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PROPERTY TAX BULLETIN NO. 19
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SUBJECT: MAINE TREE GROWTH TAX LAW

REFERENCES: Title 36, M.R.S.A., Section 571 - 584-A. PL 2003, c. 30 (amd).

1. General Information. The Maine Tree Growth Tax Law provides for the valuation of land that has been classified as forestland on the basis of productivity value, rather than on fair market value. The law is based on Article IX, section 8 of the Maine Constitution that permits such valuation of forestlands for property tax purposes.

2. Determination of Valuations.

The State Tax Assessor determines the 100% valuation per acre for each forest type by county or region each year. These valuations are filed with the Secretary of State by October 1 each year and are certified to municipal assessor(s) before April 1 each year.

3. Classification.

A. Optional classification--any parcels of land with at least 10 acres of forestland may be classified at the unanimous election of the owners.

B. Commercial harvesting or harvesting for commercial use means the harvesting of forest products that have commercial value.

C. 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.

D. Forestland--means land used primarily for growth of trees to be harvested for commercial use; may be either seedling, pole timber, or saw log stands. Forestland 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 forestlands.

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14 EDISON DRIVE, AUGUSTA, MAINE

E. 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.

F. Common interests—in the case of ownership in common, unanimous consent of all owners of the parcel is required for filing.

G. When the value of a recreational use lease exceeds the value of the tree growth determined pursuant to 36 MRSA, section 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.

4. Schedule.

A. Filing--owners must file an application with the municipal assessor(s) of the municipality where the parcel is located; in the Unorganized Territory the application must be filed with the State Tax Assessor.

B. Filing date--the application must be filed on or before April 1 of the year for which classification is requested. Annual filing of applications is not necessary; however, assessor(s) may request the filing of a new application at any time giving 120 days written notice. Any owner(s) of classified land has as a responsibility and must report any changes in forest types or changes in land use of classified forestland. Exception- following transfer of classified land, the new owner's application must be submitted within one-year after the applicable date of transfer.

C. Applications must indicate the forest type breakdown, as well as the other land classifications found in the parcel.

D. A Forest Management and Harvest Plan must be prepared and a sworn statement to that effect submitted. Classified land that is transferred to a new owner can remain under Tree Growth for up to one-year from the date of transfer. To continue land as classified beyond one-year, the new owner of a transferred parcel must do one of the following within one-year after the transfer date: File a sworn statement with the assessor that a written Forest Management and Harvest Plan has been obtained OR provide the assessor with a written statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous owner. Limitation - a new owner continuing under previous owner's plan must accomplish the required ten-year compliance inspection and recertification within ten years from the date that previous owners' plan was initially certified or last revised. Failure to comply with this paragraph disqualifies land from classification and a penalty for withdrawal must be imposed.

E. Forest Type Map--the application must be accompanied by a current forest type map showing the different forest types as well as the other land classifications in the parcel to the nearest one-acre.

F. Separate applications--separate applications must be filed for each separate parcel, and a separate application for each part of a parcel if the parcel is located in more than one municipality or county.

G. 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.

H. Parcel Definition--a tree growth 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.

I. Specific instructions--schedule and affidavit:

PART A

Lines 1 and 2. The name, address and telephone number of the owner should appear on these lines. If there is more than one owner, enter "multiple owners" on line 1 and attach a separate sheet listing this information.

If an authorized agent represents the owner or owners, line 1 should show "name of agent, authorized agent for (name of owner)," and line 2 should show the address and telephone number of the authorized agent.

If more than one owner, line 1 may show "(name of agent), authorized agent for (name of one owner) and others," and a separate sheet may be attached, listing all owners.

In any event, the names of all owners of the parcel must be shown, either on the schedule itself or on a separate sheet. If an authorized agent completes the schedule, it is not necessary to show the addresses or telephone numbers of the owners so represented.

Where more than one owner is involved, whether the schedule is prepared by the owners or by an authorized agent, the respective interest of each owner (such as "joint tenant," or 1/10 in common and undivided) must be shown.

Line 3. Show the location of the parcel; in particular, the municipality or township and the county where the parcel is located.

Line 4. The preferable identification of land would be by the description under which the property is carried in the assessment records or on the most recent tax bill. Where this description is not readily available, reference to the recorded deed (as, Book 231, Page 16, Kennebec Registry) can be substituted. Check the appropriate structures or improvements box and indicate tax year this parcel was first accepted for taxation under current use.

Line 5A. Show total acreage of each forest type in the parcel covered by the schedule. The statutory definition of the forest types is as follows:

"Softwood type" means forests in which pine, spruce, fir, hemlock, cedar and larch, singularly or in combination, comprise 75% or more of the stocking.

"Mixed wood type" means forests in which neither hardwoods nor softwoods comprise 75% of the stand but are a combination of both.

"Hardwood type" means forests in which maple, birch, beech, oak, elm, basswood, poplar and ash, singularly or in combination, comprise 75% or more of the stocking.

Line 5B. Show total land unsuitable for commercial forest production in the categories listed. Please note that water areas should be identified as either natural water areas or man-made water areas. Please list wetland, barren and water area on line 5B.

Line 5C. Show the total acreage of land not used primarily for commercial forest production. This does not include land unsuitable for forest growth which is shown on Line 5B.

These categories include, but are not limited to: vacant land, improved parcels with structures, camping areas, roads (see definition below) agricultural lands, orchards, gravel pits, transmission line and pipeline R/W's, railroads, and forest land which the owner chooses not to classify under the Tree Growth Tax Law.

Roads--routes or tracks consisting of beds of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles. Report road acreage to include the cleared R/W area adjacent to the traveled way.

Line 5D. Show the total acreage of the parcel covered by the schedule. This should equal the total of lines 5A, 5B, and 5C.

Additional Space. If additional space is required to complete any line or lines on the schedule, please attach a separate sheet with the name or names of the owners at the top. Specify the line to which the information applies.

PART B

All parcels are required to have a Forest Management and Harvest Plan prepared and subject to review and updated as needed by a Licensed Professional Forester at least every 10 years.

This part shall constitute an affidavit when properly completed. Owners must certify that a written Forest Management and Harvest Plan has been prepared; submit a licensed professional forester's signed statement as evidence of compliance when forester determines that land is being managed in accordance with recommendations included in the applicable plan; or the new owner of classified land may, when in agreement with, certify that the written Forest Management and Harvest Plan prepared for the prior owner is adopted by the new owner for the time remaining from the date the plan was initially prepared for the previous owner until the ten-year compliance review period expires. Owner must obtain a licensed forester's signature as proof to show land is being managed in accordance with the plan prepared for the previous landowner.

NEW OWNERS TAKE NOTICE: CLASSIFICATION EXPIRES ONE YEAR FROM DATE LAND IS TRANSFERRED UNLESS YOU TAKE ACTION. To continue land as classified beyond one-year after the applicable transfer date you must either obtain a Forest Management and Harvest Plan and file under category 1 OR certify under category 3 for the period remaining under previous owner's ten-year plan. Failure of a new owner to certify a category within one-year after the applicable transfer date will disqualify land from classification under Tree Growth and the new landowner must pay a substantial penalty for withdrawal (36 MRSA § 581). **ALSO - A new landowner may not harvest or authorize the harvest of forest products for commercial use until a certification under Category 1 or 3 is filed with the assessor.**

Landowners must check the category under which they seek classification. **Category 1** is for initial certification of parcels not previously classified and for new owners of transferred

land that was classified by a prior owner when the new owner has obtained a new or

revised Forest Management and Harvest Plan. **Category 2** must be used to re-certify classified land following periodic compliance review; Forester must determine that parcel is in compliance with plan specifications following each ten-year land inspection to decide if owner has sufficiently conformed to the applicable written Forest Management and Harvest Plan. Forester should supply updates to plan, as appropriate to ensure owner can carry out accepted forest management practices for at least the ten-year period following inspection. **Category 3** may only be used by a new owner on acquiring a parcel classified by a former owner when the new owner intends to continue land as classified under the previous owners' plan. This category is limited to the period remaining under previous owners' plan from preparation date of the plan until land is due for its ten-year review for compliance.

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.

Category 1. Written Forest Management and Harvest Plan. Landowners must submit a sworn statement that they are following the provisions of a Forest Management and Harvest Plan prepared for the parcel. The name and license number of the participating Licensed Professional Forester must be provided together with the date the plan was prepared or last revised.

"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, maps and recommendations for timber stand improvements, harvesting plans and recommendations for regeneration activities."

Category 2. Compliance Certification. Determination on 10-year Periodic Inspection by a Licensed Professional Forester: A forester must inspect the parcel and establish whether the landowner has prudently managed the land in accordance with the applicable Forest Management and Harvest Plan. A Licensed Professional Forester must sign the schedule and provide the date that parcel was inspected to demonstrate owner is in compliance with plan or forester must submit other evidence that owner is considered in compliance with plan. Forester should amend plan and outline activities on accepted forest management practices, as appropriate, to guide owner until the next ten-year compliance review must be accomplished.

Category 3. Transfer of Classified Land. Parcel may continue under previous owner's plan; limited application. New owner must provide a statement from a licensed professional forester that the land is being managed in accordance with the plan prepared for the previous owner. New owner must accomplish the required ten-year compliance review from the later of; the date that previous owner's plan was initially certified or the date that plan was last revised.

A LAND CLASSIFICATION PLAN SHOWING THE LOCATION OF EACH PARTICULAR AREA ACCORDING TO THE LAND USE AND FOREST TYPE ON THE PARCEL OF FOREST LAND MUST BE INCLUDED WITH YOUR COMPLETED SCHEDULE FOR CLASSIFICATION OF LAND AS FOREST LAND.

General information: 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.), forest access road construction and maintenance, and boundary line work.

Important: *A new owner of classified land may not harvest or authorize the harvest of forest products for commercial use until the new schedule for classification as Category 1 or 3 is filed with the assessor.*

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 forestland greater than 10 acres (36 MRSA §5219-C). Credit does not apply to compensation to forester that is a regular employee of the individual.

Financial assistance for preparation of Management and Harvest Plans may be available from federal and state sources. Ask your forester about cost-share programs, contact a County Agricultural Stabilization & Conservation Service or call Maine Forest Service at (207)287-2791.

5. Assessment.

A. Assessed valuation--municipal assessor(s) shall adjust the State Tax Assessor's 100% valuation per acre for each forest type of their county or region by the municipality's certified ratio.

B. Tax rate--classified forest land shall be assessed at the same property tax rate applicable to other property in the municipality.

C. Reimbursement to municipalities for taxes lost -- Municipalities shall be reimbursed up to 90% of the taxes lost.

For purposes of this section, the tax lost is the tax that would have been assessed, but for this subchapter, on the classified forest lands if they were assessed according to the undeveloped acreage valuations used in the state valuation then in effect, or according to the current local valuation on undeveloped acreage, whichever is less, minus the tax that was actually assessed on the same lands in accordance with this subchapter.

The reimbursement as calculated above may not exceed an amount determined by calculating the tree growth tax loss less the municipal savings in educational costs attributable to reduced state valuation.

6. Valuation of Areas Other than Forest Land.

Areas other than classified forested acres within any parcel of forestland must be valued on the basis of fair market value.

7. Reduced Valuations.

If fire, disease or other natural disasters reduce stocking to less than 3 cords per acre of merchantable wood on classified forestland, the valuation is to be reduced by 75% for the first 10 years following the loss.

8. Reclassification.

Landowners are required to give the assessor(s) notice of any change in forest type or land use, if not, the assessor(s) may reclassify the parcel or withdraw land where the facts justify a change in forest type or land use.

9. Appeal from Determination of Valuations.

Any person aggrieved by the determination of the 100% valuations per acre, as determined by the State Tax Assessor, may petition the State Tax Assessor for reconsideration within 30 days of the issuance of that order.

If reconsideration is denied further appeal may be made to the Superior Court in the county where the property is located.

10. Appeal from Municipal Assessor(s).

A. Assessments on classified forestland made under this subchapter are subject to the abatement procedures provided by 36, M.R.S.A. §841. The assessor or assessors for the time being, 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 section 706. Section 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 are barred of their right to appeal for an abatement of taxes for that tax year.

B. 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.

C. 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.

D. 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.

11. Withdrawal of Classification; Penalty.

A. Change in use--classified forestland no longer used primarily for the growth of trees to be harvested for commercial use must be reported by the landowner to the assessor. If the landowner fails to report such change and the assessor determines that classified forestland no longer qualifies as forestland, assessor must withdraw the land so classified. If the owner(s) fail to report a change in use an additional penalty of 25% of the required penalty shall be assessed. This additional penalty may be waived for cause.

B. Optional withdrawal--the landowner(s) may at any time request withdrawal of any parcel or portion thereof by certifying to the assessor 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.

C. Parcels of less than 10-forested acres resulting from sale of classified land must be withdrawn from classification. The penalty resulting from such sale that occurs after October 31, 2001 must be assessed against the transferor of that resulting parcel. Penalty--whenever withdrawal of land occurs except through the exercise or threatened exercise of eminent domain a penalty must apply. The penalty must apply to that real estate withdrawn. Penalties must be assessed and collected as supplemental assessments in accordance with section 713-B.

D. Determination 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 fair market 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. Fair market value--fair market value at the time of withdrawal is the assessed value of comparable property that is not valued on a current use basis in the municipality adjusted by the municipality's certified assessment ratio.

F. IMPORTANT. In no event may the penalty be less than the minimum required by the Constitution of Maine, Article IX, section 8:". . . a minimum penalty equal to 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. . . "

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

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, PO Box 9106, Augusta, ME 04332, Telephone (207)287-2011(voice) or (207)287-4477(TTY).

Assistance to assessors in evaluating the suitability of a plan, harvest or other activity conducted on Tree Growth enrolled land and further information relative criteria for 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.

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