



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

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## MAINE TREE GROWTH TAX LAW

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REFERENCE: 36 M.R.S.A. §§571 - 584-A.  
Issued May 19 2016; Replaces May, 2013 revision

### 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. “Commercial harvesting” or “harvesting for commercial use” means the harvesting of forest products that have commercial value.
- B. Forest Land. “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:

- (1) Multiple uses for public recreation;
- (2) Statutory or governmental restrictions which prevent commercial harvesting of trees or require a primary use of the land other than commercial harvesting;
- (3) 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

(4) Past or present multiple use for mineral exploration.

- C. Forest Management and Harvest Plan. “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. “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. “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. “Forest Type” means the general classification of forest land as softwood, hardwood or mixed wood.
- G. Residential Structure. “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.
- H. Shoreland Area. “Shoreland area” means land within 250 feet of the normal high-water line of any great pond, river or saltwater body, within 250 feet of the upland edge of a coastal wetland, within 250 feet of the upland edge of a freshwater wetland except as otherwise provided in 38 M.R.S. § 438-A(2) or within 75 feet of the high-water line of a stream. (38 M.R.S. § 435).

### 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 and are made public by April 1.

Municipal assessors are required to adjust the State Tax Assessor's 100% valuation for each forest type of their county by the municipality's certified ratio.

### 4. Requirements for Classification

- A. Minimum Size. Parcels must contain at least ten acres of forest land. Parcels of less than ten

forested acres resulting from a conveyance of classified land must be withdrawn from classification (See section 10). 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. § 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 ten years. On the initial application and every ten years thereafter, the landowner must file a sworn statement with the municipality where the parcel is located (or the state, if located in the unorganized territory) 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. A landowner must provide an attestation that the landowner's primary use for the classified forest land is to grow trees to be harvested for commercial use or that the classified forest land is land described in 36 M.R.S. § 573(3). The attestation must be provided when one of two situations applies: 1) When a landowner is required to provide to the assessor evidence that a forest management and harvest plan has been prepared or updated; or 2) When a landowner is required to provide evidence of compliance.

The existence of multiple uses on forest land does not render it inapplicable for tax treatment under the Tree growth Tax Law, as long as the 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 a parcel is required to apply for classification in the Tree Growth Tax Law program.

## 5. General Provisions

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

- (1) Separate applications must be filed for: 1) Each non-contiguous parcel; and 2) Each part

of a parcel, if that parcel is located in more than one municipality or county. If filing an application for classification of less than ten forested acres in a municipality with the remaining forest land in the parcel located in an adjacent municipality, the owner of the parcel must provide copies of both applications to each town.

(2) 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.

B. Review. Proof may be required by the assessor to confirm the landowner's sworn statement. However, certain proprietary detail that is included in a particular plan must be held as confidential. After reviewing a plan, the assessor must return it to the owner or the owner's agent.

Information for evaluating the suitability of a plan, harvest, or other activity conducted on classified forest land and other general information regarding forest management and harvest plans and licensed foresters may be obtained by contacting the Maine Forest Service at 1-800-367-0223, <http://www.maine.gov/dacf/mfs/index.shtml>, or [forestinfo@maine.gov](mailto:forestinfo@maine.gov).

C. Reclassification. An owner of classified forest land is responsible for reporting changes in forest type or use of classified land. If an owner fails to give notice of a change, the assessor must reclassify the parcel where the facts justify a change in classification or use. If a change results in the land no longer qualifying for the Tree Growth Tax Law program, 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 is 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 forest land within a parcel must be valued on the basis of just value.

F. Reduced Valuation. Upon written request a landowner may seek a reduced valuation if fire, disease, or other natural disaster reduces stocking to less than three cords per acre of merchantable wood on classified forest land. The reduced valuation is equal to 25% of the otherwise applicable value for the first ten years following the loss.

G. Recreational Lease. When the consideration received for a recreational use lease of forest land exceeds the established forest land value for a parcel of 100 acres or more, the land is no longer primarily used for the continuous growth of forest products. When an assessor determines the recreational lease value exceeds the forest land value, the landowner must terminate the lease, adjust the lease terms to reduce the value to an acceptable level or withdraw the forest land from the Tree Growth Tax Law program.

H. Exclusion of Structures and Shoreland Areas. In addition to other exclusions from classified forest land, if a parcel of forest 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 municipal ordinance, the following exclusions apply:

- (1) Structures. The owner of classified forest land must exclude the land on which a structure is located. The excluded land must not be less than 0.5 acres.
- (2) Shoreland areas. For each residential structure located within a shoreland area, the landowner must exclude the area of land in the parcel containing the structure or structures, which may not be less than 0.5 acres, 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

When an owner sells or transfers classified forest land to another person, the new owner must, within one year of the date of transfer, file with the municipal assessor one of the following:

- A. A sworn statement that a new forest management and harvest plan has been prepared; or
- B. 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 certified or revised, rather than ten years from the date of transfer.

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

A new owner of classified forest land may not harvest or authorize the harvest of forest products for commercial use until a statement under A or B is filed with the assessor.

7. Appeal from Determination of Valuations

Any person aggrieved by the 100% valuation per acre determined by the State Tax Assessor, may petition the State Tax Assessor for reconsideration within 60 days of the adoption of the valuation.

If a reconsideration request is denied, appeal may be made to the Maine Board of Tax Appeals or to the Superior Court pursuant to 36 M.R.S. § 151.

8. Appeal from the Assessor

Assessments on classified forest land are subject to the abatement procedures provided by § 841. The assessor, on written application filed within 185 days from date of commitment, or on his or her own initiative, within one year from date of commitment, may make an appropriate abatement r, provided the taxpayer has complied with § 706. § 706 requires that taxpayers submit a list of property owned on April 1 if the assessor requested a list in writing. If a taxpayer fails to file a list when properly requested, he or she may be barred of the right to apply for an abatement of taxes for that tax year.

- A. Notice of Decision. If an assessor fails to give written notice of his or her decision on an application for abatement within 60 days from the date the application is filed, the application is deemed to have been denied and the taxpayer may appeal to the State Board of Property Tax Review, 49 State House Station, Augusta, Maine 04333, Telephone: 207-624-7410, email: Prop.Tax@maine.gov.
- B. State Board of Property Tax Review. An appeal must be filed within 60 days from receipt of the assessor's 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, within 30 days of that decision, to Superior Court in the county where the property is located.

Bulletin No. 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 the ten-year filing deadline for an updated Tree Growth Application Schedule and accompanying map, established by § 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:
  - (1) The statutory requirements that need to be met to comply with the filing of an updated Tree Growth Application Schedule and accompanying map and the date of the deadline for compliance, or the deadline by which the parcel may be transferred to open space classification;
  - (2) Failure to meet the deadline for filing an updated Tree Growth Application Schedule and

accompanying map or transferring the parcel to open space classification, results in a supplemental assessment of \$500; and

- (3) 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 six 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 second supplemental assessment by certified mail and notify the landowner that, no later than six 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 six months from the date of the second supplemental assessment, the assessor must remove the parcel from the Tree Growth Tax Law program 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 notices described in this section.

#### 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 that 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 M.R.S. § 581(1)).

The landowner may, at any time, request in writing withdrawal of any parcel or portion of a. 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 M.R.S. § 581(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. § 713-B.

C. Farm and Open Space Tax Law. No penalty shall be assessed 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. § 1109.

D. Calculation of Penalty. The penalty will be an amount equal to 30% of the difference between the 100% valuation (of the classified forest 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:

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. Financial Assistance.

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.

NOTE: 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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