

Maine's Tree Growth Tax Program: A Brief Overview

Maine Property Tax School

DEPARTMENT OF CONSERVATION
Maine Forest Service
Forest Policy & Management Division
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Tree Growth Tax Law Overview

- Introduction
 - Maine Forest Basics
 - Divining Legislative Intent
 - Municipal Assistance Requests
 - Legislative study
 - Asking MFS for help
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- A stylized silhouette of a mountain range in shades of teal, located at the bottom right of the slide.

Department of Conservation

- **4 Bureaus:** Forestry, Parks and Lands, Geology & Natural Areas, Land Use Regulation
- **Maine Forest Service - 3 Divisions:**
 - Forest Protection
 - Forest Health & Monitoring
 - **Forest Policy & Management**
 - ◆ Foresters, Augusta staff
 - ◆ Education, outreach & technical assistance
 - ◆ Incentive programs
 - ◆ Regulatory role

Forests Define Maine

Forestland:

- 90% of Maine is forested
 - 17.7 million acres of forest land
 - 17.2 million acres of timberland

Ownership:

- 95% privately owned
- ~1/3 in family forests – over 100,000 ownerships ≤ 500 acres

Forest Diversity:

- Transition forest – temperate to sub-boreal, 75 tree species
- Clean water, wildlife habitat & fisheries, recreation opportunities, aesthetic values

Maine's Forest Condition

- Forest products:
 - Annual harvest: 6-7 million cord equivalents, >500,000 acres.
 - Growth of 0.4 cords/acre/year roughly equal to harvest.
 - ~ 130,000 acres of harvesting on ownerships <1,000 acres.

Maine's Forest Products Economy

- Statewide economic impact
 - \$6.5 billion (direct)
 - \$10.1 billion (total)
- Manufacturing
 - 40.1% of all manufacturing sales
 - #2 paper-producing state
- An integrated sector
 - Pulp & paper, sawmills, biomass energy
 - Secondary manufacturing, specialty products
 - >200 sawmills
- Employment - >30,000 people

Tree Growth Tax Law

- Enrollment: 60% of Maine's forest land
 - Organized towns – 3.6 million acres (34%); estimated >20,000 landowners enrolled.
 - Unorganized towns – 7.5 million acres (81%); estimated 4,600 landowners enrolled.
- Forest impact:
 - Enrolled woodland taxed according to productive capacity.
 - Reduced pressure on landowners to change use.

MFS Role in Tree Growth

- MFS assistance:
 - Landowner education/assistance
 - General education, responses to inquiries presentations, publications
 - Technical assistance to towns

Tree Growth Tax Law

Divining Legislative Intent

Chase Law

36 MRSA §563. Forest land; policy

It is declared to be the public policy of the State, by which all officials of the State and of its municipal subdivisions are to be guided in the performance of their official duties, to encourage by the maintenance of adequate incentive the operation of all forest lands on a sustained yield basis by their owners, and to establish and maintain uniformity in methods of assessment for purposes of taxation according to the productivity of the land, giving due weight in the determination of assessed value to location and public facilities as factors contributing to advantage in operation.

Maine Constitution – Article IX

Section 8. Taxation. All taxes upon real and personal estate, assessed by authority of this State, shall be apportioned and assessed equally according to the just value thereof. ...

2. Assessment of certain lands based on current use; penalty on change to higher use. The Legislature shall have power to provide for the assessment of the following types of real estate whenever situated in accordance with a valuation based upon the current use thereof and in accordance with such conditions as the Legislature may enact:

- A. Farms and agricultural lands, timberlands and woodlands;
- B. Open space lands which are used for recreation or the enjoyment of scenic natural beauty;
- C. Lands used for game management or wildlife sanctuaries; and
- D. Waterfront land that is used for or that supports commercial fishing activities. ...

Tree Growth Tax Law

36 MRSA. §572. Purpose - ¶ 1

It has for many years been the declared public policy of the State of Maine, as stated in sections 563 and 564, to tax all forest lands according to their productivity and thereby to encourage their operation on a sustained yield basis. However, the present system of ad valorem taxation does not always accomplish that objective. It has caused inadequate taxation of some forest lands and excessive taxation and forfeiture of other forest lands.

Tree Growth Tax Law

36 MRSA. §572. Purpose - ¶ 2

It is declared to be the public policy of this State that the public interest would be best served by encouraging forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the State and to promote better forest management by appropriate tax measures in order to protect this unique economic and recreational resource.

Tree Growth Tax Law

36 MRSA. §572. Purpose ¶ 3

This subchapter implements the 1970 amendment of Section 8 of Article IX of the Maine Constitution providing for valuation of timberland and woodlands according to their current use by means of a classification and averaging system designed to provide efficient administration.

Tree Growth Tax Law

36 MRSA. §572. Purpose ¶ 4

Therefore, this subchapter is enacted for the purpose of taxing forest lands generally suitable for the planting, culture and continuous growth of forest products on the basis of their potential for annual wood production in accordance with the following provisions.

What's it all mean, Mr. Natural?



What it means

Tree Growth is about:

- Encouraging sustainable forest management
- Encouraging forest landowners to retain and improve their forest lands and promote better forest management
- Land generally suitable for the planting, culture and continuous growth of forest products
- Taxing forest land based on its potential for annual wood production

What it doesn't mean

Tree Growth is not about:

- Enrolling non-forest land
- Enrolling land that is not used primarily for growth of trees to be harvested for commercial use
- Enrolling land to avoid just valuation of the property without providing the intended public benefits

Selected Case Studies from Municipal Assistance Requests

The background is a solid teal color. At the bottom right, there is a silhouette of a mountain range in a slightly darker shade of teal.

Who's who...

- Towns administer the program locally, through the tax assessor.
- Maine Bureau of Revenue Services, Property Tax Division responsible for administration and enforcement of the program at the state level.
- Maine Forest Service provides education to landowners and others, collects data annually from towns, and provides limited technical assistance to towns.
- Landowner is responsible for complying with requirements of TGTL.

Maine Forest Service does not enforce TGTL - Enforcement is responsibility of towns and MRS.

MFS assistance to Towns

§575-A. Assistance in determining compliance with forest management and harvest plan

- Upon request of a municipal assessor... and in accordance with section 579, the Director of the Bureau of Forestry... may provide assistance in evaluating a forest management and harvest plan to determine whether the plan meets the definition of a forest management and harvest plan in section 573, subsection 3-A.
- Upon request of a municipal assessor... the Director of the Bureau of Forestry *may* provide assistance in determining whether a harvest or other silvicultural activity conducted on land enrolled under this subchapter complies with the forest management and harvest plan prepared for that parcel of land...

Case Studies - Generalities

- Result of several recent municipal requests for assistance.
- Most requests deal with new applications.
- Land is coastal, island, or near inland waters.
- Municipal assessors in requesting towns generally skeptical of TGTL.

Case Studies - Generalities

- Of 10 plans reviewed since summer 2007, 8 comply with TGTL requirements.
- Of these 8 plans, several contained a purpose statement inconsistent with intent of TGTL.
- Two other plans otherwise deficient; MFS made suggestions for improvement.

Case Study #1

Purpose statement: “The primary objectives are forest aesthetics and property tax reduction through enrollment in the Tree Growth program. Secondary goals include recreation and wildlife habitat. Timber production, for either income or personal use, is not a priority. However, cutting will occur to achieve the above objectives. The woodlot is to be managed based on the Maine Tree Growth Tax Law requirements for commercial use. Any harvesting should improve growth, health, and density of the forest while maintaining a pleasing appearance.”

Case Study #2

“The highest priorities for the ... woodlot are forest health, aesthetics and soil & water conservation. Recreation and wildlife habitat are also important. The [landowners] hope to use some of the salvaged wood for their personal firewood. Timber production for income is of low interest. However, cutting will be allowed to achieve the above objectives, if necessary. The woodlot is to be managed based on the Maine Tree Growth Tax Law requirements for commercial use. Any cutting should strive to improve the growth, health, stocking, and species composition of the forest.”

Case Study #3

- Request made by town involved in long-running dispute with landowner over appropriate taxation of the parcel.
- Landowner had a Forest Stewardship Plan.
- MFS review found the plan to be of outstanding quality and fully compliant with TGTL requirements.
- MFS further found “that the [landowner’s] plan exceeds the requirements of the Tree Growth Tax Law in terms of its level of detail.”

Case Study #4

MFS reviewed two plans that both lacked:

- Clear objectives representing that the land [or all of the land] is used primarily for the growth of trees to be harvested for commercial use.
- Outline activities to regenerate, improve, and harvest a standing crop of timber.
- The location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife, or a statement that there are none in existence on the property.

Issues

- Statement of landowner objectives
- Inclusion of non-forest land
- Inclusion of land not capable of being managed for forest products
- Outline activities to regenerate, improve, and harvest a standing crop of timber
- Location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife
- No intention of managing for forest products

Other Background

- All previous requests dealt with new applications
- Pending request for review of management on the ground
- Not finding significant problems – can be handled by education and communication

Resolve 197 (LD 543)

TGTL Review

- Form a Task Force (MFS/MRS)
- Review following issues:
 - Timing of growth rate recalculations
 - Regionalizing stumpage values
 - Whether data supports perception that some enrolled land is not in compliance
 - Making all interests aware of requirements of TGTL
- Report due 15 January 2009

Asking MFS for Assistance

Before contacting MFS,
please try to answer the
following questions.

Asking MFS for Assistance

1 - Is the land “forest land” as defined in 36 MRSA §573?

“Forest land” means land used primarily for growth of trees to be harvested for commercial use, but does not include ledge, marsh, open swamp, bog, water and similar areas, which are unsuitable for growing a forest product or for harvesting for commercial use even though these areas may exist within forest lands (some exceptions apply).

Asking MFS for Assistance

2 - Is the forest land 10 acres or larger?

Parcel must contain 10 acres or more of forest land. A parcel is deemed to include a unit of real estate, notwithstanding that it is divided by a road, way, railroad or pipeline, or by a municipal or county line.

Asking MFS for Assistance

3 - Does the landowner have a forest management and harvest plan prepared by a Maine Licensed Forester (LF) or prepared by the landowner and reviewed and certified by a LF as consistent with TGTL and with sound silvicultural practices?

Length unimportant.

Content is important.

Asking MFS for Assistance

4 - Does the plan include all required elements?

- Is it written?

- Does it outline activities to regenerate and harvest forest products that have commercial value as defined in 36 MRSA §573?

“...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.”

Asking MFS for Assistance

- 4 - Does the plan include all required elements?
 - Does it include the location of water bodies and wildlife habitat identified by the Department of Inland Fisheries and Wildlife or a statement that none exists?
 - Does it include a timber type map?
 - Does it include a statement that that the parcel is used primarily for the growth of trees to be harvested for commercial use?

Asking MFS for Assistance

5 - Is the plan current (no more than 10 years old)?

If the plan is more than 10 years old, has it been updated, and is there evidence of compliance with the plan (a statement from a LF that the landowner is managing the parcel according to the plan)?

Asking MFS for Assistance

- 6 - Does the plan include any optional elements?
 - Schedules and recommendations for timber stand improvement?
 - Harvesting plans?
 - Recommendations for regeneration activities?

Asking MFS for Assistance

If answers to questions 1-5 are yes, minimum TGTL standards met.

If answer to question 6 is yes, plan likely exceeds minimum TGTL standards.

Asking MFS for Assistance

- If the answer is no to any of the first five questions – Call MFS
- Pick the best example – not multiple parcels
- Assessors have the authority to compel landowners to answer questions regarding enrolled parcels
- Plans are CONFIDENTIAL and MUST BE RETURNED to the landowner

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