

# Ecological Gifts: Answers to Recipients' Questions

John Mitchell

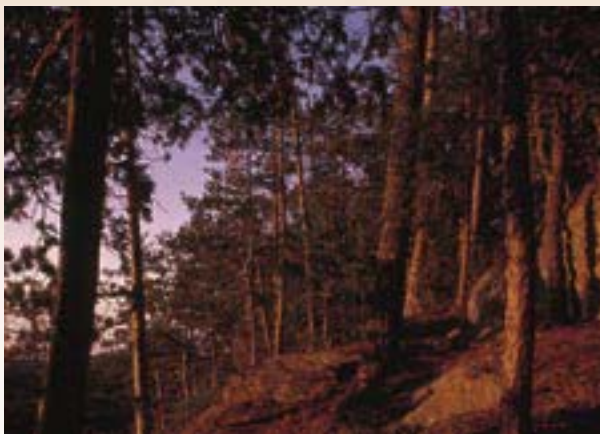
**Q** Do all land donations have to be made through the Ecological Gifts Program?

**A** No. The recipient can still issue a donation receipt for the donation of land or an interest in land to the donor, but the Minister does not certify the value of the donation. Also, donors may not claim the enhanced tax benefits that would be available if their donation were an ecological gift. In the case of conservation easement donations, many donors and recipients feel more comfortable certifying the donation as an ecological gift because the *Income Tax Act* clearly outlines a process to determine the value of the gift.

**Q** I get the donation process and ecogift process mixed up – what is the difference?

**A** The process to donate land, a conservation easement or covenant is the same whether the donation is an ecological gift or not. After establishing a relationship, the donor and intended recipient negotiate the terms of the donation – such as how much land will be donated or the terms of a conservation easement. Then, according to the type of donation, the necessary documents and agreements such as surveys, easement agreements, transfer/deeds, and life tenancy agreements are drawn up. With the signing and registration of agreements, the donation is complete; the donor can then receive an official donation receipt from the recipient. Of course, this is a much simplified version of the process.

The ecogift process often occurs simultaneously and involves the donor, or recipient on the donor's behalf, applying to Environment Canada to certify the ecological sensitivity of the land and to determine the fair market value of the donation. When the donation is to a nature conservation charity the recipient should also be aware that Environment Canada must approve the recipient. At the end of the ecogift process the donor receives a Certificate for Donation of Ecologically Sensitive Land and a Statement of



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Fair Market Value from Environment Canada, in addition to the donation receipt from the recipient.

**Q** What lands are considered ecologically sensitive and would qualify as ecogifts?

**A** A variety of lands qualify – check the Ontario Ecogifts Handbook or go to the Ontario Region ecogifts website ([www.on.ec.gc.ca/ecogifts](http://www.on.ec.gc.ca/ecogifts)) to view the criteria. Land only has to qualify under one criterion but it is advisable to list all applicable criteria. Criteria vary from the land being habitat for an endangered, threatened or vulnerable species to lands that are buffers for other ecologically sensitive lands.

**Q** Does the application to have a donation certified as an ecological gift occur before or after the gift is made?

**A** Either. In most cases the recipient and donor simultaneously begin the donation process and the process of certifying the donation as an ecological gift. However for those who may have been unaware of the program at the time of their donation, the *Income Tax Act* allows for an Application for Appraisal Review and Determination to be submitted for up to three years after the end of the donor's taxation year in which the gift was made. It is important to note that a Statement of Fair Market Value is not issued until the gift has actually been made.

**Q** How does the application process begin?

**A** See the Ontario Ecogifts Handbook for information and templates.

**Q** What does the process cost? Would the recipient and donor save money by not going through the ecogift process?

**A** There are costs common to nearly all donations: legal representation for the donor and the recipient, land transfer and registry fees, land surveys and legal fees for creating agreements, deeds and other legal documents. Additionally, it is always advisable that the donor seek independent legal and financial advice. There is also a cost in terms of recipient staff and volunteer time. Costs vary – from several hundred to a few thousand dollars for legal help to a thousand dollars and up for a land survey.

In terms of an ecogift, the certification process may require more recipient staff or volunteer time. And, for an ecological gift an appraisal of the fair market value of the donation is required – for most donations a full narrative report from an AACI (Accredited Appraiser Canadian Institute) appraiser is required at a cost generally ranging from \$1,000 to \$3,000. However, it should be noted that



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many recipients already consider it to be standard good practice to require full AACI appraisals of value for non-ecogifts. This is because non-ecogift donations where donation receipts are issued are still subject to scrutiny by the Canada Customs and Revenue Agency. Whether it is the cost of an appraisal or the extra time involved in certifying an ecogift, these factors should be considered against the overall benefits to the donor of making an ecogift. And since the donor of an ecogift is eligible for special tax benefits, independent tax advice for donors is essential.

**Q** For tax purposes, what is the date of donation?

**A** The date of donation is the date the donation is made, specifically when the transfer/deed of land is signed and registered. For example, if a conservation easement is signed and then registered at the local land titles/registry office on December 27th, 2002, and Environment Canada issues a Statement of Fair Market Value to the donor dated January 10th, 2003, then the gift is considered to have been made on December 27th, 2002. The donor is then eligible to claim income tax benefits beginning on his or her 2002 return and carry forward unused amounts up to five subsequent years. The donation receipt may have two dates on it: the date the receipt was issued and the date of the donation – for more information on dates and other requirements for a donation receipt please see the C CRA Income Tax Interpretation Bulletin Gifts and Official Donation Receipts (IT-110R3).

**Q** A potential donor wants a guarantee of the dollar value of his donation before he will donate – should the recipient agree to provide one?

**A** An ecogift's value is not determined until a Notice of Determination of Fair Market Value has been issued by Environment Canada – at that point a donor can be sure of the value. The value determined by the Minister on the Notice is based on a recommendation by Environment Canada's Appraisal Review Panel following review of the appraisal submitted by the donor. The donor does not have to complete the donation prior to receiving this Notice. If a donor is unsatisfied with the value on the Notice, he may ask for a redetermination. Once the donor is satisfied with the value on the Notice and completes the donation, a Statement of Fair Market Value will be issued. The Government of Canada may revisit donation values that have not been determined by Environment Canada.

**Q** How long does the ecological gift process take? Are there deadlines?

**A** If a complete package of information is received, it generally takes one to three weeks for a Certificate for Donation of Ecologically Sensitive Land to be issued and generally 30 to 90 days for a Statement of Fair Market Value to be issued. Where time is a consideration it is possible, with permission of Environment Canada, to apply for both the Certificate and Statement simultaneously. It is advised that if a donor desires a Notice of Determination of Fair



*Great Horned Owl*

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Market Value prior to making his donation in a particular calendar year, the application should be made by mid-September.

**Q** How does my charitable organization become approved to accept ecogifts?

**A** To qualify, a registered charity's purposes must include "the conservation and protection of Canada's environmental heritage" or a similar statement of intent and it must file an application with Environment Canada-Headquarters requesting to be approved and showing its capacity to receive such gifts. Environment Canada will review the Statement of Objects and other supporting information before approving the recipient.

**Q** How do I find out more?

**A** See the Ontario Ecogifts Handbook – available from Environment Canada, Ontario Region – or visit the Ontario Region ecogifts website for a copy.

***Have a question not answered above?  
Please contact:***

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