



American Friends of Canadian Land Trusts

Cross-Border Conservation Programs **Overview for Conservation Organizations**

Background

As many Canadian conservation organizations know first-hand, there have been major tax impediments to protecting land in Canada owned by U.S. taxpayers. The American Friends of Canadian Land Trust (AF) and the Canadian land trust community worked hard and successfully over many years to eliminate the financial disincentives that prevented Americans from donating their conservation properties or easements. In 2010 AF became a prescribed donee under the Canadian Income Tax Act regulations, making it ready to assist your organization with cross-border conservation! We look forward to working with you to protect Canada's natural legacy.

AF's mission is "to protect, and to promote the protection of, the ecological integrity and other conservation values of the natural areas of Canada through securement of fee title and less than fee interests in land, stewardship, public outreach and education, and support of the conservation activities of Canadian land conservation entities and organizations."

AF supports the conservation of Canada's natural resources by facilitating donations of land and funding from U.S. taxpayers to Canadian conservation organizations. AF is recognized by the U.S. Internal Revenue Service as a publicly supported 501(c)(3) charitable organization, making gifts to AF tax deductible for U.S. taxpayers. Gifts of land and easements are no longer subject to Canadian capital gains taxes as a result of AF's prescribed donee status.

Services to Canadian Conservation Organizations

Do you know of U.S. residents who own significant conservation lands in your area? Or does your conservation organization have donors (or potential donors) who are U.S. taxpayers who might give, or give more generously, if a U. S. tax benefit were available? Then AF's cross-border programs can help!

A. General Support Program: Gifts to benefit land conservation in Canada

AF's General Support Program offers U.S. donors the opportunity to receive a U.S. tax deduction for their charitable gift. Accordingly, U.S. donors can financially support Canadian conservation organizations - such as yours - while enjoying potentially significant U.S. tax benefits. Donors may make gifts of cash or securities (or bequests) to

AF together with their recommendation that AF make a grant to your organization. AF in turn makes grants to Canadian conservation organizations qualified as AF Grantees.

We hope this tax incentive will increase both the number and size of gifts from your U.S. supporters! You can encourage your U.S. supporters to increase their gifts in an amount corresponding to their potential tax deduction!

For AF to grant funds to your organization, you must be approved as an AF Grantee. To comply with Internal Revenue Service requirements, AF also has specific donation procedures and forms that must be used (see below).

B. Conservation Lands Program: Gifts of fee title or easements

To increase the pace and scale of land conservation in Canada, AF established its Conservation Lands Program. Working as a U.S. land trust, AF accepts donations of qualified conservation lands and partial interests in land (conservation easements/covenants) in Canada from U.S. taxpayers.

AF is able to provide U.S. donors with an ideal tax scenario of receiving a U.S. income tax deduction (based on AF's U.S. charity status) and eliminating Canadian capital gains tax on the gift (based on AF's status as a prescribed donee under the Canadian Income Tax Act regulations). This financial incentive for land protection removes what had previously been a substantial impediment to such "cross-border" donations.

To participate in the Conservation Lands Program your conservation organization must become an AF Grantee. More information can be found below. Detailed templates and checklists for proposed land donations, bargain sales, conservation easements/covenants, and gifts of remainder interest with reserved life estate, and complete information about the costs associated with this program are available from AF.

Grantee Application and Fees

A Canadian conservation organization that wishes to be eligible to receive grants of cash, to work together on land/easement projects, and/or to be eligible to receive transfers of land/conservation easements should complete our Grantee Application form (available on our website or by contacting AF).

General Support Program—If your organization is only interested in AF's general support program (i.e. no conservation land/easement projects), the initial fee is \$350 U.S. and you only need to complete Part I of the grantee application form. Once approved as a grantee, your organization will be eligible to receive grants from AF immediately. The annual renewal fee is \$150 U.S.

Conservation Land Program— To be eligible to partner with AF on land/easement projects, you must complete both parts I and II of the grantee application form. The initial fee to become a Land/ Easement Grantee is \$500 U.S. The renewal fee is \$250 U.S.

To be eligible for both programs, the initial fee is \$800, and the renewal fee is \$300 U.S. *The renewal fee for all Grantees is due on the anniversary of the original application payment.*

Please note—AF fees are currently under review. A new fee structure will be in place for January 2012.

Who is qualified to be an AF Grantee?

Any Canadian conservation organization that is a charity dedicated to land conservation, or any government conservation entity may apply to become an AF grantee. AF will determine whether the organization meets its granting criteria, and whether its activities further AF's mission. Grantees that wish to receive land and/or conservation easement/covenants from AF must demonstrate their ability to protect and effectively steward conservation land.

For AF to meet U.S. tax and charity law requirement, grantees interested in receiving conservation easements/covenants from AF must receive IRS determination as being a foreign charity equivalent to a U.S. "publicly-supported charity." The Canada-US Income Tax Treaty recognizes Canadian charities as equivalent to U.S. 501(c)(3) organizations, but assumes they are a private foundation. Therefore grantees must apply to the IRS to confirm that it meets the requirements as a publicly supported charity. See our webpage for a factsheet on applying for this IRS designation.

General Support Program—Getting Started

Donors to AF who want to support a Canadian conservation organization should send their monetary donation together with a recommendation letter stating that they would like their gift to benefit an organization that is an eligible Grantee (i.e. a grant recommendation). For the donation to be deductible under U.S. income tax law, it is essential that the donor use the language outlined in the template Sample Donor Letter available on the AF website. It is also important that the cheque be made out to the AF, not your organization, and paid in US dollars. The donation and letter must be sent to AF at our U.S. mailing address. The minimum donation is \$200 US. There is an administrative fee is 5% of the value of the gift (2% for any gift of \$10,000 US or more). In order for the donation to be tax deductible the gift may not be in lieu of, or as payment for, membership fees to your organization.

Conservation Land Program—Getting Started

To initiate a land or easement gift, please contact AF to discuss your proposed project. We will provide you with a manual that outlines all the steps and includes templates of the required documents. The donation process takes place in three phases, beginning with an initial inquiry and assessment that we refer to as Phase I.

If your project receives Phase I approval, indicating that AF's board wants to partner with your organization on the project, AF and your organization will create a customized Procurement and Management Agreement to describe the terms of the project, and the roles and responsibilities of each of our organizations. We provide template documents and checklists for the other key steps involved in Phase II, such as a baseline report and environmental assessment report, and AF's cross-border conservation easement template. In Phase II, your organization would carry out all due diligence activities, as it would for any

land trust project, and provide relevant documentation to AF. If approved, the project advances to Phase III and closing of the donation to AF.

Properties and easements donated to AF will be stewarded by our partner Canadian conservation organization. In the future, in a completely separate transaction, AF may transfer land or easements to a Canadian partner. To ensure the gift is tax deductible in the U.S. for the donor, the gift to AF cannot be contingent upon or in any way require such a transfer from AF.

The fee for land/conservation easement or other land protection transactions is \$3500 US, payable as each phase of a transaction is completed (i.e. \$200 U.S. for phase 1, \$2800 U.S. for phase 2, and \$500 U.S. for the final phase). If a transaction is not completed for some reason, only those fees for the work completed up to that point are payable (but cannot be refunded once the work is completed).

Please note—AF fees are currently under review. A new fee structure will be in place for January 2012.

For a complex project requiring extensive legal, estate tax or other professional advice and guidance, the fee may need to be amended accordingly, at the discretion of AF. Fees can be paid by you or by the donor.

See our website or contact us for more detailed guidance on the process of donating land or an easement to AF.

Contact Us

Visit our website: www.nsnt.ca/af or contact AF directly:

American Friends of Canadian Land Trusts

PO Box 4482, Seattle, WA 98194

Bonnie Sutherland, (902) 425-5263 bonnie@nsnt.ca; or Sandra Tassel, (301) 233-1214, stassel@earthlink.net

Help Spread the Word

We are proud to be supporting the land conservation community in Canada through our cross-border funding and land conservation programs. The ultimate success of our program and our ability to provide critical support in cross-border land transactions rely on the support and involvement of many Canadian partners! Please help to spread the word. Encourage Canadian organizations and government agencies to become eligible AF Grantees and help us advance cross-border conservation.