





**American Friends of
Canadian Conservation**



INTRODUCTION TO CROSS- BORDER CONSERVATION

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CONSERVATION WITHOUT BORDERS

A Partnership of



**American Friends of
Canadian Conservation**

Supported by

McClean Foundation

Vancouver Foundation

Grant Thornton LLP



PROBLEM = CONSERVATION OPPORTUNITY

- Need a tool to protect strategic parcels owned by US taxpayers
- Conservation interest and estate planning need
- Landowners and advisors often do not know about the incentives and opportunity
- Goal of LTABC/ AF partnership is to mentor BC conservation organizations and assist US landowners, to increase conservation results

1

Basics of tax incentives that encourage US taxpayers to protect land in Canada

2

Three primary types of donees and the incentives associated with each one

3

Determining which type of donee is best option for specific situation

LEARNING OBJECTIVES



**American Friends of
Canadian Conservation**



SUMMARY OF DONEE OPTIONS FOR U.S. TAXPAYERS PROTECTING LAND IN CANADA

GIFT TO CANADIAN CHARITY OR OTHER QUALIFIED DONEE

- Relief from Canadian capital gains taxes (on the gift)
- No U.S. income tax benefit, unless Canadian-source income
- Potential Eco-Gift

GIFT TO A U.S. CHARITY (That is not a Prescribed Donee)

- When Canadian capital gains are not an issue for the donor
- U.S. income tax benefit

GIFT TO A PRESCRIBED DONEE

- Relief from Canadian capital gains taxes
- U.S. income tax benefit
- e.g. American Friends of Canadian Conservation
- *BEST TAX OUTCOME*

U.S. Rules Different than Canadian Rules

- Income/Gift/Estate Tax
(US \$11.4 M
exemption)
- Capital gains tax only
when there are cash
proceeds
- Tax deductions allowed
on gifts of fee or
conservation interests

INTRODUCTION TO CHARITABLE IN THE U.S. TAX SYSTEM

A scenic photograph of a river flowing over rocks, with a black text box in the upper right corner containing the title. The river is surrounded by lush greenery and rocks, creating a peaceful natural setting. The text box is white with a black border and contains the title in all caps.

Qualified Gifts

- U.S. 501(c)(3) charities or government agencies for US income tax deduction
- IRS recognition for Canadian organizations as publicly-supported charity esp for conservation covenants

U.S. RULES ON CHARITABLE GIFTS - CONTINUED

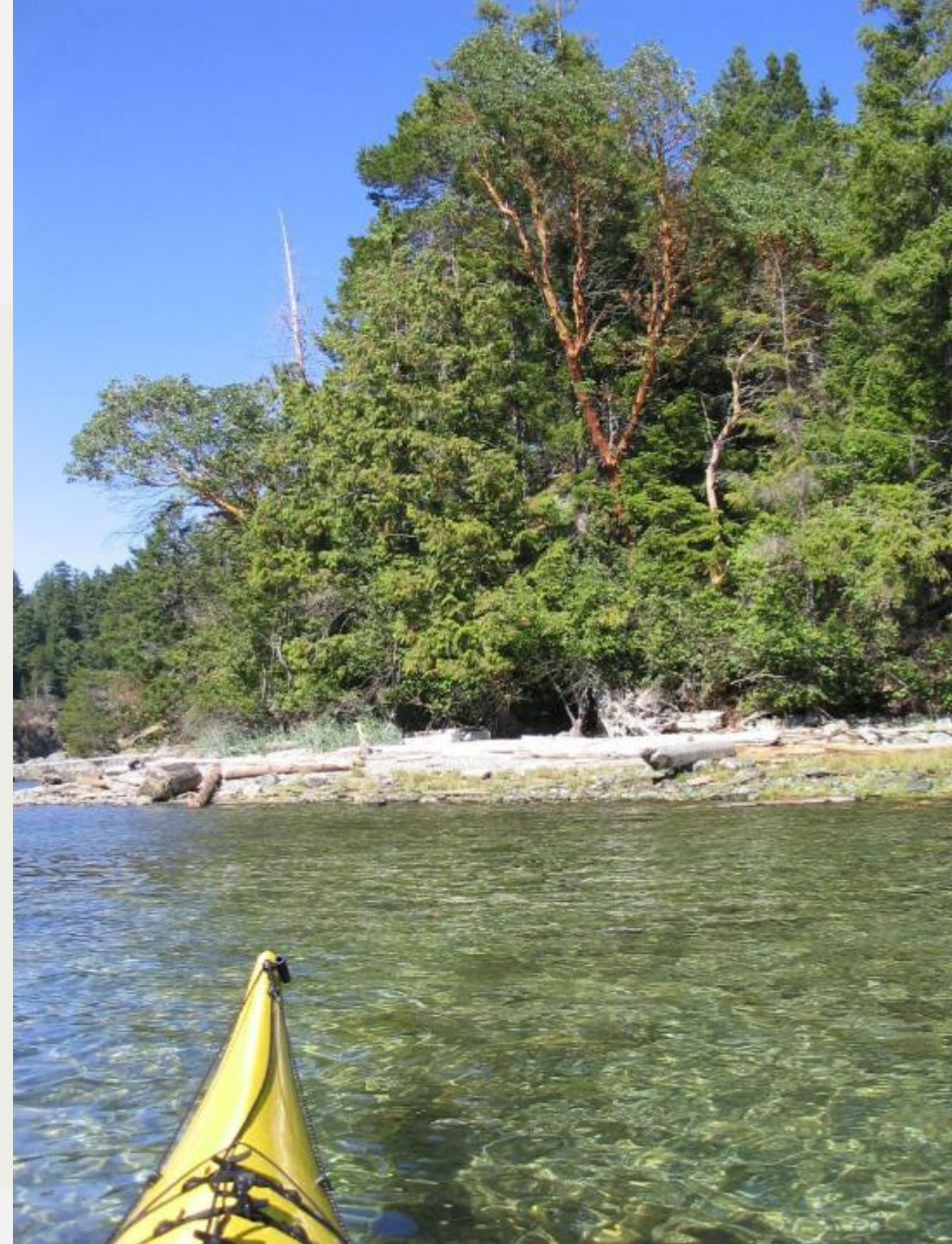


EXAMPLE OF U.S. TAX BENEFITS FEE SIMPLE GIFT OF LAND

- Tax basis \$ 280,000
- Appraised value of gift \$1,000,000
- US Charitable deduction \$1,000,000
- Top marginal tax rate (2018) 35 %
- Potential US tax benefit \$ 350,000

State tax deductions also possible

No gift tax consequence, 5 year deduction carry forward





EXAMPLE OF U.S. TAX BENEFITS GIFT OF CONSERVATION COVENANT

- Value before covenant \$ 1,000,000
- Value after covenant \$ 600,000
- Charitable deduction \$ 400,000
- Top marginal tax rate 35%
- Potential US federal tax benefit \$ 140,000

*Reduces property value for US federal estate tax purposes
and Cdn capital gains, 15-year US deduction carry forward*



CANADIAN TAX PRIMER FOR U.S. TAXPAYERS



**U.S. Owners of priority properties
need to know about Canadian taxes:**

- Main message:

*“IF YOU OWN LAND IN CANADA, YOU ARE
GOING TO BE A CANADIAN TAXPAYER”*

- Almost every disposition of appreciated Canadian real estate can result in a capital gains tax liability – even gifts and bequests
- You can’t just “give it to the kids,” unless you have funds to pay the tax – which can be a big number
- Conservation can be an essential estate planning tool

CANADIAN TAX PRIMER (CONTINUED)



CDN TAX DEDUCTIONS FOR LAND OR EASEMENT GIFTS FROM U.S. TAXPAYERS

- A Cdn tax receipt useful in the U.S., **only** if the donor has Canadian income
- Potential Cdn tax credits (EcoGift) especially useful if owner has other Cdn property to transfer or sell
- Tax on gifts to Canadian charities is normally offset by the tax receipt
- Main message:

TALK TO U.S. LANDOWNERS ABOUT CDN TAXES. YOU MAY HELP THEM SAVE THE CANADIAN LAND THEY LOVE.

- ✓ Donor has Canadian-source income and can use a Cdn tax receipt, or
- ✓ Has limited U.S income to utilize a U.S. tax benefit
- ✓ Parties cannot, or don't want to, pay additional costs of a transaction that will be deductible in the U.S.
- ✓ Likely appraised value of the gift is < \$200,000, possibly making US tax deduction too small to cover costs
- ✓ In the case of a conservation easement, the Canadian entity is or will be recognized by the IRS



**A GIFT TO A CANADIAN
QUALIFIED DONEE MAY MAKE
SENSE WHEN...**

CANADIAN PRESCRIBED DONEE

- Category in Canadian Income Tax Act
- Incentive for U.S. taxpayers to protect ecologically significant property in Canada
- Capital gains tax liability on gift is reduced or eliminated
- Donor designates the proceeds to be equal to adjusted cost base = zero Cdn capital gain
- Net effect like gift to CDN charity, plus U.S. tax benefits
- American Friends is the only Prescribed Donee created to support Canadian



AMERICAN FRIENDS OF CANADIAN CONSERVATION

Canada's Cross-border Conservation specialist

*Protecting Canada's natural heritage through partnerships with
Canadian conservation organizations and preservation-oriented
U.S taxpayers*

- US 501(c)(3) publicly-supported charity
- Non-Profit Corporation from Washington State, U.S.
- Canadian Prescribed Donee
- Not an EcoGift organization
- All projects involve a qualified Canadian partner
- Under US law cannot operate as a “pass-through”



GIFTS OF LAND AND COVENANTS TO AMERICAN FRIENDS

- Conservation priority for Canadian partner
- Partner stewards the property or easement
- Donation to American Friends is tax deductible in the US
- Transaction meets both US and Canadian requirements
- Fee title or conservation interest can be transferred to partner in separate transaction

**A GIFT TO
AMERICAN
FRIENDS MAKES
SENSE WHEN...**

- Donor needs or wants a U.S. income tax deduction
- Donor has no Canadian-source income
- Donor Is not disposing of other Canadian property
- Property is a priority for your organization
- Property/gift value > \$200K
- There is a source of funds to cover costs



**ECOLOGICAL GIFT
MAY MAKE SENSE
WHEN...**

- The property meets EGP ecological criteria
- An eligible Ecological Gift Program recipient is available
- Donor has Canadian-source income, and/or
- Has other taxable Canadian property to transfer which will create a capital gains tax liability.
- In the case of a covenant, recipient is or will be recognized by the IRS.



ST. JOHN POINT A CROSS-BORDER CASE STUDY

- 60+ acres on Mayne Island
- Over a mile of waterfront
- Undeveloped coast douglas fir, madrone w small cabin on old farm acreage
- Beloved by locals
- Acquired in 1950s by family from Seattle
- Owned by 3 brothers, youngest in mid 70s
- On the market for \$11M CAD



ST. JOHN POINT NOW A PUBLIC NATURAL RESERVE

- Brothers (2 U.S., 1 Cdn) looking for a solution
- Priority for Mayne Island Conservancy Society (MICS)
- American Friends and MICS negotiated a split receipt donation
- US and Cdn tax deductions – including an EcoGift tax credit for the Cdn brother
- Deductions helped offset Cdn capital gains
- Residents and visitors and foundations contributed > \$2M
- Capital Regional District acquired fee title for \$2M
- MICS holds a conservation covenant
- Funds included stewardship endowment and all project costs



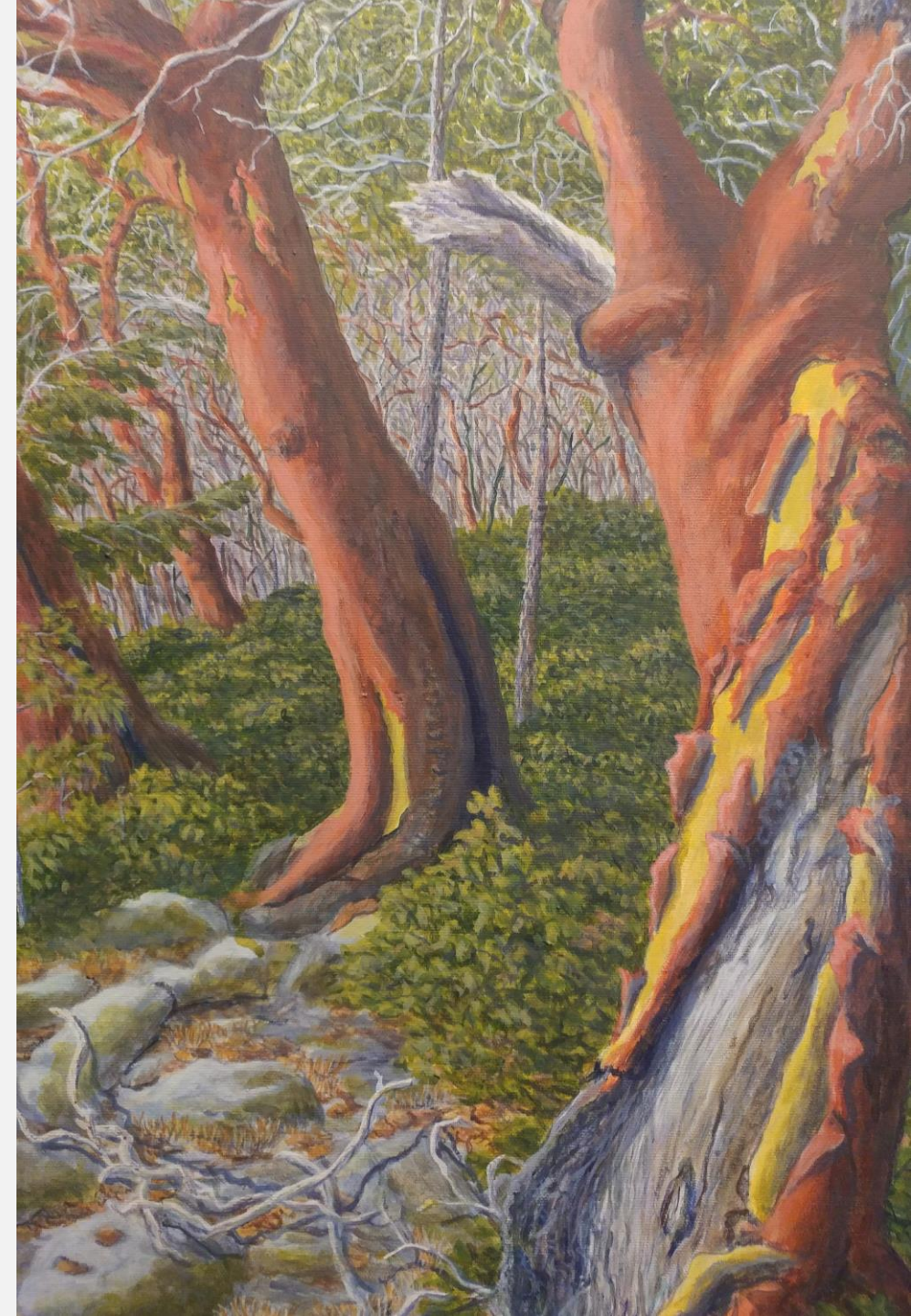


LESSONS LEARNED

- This is a critical time to reach older landowners, and the window of opportunity is closing quickly
- Capital gains taxes are a major concern for estate planning Highly appreciated property is at particular risk of sale and development
- Property taxes are too big of a burden for many families
- Conservation can help

LESSONS LEARNED

- US tax benefits can help
- Important to understand how the US and Cdn tax systems intersect
- Tax advantages are possible when there are Canadian and American owners
- It is amazing how much money will appear to support protection of a great property



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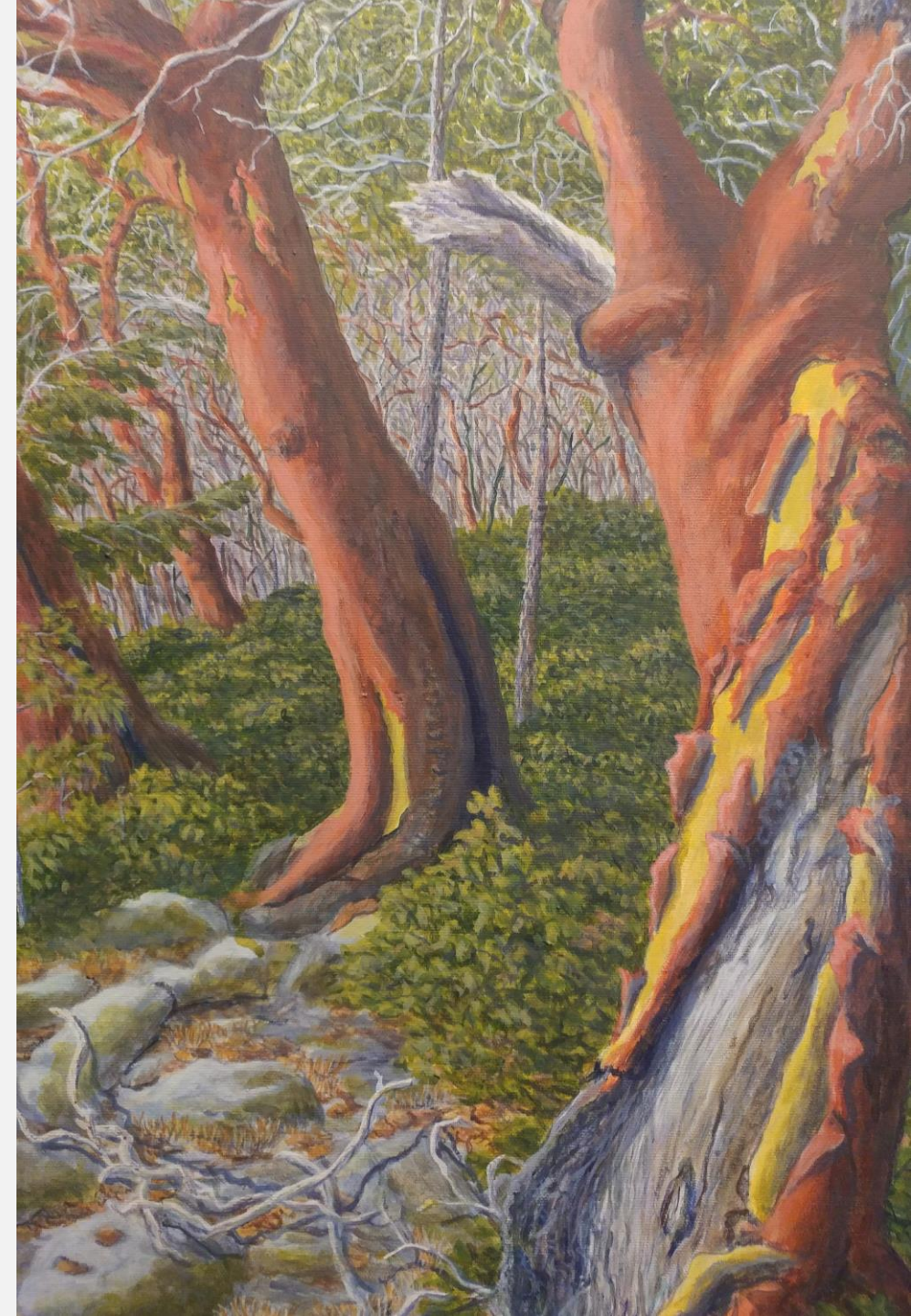


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QUESTIONS?

- Resources available at www.conservecanada.org
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