review Panel

Following the file review by the Appraisal Review Panel, a *Notice of Determination of Fair Market Value of an Ecological Gift* is issued to the donor. The *Notice* indicates the determined fair market value that EC is prepared to certify once the donation is completed.

The review is concluded within 90 days (in most cases).

○ WITHIN 90 DAYS OF THE *NOTICE OF DETERMINATION* DATE, THE DONOR NOTIFIES EC OF HIS OR HER CHOICE OF ONE OF THE FOLLOWING OPTIONS:

- The donor accepts the value of the property or the servitude as determined and notifies EC in writing by signing, dating, and returning the *Notice of Determination*.
- The donor does not accept the value as determined and requests, in writing, a redetermination.

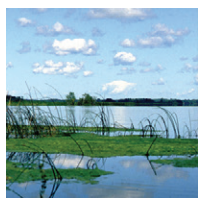
[EC will then issue a *Notice of Redetermination of Fair Market Value* to the donor.]

- The donor withdraws from the Ecological Gifts Program and notifies EC in writing.

[The determined fair market value applies to the donation for two years from the *Notice* date. The donor may re-enter the process within this two-year period.]

Right to Appeal

If the donor is still unsatisfied with the fair market value determined for the gift, he or she may appeal to the Tax Court of Canada and to the Court of Quebec to determine the value. The donor may appeal only if a *Notice of Redetermination* has been delivered and EC has issued a *Statement of Fair Market Value*. The appeal must be filed within 90 days of the *Statement* date.



5. The donor proceeds with the donation

- ☐ THE DONOR PROCEEDS WITH THE DONATION AFTER ACCEPTING THE VALUE ON THE *NOTICE OF DETERMINATION* (OR THE *NOTICE OF REDETERMINATION*) OF FAIR MARKET VALUE FOR THE LAND OR SERVITUDE.
- ☐ THE DONOR SENDS A COPY OF THE REGISTERED TRANSFER DOCUMENT (DEED) OR THE REGISTERED SERVITUDE TO EC AND THE MDDEP.

6. Issuance of the certificates and the official donation receipt

The MDDEP issues the tax certificate

Upon receipt of a copy of the registered transfer document (deed) or the registered servitude at the regional MDDEP office, a tax certificate (*Visa fiscal*) is issued to the donor. This document certifies the property's ecological value and the recipient of the gift.

EC issues the *Statement of Fair Market Value*

Upon receipt of a copy of the registered transfer document (deed) or the registered servitude at the EC regional office, a *Statement of Fair Market Value* is issued to the donor. This document certifies the fair market value of the ecological gift. The *Statement* is also signed by the MDDEP so the donor will be eligible for tax benefits in accordance with the *Quebec's Taxation Act*.

- ☐ THE RECIPIENT ISSUES A DONATION RECEIPT TO THE DONOR ON WHICH SHOULD APPEAR THE VALUE ON THE *STATEMENT OF FAIR MARKET VALUE*.

7. Taking advantage of tax benefits

- TO BENEFIT FROM THE INCOME TAX TREATMENT OF AN ECOLOGICAL GIFT, THE FOLLOWING DOCUMENTS MUST BE ATTACHED TO THE DONOR'S FEDERAL AND PROVINCIAL TAX RETURNS.

Documents required:

- the tax certificate (*Visa pour dons de terrains ou de servitudes ayant une valeur écologique*) issued by the MDDEP;
- the *Statement of Fair Market Value of an Ecological Gift* issued by EC;
- the donation receipt issued by the recipient.

8. Once the gift is made...

Property management

From now on, the recipient is responsible, as a landowner, for the protection of the gifted land in perpetuity. In the case of a servitude, this responsibility is shared between the donor and the recipient in compliance with the terms of their agreement.

Management practices vary from one property to another, but in general may include payment of property taxes, liability insurance, a management plan, ecological monitoring of the land, and respect for property rights.

Any disposal of a property or changes in use to a property or servitude that has been donated under the Ecological Gifts Program must be approved in advance by Environment Canada. Otherwise, a federal tax equal to 50 percent of the current fair market value of the land may be imposed on charitable or municipal recipient that accepted the gift.



Notes: