



## **American Friends of Canadian Conservation**

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

#### **Background**

The histories, economies, ecosystems, politics and people of U.S. and Canada are intertwined. As a result, U.S. taxpayers own land in many of Canada's most scenic and beloved landscapes. Their ownership tends to be concentrated along the border, where most Canadians live, work and recreate – and where development pressures are the most significant and land conservation action is most urgent. Accordingly, conservation organizations, government agencies and First Nations working to protect Canada's natural and cultural heritage need the legal and financial tools to secure priority properties owned by U.S. taxpayers.

In the past there were major tax impediments to protecting land in Canada owned by U.S. taxpayers. (Citizenship does not determine if someone is a U.S. taxpayer. They may be American, Canadian or any other nationality.) Over a decade ago, Canadian land trust leaders and their U.S. colleagues created American Friends of Canadian Land Trusts (American Friends or AF) to remove those impediments. In 2019, it became American Friends of Canadian Conservation – a name that better expresses the full spectrum of potential partners.

American Friends is a Prescribed Donee under the Canadian Income Tax Act regulations and a U.S. 501(c)(3) publicly-supported charity. That bi-national favored tax status creates the best possible financial incentives for securing land, easement and monetary gifts from U.S. taxpayers. To achieve its collaborative conservation mission, AF facilitates donations of land and funding from U.S. taxpayers to qualified Canadian partners. All types of charitable gifts to American Friends are tax deductible in the U.S. and donations of ecologically important land and conservation easements in Canada are effectively not subject to Canadian capital gains taxes.

We are proud to be the organization formed expressly to assist and support entities working to protect Canadian landscapes where U.S. taxpayers own priority lands. We look forward to working with you to protect Canada's natural and cultural legacy.

#### **Services to Canadian Conservation Organizations**

Do U.S. taxpayers 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? If so American Friends' cross-border programs can help.

##### ***A. General Support Program: Gifts to financially support Canadian organizations***

AF's General Support Program increases funding for conservation in Canada by making gifts of cash or securities tax deductible in the U.S. This helps Canadian organizations recruit more donors. Tax deductibility means existing donors can give more generously at no additional actual cost to themselves because the U.S. government is giving back a percentage of their donation.

The process works much like a donor-advised charitable fund. Donors contribute cash or securities to American Friends, together with a recommendation that American Friends use their contribution to make a grant to a Canadian entity that is qualified as a “Grantee.” (See below for information on becoming a Grantee.)

American Friends supplies a template recommendation letter for you to provide to contributors. Alternatively, donors can give online where the grant recommendation is done digitally. Our online giving portal also offers an option for recurring gifts.

If your supporters (or potential supporters) work at a company that matches employee charitable contributions, you could double the donations. Many U.S. corporations do, so be sure to ask!

American Friends’ directors review grant recommendations at each monthly board meeting and approve grants based on donor requests. As of June 2019, American Friends has made over US \$4M in grants to its Canadian partners through the General Support Program.

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

The Conservation Lands Program increases the pace and scale of land conservation in Canada by partnering with Canadian conservation organizations to secure donations of ecologically significant land and partial interests, such as conservation easements, from U.S. taxpayers.

American Friends’ binational preferred tax status provides a substantial incentive for conservation-oriented landowners. Their gift of land (or interest in land) is an eligible U.S. income tax deduction and is effectively not subject to Canadian capital gains tax. This financial incentive for land protection brings U.S. support, in the form of tax benefits, to leverage Canada’s scarce conservation funding. In effect, an American landowner receives the same tax benefits for a land donation as a Canadian making a comparable gift. See the publication called [Save Some Green: a handbook for U.S. taxpayers who own land in Canada](#), available at <https://conservecanada.org> for in-depth explanations of the incentives and examples.

To participate in the Conservation Lands Program your organization must be an approved American Friends’ Grantee. More information can be found below.

## **Grantee Application and Costs**

If your conservation organization wants to receive grants of cash and/or transfers of land/conservation easements please complete our Grantee Application form which is available at <https://conservecanada.org>. Or call us to discuss any questions you may have.

First, decide in which program(s) your organization would like to participate. The choice will determine how much information American Friends will need, and the amount it will cost for your organization to become a Grantee.

**General Support Program**—If your organization is only interested in American Friends’ general support program (i.e. no conservation land/easement projects), the initial fee is \$350 U.S. and you need to complete only 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. In the future, you can apply to also participate in the Conservation Land Program.

**Conservation Lands Program**— To be eligible to partner with American Friends on land/easement projects, complete both Parts I and II of the grantee application form to provide us with more insight into your organization’s capacity to steward conservation properties. 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.

## What types of entities can be American Friends Grantees?

Any publicly-funded Canadian land trust, registered charity dedicated to land conservation or government conservation agency may become a Grantee. Other entities, such as First Nations and philanthropies may be eligible. In accordance with IRS regulations, American Friends will determine whether the organization meets its granting criteria, and whether its activities further American Friends' mission. Grantees that wish to receive land and/or conservation easement/covenants from American Friends must demonstrate their ability to protect and effectively steward conservation land.

Grantees interested in receiving conservation easements/covenants from American Friends must be recognized by the U.S. Internal Revenue Service (IRS) as being a U.S. "publicly-supported charity" before they can apply for a transfer from AF. This is not the same as becoming a U.S. charity. Only U.S. organizations can be so designated and provide U.S. tax receipts. The Canada-US Income Tax Treaty recognizes Canadian charities as equivalent to U.S. 501(c)(3) organizations, but assumes they are private foundations which is not adequate for certain types of transactions. See the Resources section of our website for a factsheet on this topic under the heading of "IRS Equivalency".

## General Support Program—Getting Started

After your organization has been approved as a grantee, you will want to modify your website and other fundraising materials to instruct U.S. donors to make their gifts to American Friends, together with a recommendation letter requesting that American Friends use the funds to make a grant to your organization. There is a template Donor Recommendation Letter which you can customize for your organization. However, for the donation to be deductible in the U.S. the basic language in the template must be retained. Donations made online do not require a separate recommendation. Note: The gift may not be in lieu of, or as payment for, membership fees or will not be deductible in the U.S.

Donors should make their cheque out to American Friends of Canadian Conservation, not your organization, and paid in US dollars. The donation and letter be sent to American Friends. The minimum donation to AF is \$200 US. A small percentage of each contribution is retained by American Friends to support cross border conservation when American Friends makes grants, according to this schedule:

- \$30 flat fee for gifts between \$200 - \$500
- 6% of the amount of the gift between \$501 - \$10,000
- 4% of the amount between \$10,001 - \$100,000
- 2% for amounts over \$100,000

Please contact American Friends to discuss the appropriate level of retained support if a donor is contemplating a particularly large gift.

American Friends' board generally meets monthly and considers grant recommendations each time. Accordingly, most grants are disbursed within 30 – 60 days of American Friends' receipt of a contribution that is accompanied by a recommendation. To limit our overhead costs, the minimum grant is \$1,000. When AF receives donations that are below \$1,000, we normally wait for other gifts to arrive before making a grant. Contact us if your organization needs the support more quickly.

## Conservation Land Program—Getting Started

As a first step, please contact American Friends' Program Coordinator at the email address or phone number below to discuss your proposed project. That conversation will help launch the partnership in the best possible way. We will provide you with a manual that outlines all the steps and includes templates of the required documents.

Cross-border conservation transactions donations are managed in three phases.

Phase I is an application to introduce the donation project to American Friends, help you gather essential information and allow all parties to evaluate possible risks. We refer to this review as the *inquiry and feasibility assessment*. As part of Phase I, the landowner executes a Letter of Intent which includes a recommendation that American Friends consider transferring the property or easement to the partner organization.

If your project receives Phase I approval, indicating that American Friends' board wants to partner with your organization on the project, it will advance to Phase II.

American Friends and your organization will execute a customized "Procurement and Management Agreement" early in Phase II 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 key steps involved in Phase II, including a baseline report and environmental assessment. In Phase II, your organization gathers the required due diligence items, as it would for any project, and provides those items to American Friends for review. If approved, the project advances to Phase III and closing of the donation to American Friends.

Properties and easements donated to American Friends are stewarded by the Grantee organization under the terms of the partnership arrangement.

In the future, in a separate transaction, American Friends may transfer land and easements to its Canadian partners. Placing ownership of all properties with a qualified, permanent steward is an important component of American Friends' mission and operations. However, for the gift to American Friends to be tax deductible in the U.S. it cannot be contingent upon or require a transfer. Please contact us for detailed information about the transfer process, considerations and timing.

### Transaction fees

American Friends has unique expertise and experience in the highly specialized arena of cross-border conservation transactions. We share that knowledge with our partners, landowners and their professional advisors to ensure gifts are completely promptly and correctly. Our transactions often give us opportunities to mentor staff and volunteers working for our partner organizations, and lawyers, accountants and appraisers in both the U.S. and Canada. Through fees for services, parties to American Friends can provide this assistance at a small fraction of the hourly rates charged by cross-border tax and legal specialists.

As part of its mission, American Friends strives to make its services affordable for its partners and donors. We aim to cover our legal, project management and administrative costs with fees associated with our land/conservation easement protection transactions. They represent a fraction of the financial return available to most land and easement donors, in the form of U.S. tax benefits. Refer to the case studies in Save Some Green to see how much tax deductions can affect the bottom-line in a land donation.

The transaction fees associated with land gifts total US \$10,000. Fees for conservation easement donations total US \$15,000, due to their additional complexity.

The fees are divided among the three phases of the transaction (i.e. 20% for Phase I, 50% for Phase II, and the final 30% in Phase III). If a transaction is not completed for any reason, only the fees associated with the completed phases will be due. American Friends cannot refund fees.

The donors receive the tax benefits, so generally they pay the fees. But they can be paid by the land conservation entity, or any interested party.

See the Conservation Lands Program description on the website for more detailed guidance on the process of donating land or an easement to American Friends.

## **Contact Us**

Visit our website: <https://conservecanada.org> contact American Friends directly for more information or answers to your questions:

Sandra Tassel, Program Coordinator  
(360) 515-7171  
[Sandra.tassel@conservecanada.org](mailto:Sandra.tassel@conservecanada.org)

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## **Help Spread the Word**

We are proud to be part of the Canadian land conservation community. Our cross-border funding and land conservation programs were created to address a previously unfilled need. Please help to spread the word. Encourage Canadian organizations and government agencies to become eligible American Friends' Grantees and help us advance cross-border conservation.