



MAINE REVENUE SERVICES PROPERTY TAX DIVISION PROPERTY TAX BULLETIN NO. 19

MAINE TREE GROWTH TAX LAW

REFERENCE: 36 M.R.S.A. §§571 - 584-A.
Issued May 2013; Replaces September, 2012

FOR RECENT CHANGES TO THE TREE GROWTH TAX LAW, PLEASE SEE THE FOLLOWING SECTIONS: Definition of Residential Structure #2(G); Attestation #4(D); Structures and Shoreland Areas #5(H); and Notice of Compliance #9.

1. General Information

The Maine Tree Growth Tax Law provides for the valuation of land that has been classified as forest land on the basis of productivity value, rather than on just value. The law is based on Article IX, Section 8 of the Maine Constitution that permits such valuation of forest land for property tax purposes. The purpose of this bulletin is to explain the more important features of the law.

2. Definitions

- A. “Commercial harvesting” or “harvesting for commercial use”** means the harvesting of forest products that have commercial value.
- B. “Forest land”** means land used primarily for growth of trees to be harvested for commercial use; may be either seedling, pole timber, or saw log stands. Forest land does not include ledge, marsh, open swamp, bog, water and similar areas that are unsuitable for growing a forest product or for harvesting for commercial use even though these areas may exist within forest land.

Land, which would otherwise be included in this definition, shall not be excluded because of:

- a. Multiple uses for public recreation;
 - b. Statutory or governmental restrictions which prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;
 - c. Deed restrictions, restrictive covenants or organizational charters that prevent commercial harvesting of trees or require a primary use of land other than commercial harvesting and that were effective prior to January 1, 1982; or
 - d. Past or present multiple use for mineral exploration.
- C. “Forest management and harvest plan”** means a written document that outlines activities to regenerate, improve and harvest a standing crop of timber. The plan must include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife. A plan may include, but is not limited to, schedules and recommendations for timber stand improvement, harvesting plans and recommendations for regeneration activities. The plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a licensed professional forester as consistent with this subsection and with sound silvicultural practices.

- D. **“Forest products that have commercial value”** means logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material or cones or other seed products.
- E. **“Parcel”** means a unit of real estate, even if it is divided by a road, way, railroad or pipeline, or by a municipal or county line.
- F. **“Forest Type”** means the general classification of forest land as softwood, hardwood or mixed wood.
- G. **“Residential structure”** means a building used for human habitation as a seasonal or year-round residence. It does not include structures that are ancillary to the residential structure, such as a garage or storage shed.

3. **Determination of Valuation**

The State Tax Assessor determines the 100% valuation per acre for each forest type by region each year. These valuations are adopted through rulemaking each year and are made public before April 1 each year.

The municipal assessor(s) are required to adjust the State Tax Assessor's 100% productivity valuation per acre for each forest type of their county or region by the municipality's certified ratio.

4. **Requirements for Classification**

- A. **Minimum size** – Parcels must contain at least 10 acres of forest land. Parcels of less than 10 forested acres resulting from a conveyance of classified land must be withdrawn from classification (See #10. Withdrawal of Classification; Penalty). For applications submitted on or after August 1, 2012, the size of the exclusion from classification under this subchapter for each structure located on the parcel and for each residential structure located on the parcel in shoreland areas is determined pursuant to 36 M.R.S.A § 574-C.
- B. **Use** - The land must be used primarily for the growth of trees to be harvested for commercial use. Owners must manage Tree Growth classified parcels according to accepted forestry practices designed to produce trees having commercial value. In considering this option owners may be guided by but are not limited to the following accepted forestry practices: timber harvesting, tree planting, direct seeding, site preparation, thinning, cleaning, weeding, pruning, inventory of standing timber, forest protection measures (insect, fire, wind, etc.), and boundary line work.
- C. **Forest management and harvest plan**- A forest management and harvest plan must be prepared for the parcel and updated every 10 years. On the initial application and every ten years thereafter, the landowner must file a sworn statement with the municipality or unorganized territory where the parcel is located stating that a forest management and harvest plan has been prepared for the parcel. The landowner must comply with the plan and every ten years submit a sworn statement from a licensed professional forester stating that the landowner is complying with the plan.
- D. **Attestation** - Beginning August 1, 2012, the landowner must provide an attestation that the landowner's primary use for the Tree Growth classified forest land is to grow trees to be harvested for commercial use or that the forest land is land described in 36 M.R.S.A. § 573(3)(A), (B), (C) or (E). The attestation must be provided in two situations (1) when a landowner is required to provide to the assessor evidence that a forest management and harvest plan has been prepared for the parcel or updated, or (2) when a landowner is required to provide evidence of compliance.

The existence of multiple uses on an enrolled parcel does not render it inapplicable for tax treatment under this subchapter, as long as the enrolled parcel remains primarily used for the growth of trees to be harvested for commercial use.

E. Unanimous consent - Unanimous written consent of all owners of the parcel is required in order to apply for classification as Tree Growth.

5. General Provisions

A. Filing - Owners must file an application with the assessor(s) of the jurisdiction where the parcel is located by April 1 of the year in which classification is first requested. Assessor(s) may request the filing of a new application at any time by giving the land owner 120 days written notice of the request.

a. Separate applications must be filed for each non-contiguous parcel and a separate application for each part of a parcel if the parcel is located in more than one municipality or county. If filing an application for classification of less than 10-forested acres in a municipality with the remaining forested acreage in the parcel located in an adjacent municipality, the owner of the parcel must provide copies of both applications to each town.

b. The application must be accompanied by a map showing the location of the different forest types for land being classified (softwood, hardwood, mixed wood) as well as a description and location of land not classified in the parcel to at least the nearest whole acre.

B. Review - Proof may be required by the assessor(s) to confirm the landowner's sworn statement. However, certain proprietary detail that is included in a particular plan must be held as confidential. Upon completion of the assessor's evaluation or review of a plan, the plan must be returned to the owner or an agent of the owner.

Assistance to assessors in evaluating the suitability of a plan, harvest or other activity conducted on Tree Growth enrolled land and other general information regarding forest management and harvest plans and licensed foresters may be obtained by contacting the Maine Forest Service at (207)287-2791 or 1-800-367-0223.

C. Reclassification - Any owner(s) of classified land is responsible for reporting any changes in forest types or changes in land use of classified forest land. If the landowners fail to give notice of a change in classification and there has been a change of use or forest type, the assessor must reclassify the parcel where the facts justify a change in classification or use. The reclassification will result in a withdrawal penalty and an additional 25% penalty. The additional penalty may be waived for cause.

D. Tax Rate - Classified forest land shall be assessed at the same property tax rate applicable to other property in the municipality.

E. Valuation of Land Other than Forest Land - Areas other than classified forested acres within any parcel of forest land must be valued on the basis of just value.

F. Reduced Valuations - Upon written request a landowner may seek a reduced valuation if fire, disease or other natural disasters reduce stocking to less than 3 cords per acre of merchantable wood on classified forest land. The valuation is to be reduced by 75% for the first 10 years following the loss.

G. Recreational Lease - When the value of a recreational use lease exceeds the value established for tree growth as determined pursuant to 36 M.R.S.A. §576, the land is to be considered no longer

primarily used for the continuous growth of forest products and should be withdrawn from the Tree Growth classification. Parcels of 100 acres or less are exempted from this provision.

H. Exclusion of Structures and Shoreland areas - If a parcel of land for which an owner seeks classification under this subchapter, on or after August 1, 2012, contains a structure for which a minimum lot size is required under state law or by municipal ordinance, the schedule required under 36 M.R.S.A. §579 shall indicate the following reductions to the land to be valued under this subchapter:

- a. **Structures.** For each structure located on the parcel for which a minimum lot size is required under state law or by municipal ordinance, the owner in the schedule under §579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre.
- b. **Shoreland areas.** For each residential structure located within a shoreland area, as identified in Title 38, §435, the owner in the schedule under §579 shall exclude from the forest land subject to valuation under this subchapter the area of land in the parcel containing the structure or structures, which may not be less than 1/2 acre, and the excluded parcel must include 100 feet of shoreland frontage or the minimum shoreland frontage required by the applicable minimum requirements of the zoning ordinance for the area in which the land is located, whichever is larger. If the parcel has less than 100 feet of shoreland frontage, the entire shoreland frontage must be excluded. This subsection does not apply to a structure that is used principally for commercial activities related to forest products that have commercial value as long as any residential use of the structure is nonrecreational, temporary in duration and purely incidental to the commercial use.

6. Transfer of Classified Forest Land

Upon the transfer of the controlling interest in fee ownership of the classified land or the controlling interest in the timber rights on the classified land, the new owner must, within one year of the date of transfer, file with the assessor(s) of the taxing jurisdiction where the parcel is located one of the following:

1. A sworn statement indicating that a new forest management and harvest plan has been prepared;
or
2. A statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous landowner. This option requires that the new owner complete the required ten-year compliance inspection and recertification within ten years from the date that previous owner's plan was initially certified or last revised.

Failure to timely file one of the above statements may result in a notification for non-compliance from the assessor(s) and the assessment of penalties (See #9. Notice of noncompliance).

A new owner of classified land or a person owning timber rights may not harvest or authorize the harvest of forest products for commercial use until a statement under 1 or 2 is filed with the assessor(s).

7. Appeal from Determination of Valuations

Any person aggrieved by the determination of the 100% per classified acre productivity valuations, as determined by the State Tax Assessor, may petition the State Tax Assessor for reconsideration within 60 days of the issuance of that order. If your reconsideration request is denied, further appeal may be made to the Maine Board of Tax Appeals or to the Superior Court pursuant to 36 M.R.S.A. § 151.

8. Appeal from the Assessor(s)

Assessments on classified forest land made under this subchapter are subject to the abatement procedures provided by 36 M.R.S.A. § 841. The assessor(s), on written application filed within 185 days from date of commitment, or on their initiative, stating the grounds therefore, within one year from date of commitment, may make such reasonable abatement as they think proper, provided the taxpayer has complied with §706. §706 requires that taxpayers submit a list of their estates possessed on April 1 if they were requested by mail to do so. If they were requested by mail to file their list of estates and failed to do so, they may be barred of their right to appeal for an abatement of taxes for that tax year.

A. Notice of decision - If the assessor(s) fail to give written notice of their decision on an application for abatement within 60 days from the date of filing of such application, the application shall be deemed to have been denied and applicant may appeal to the State Board of Property Tax Review, 49 State House Station, Augusta, Maine 04333, Telephone: (207)624-7410.

B. State Board of Property Tax Review - An application for review must be filed within 60 days from receipt of the assessors' decision or within 60 days from the date the application for abatement was deemed to have been denied.

C. Superior Court - Any party dissatisfied with the decision of the State Board of Property Tax Review may further appeal to Superior Court in the county where the property is located.

Bulletin #10 provides a more thorough explanation of the abatement and appeals process.

9. Notice of noncompliance.

A. Notice - No earlier than 185 days prior to a deadline established by 36 M.R.S.A. §574-B, if the landowner has not yet complied with the requirements of that section, the assessor must provide the landowner with written notice by certified mail informing the landowner of the following:

- a. The statutory requirements that need to be met to comply with §574-B and the date of the deadline for compliance, or the deadline by which the parcel may be transferred to open space classification;
- b. Failure to meet the deadline for complying with §574-B or transferring the parcel to open space classification, results in a supplemental assessment of \$500; and
- c. Continued noncompliance will lead to a subsequent supplemental assessment of \$500.

If the assessor issues the notice of compliance less than 120 days before the compliance deadline, the owner has 120 days from the date of the notice to provide the assessor with the documentation to achieve compliance with §574-B. The notice must specify the date by which the owner must comply.

B. Administrative penalty - If the landowner fails to provide the assessor with the documentation to achieve compliance with §574-B or transfer the parcel to open space classification by the deadline specified in the notice, the assessor shall impose a \$500 penalty to be assessed and collected as a supplemental assessment in accordance with §713-B.

C. Second administrative penalty - At the expiration of 6 months, if the landowner has not complied with §574-B or transferred the parcel to open space classification, the assessor shall impose an additional \$500 supplemental assessment in accordance with §713-B.

The assessor shall send notification of the 2nd supplemental assessment by certified mail and notify the landowner that, no later than 6 months from the date of the notice, the landowner must comply with the requirements of §574-B or transfer the parcel to open space classification or the land will be

withdrawn from the Tree Growth Tax Law program.

- D. **Withdrawal** - If the landowner has not complied within 6 months from the date of the 2nd supplemental assessment, the assessor shall remove the parcel from taxation under this subchapter and assess a penalty for the parcel's withdrawal.
- E. **Other Notices** - The assessor is not limited from issuing other notices or compliance reminders to property owners at any time in addition to the notice required by this subsection.

10. Withdrawal of Classification; Penalty

A. Forest land may be withdrawn from Tree Growth Taxation in one of two ways.

- 1. **Withdrawal by landowner** - Classified forest land which is no longer used primarily for the growth of trees to be harvested for commercial use must be reported by the landowner to the assessor and must be removed from Tree Growth classification. (36 MRSA §581, sub-§1.).

The landowner(s) may at any time request in writing withdrawal of any parcel or portion thereof by certifying to the assessor in writing that the land is no longer to be classified under the Tree Growth Tax Law. In the case of a portion of a parcel, a plan showing the area withdrawn must be filed. The resulting portions must thereafter be treated as separate parcels.

- 2. **Withdrawal by assessor** – If, after all applicable notification, the assessor determines that classified forest land no longer qualifies as forest land, the assessor must withdraw the parcel from Tree Growth classification. (36 MRSA §581, sub-§1.).

- B. **Penalty** – A penalty is imposed when forest land is withdrawn from classification under the Tree Growth Tax Law except where the forest land is withdrawn by the exercise or threatened exercise of eminent domain. The penalty applies to the real estate that is withdrawn. Penalties must be assessed and collected as supplemental assessments in accordance with 36 M.R.S.A. §713-B.

- C. **Farm and Open Space Tax Law** - No penalty shall be assessed, however, upon the withdrawal of forest land from the Tree Growth Tax Law if the same forest land is accepted for classification as Farm Land or Open Space Land under 36 M.R.S.A. §1109.

- D. **Calculation of penalty** - the penalty will be an amount equal to 30% of the difference between the 100% Tree Growth valuation (of the classified land on the assessment date immediately preceding withdrawal) and the just value of the property on the date of withdrawal. If the land has been classified for more than 10 years, the following percentages shall apply:

10 years or less	30%
11 years	29%
12 years	28%
13 years	27%
14 years	26%
15 years	25%
16 years	24%
17 years	23%
18 years	22%
19 years	21%
20 years or more	20%

- E. **IMPORTANT** - Pursuant to the Constitution of Maine, Article IX, section 8, the withdrawal penalty imposed may not be less than “the tax which would have been imposed over the 5 years preceding that change of use had that real estate been assessed at its highest and best use, less all taxes paid on that real estate over the preceding 5 years, and interest.”

11. **Development Cost Offsets for Forest Management and Harvest Plans.** Once every 10 years an individual is allowed a credit against Maine Income Tax otherwise due for the lesser of \$200 or the individual's cost for having a forest management and harvest plan developed for a parcel of forest land greater than 10 acres (36 MRSA §5219-C). Credit does not apply to compensation of a forester who is a regular employee of the individual.
12. **Financial assistance** for preparation of forest management and harvest plans may be available from federal and state sources. Ask your forester about cost-share programs, contact a Natural Resources Conservation Service Center or call Maine Forest Service at (207)287-2791.

This bulletin is intended solely as advice to assist persons in determining, exercising or complying with their legal rights, duties or privileges. If further information is needed, contact the Property Tax Division of Maine Revenue Services.

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