



MAINE REVENUE SERVICES PROPERTY TAX DIVISION BULLETIN NO. 19

MAINE TREE GROWTH TAX LAW

REFERENCE: 36 M.R.S. §§ 571 - 584-A
October 25, 2021; replaces May 19, 2016 revision

1. General

The Maine Tree Growth Tax Law program, also known as the Tree Growth program, provides for the valuation of land based on its current use as forest land, rather than its highest and best use. The goal of the law is to encourage forest landowners to retain and improve their holdings of forest lands and to promote better forest management practices. The purpose of this bulletin is to explain the more important features of the law.

2. Definitions

- A. Assessor. “Assessor” means a sworn municipal assessing authority whether an individual assessor, a board of assessors, or a chief assessor of a primary assessing area. With respect to the unorganized territory, “assessor” means the State Tax Assessor.
- B. Certified ratio. “Certified ratio” means the level of municipal assessed value, expressed as a percentage, relative to just value as certified by the assessor pursuant to 36 M.R.S. § 383.
- C. Forest land. “Forest land,” as defined in 36 M.R.S. § 573(3), 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.

Land that 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.
- D. Forest management and harvest plan. “Forest management and harvest plan,” as defined in 36 M.R.S. § 573(3-A), 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.

- E. Forest products that have commercial value. “Forest products that have commercial value,” as defined in 36 M.R.S. § 573(3-B), 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.
- F. Forest Type. “Forest type,” as defined in 36 M.R.S. § 573(4), means a stand of trees characterized by the predominance of one or more groups of key species which make up 75% or more of the sawlog volume of sawlog stands, or cordwood in pole timber stands, or of the number of trees in seedling and sapling stands.
- G. Just value. “Just value” means market value, i.e. the amount in cash that could reasonably be expected to be paid by an informed buyer to an informed seller for a property, each acting without compulsion in an arm’s-length transaction.
- H. Land classification map. “Land classification map” means a map showing the location within a particular parcel of the different forest types (softwood, hardwood, mixed wood), water bodies, wildlife habitats designated by the Maine Department of Inland Fisheries and Wildlife, and a description and location of land to be excluded from the Tree Growth program. A land classification map is an essential part of a forest management and harvest plan.
- I. Municipality. “Municipality” means any city, town, plantation, or that portion of a county in the unorganized territory.
- J. 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.
- K. Residential structure. “Residential structure,” as defined in 36 M.R.S. § 573(6-A), 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.
- L. Shoreland area. “Shoreland area,” as defined in 38 M.R.S. § 435, 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.

3. Determination of Value

Maine Revenue Services (“MRS”) determines the 100% value per acre for each forest type by region each year. These values are adopted through rulemaking and are made public by April 1.

Municipal assessors are required to adjust the applicable 100% value from MRS for each forest type by the municipality's certified ratio.

4. Requirements for Classification

- A. Minimum size. Parcels must contain at least ten acres of forest land. Parcels containing certain structures such as houses must exclude the greater of the local minimum lot size or one-half acre from classification (see 36 M.R.S. § 574-C and subsection 5(E) below). Parcels of less than ten forested acres resulting from a transfer of classified land must be withdrawn from classification (see section 9 below).
- B. Use. Parcels must be used primarily for the growth of trees to produce forest products that have commercial value. Parcel owners must manage the land according to accepted forestry practices designed to produce forest products that have commercial value. Accepted forestry practices may include, but are not limited to, timber harvesting, tree planting, direct seeding, site preparation, thinning, cleaning, weeding, pruning, inventory of standing timber, forest protection measures (insect, fire, wind, invasive plants, etc.), and boundary line work. Timber harvesting must be consistent with sound silvicultural practices.
- C. Forest management and harvest plan. A forest management and harvest plan must be prepared for each parcel in the Tree Growth program. Forest management and harvest plans should have a minimum ten-year planning period and must be updated every ten years. On the initial application and every ten years thereafter, the landowner must file a sworn statement with the assessor where the parcel is located stating that a current forest management and harvest plan has been prepared for the parcel. The landowner must comply with the plan and every ten years must submit to the assessor a sworn statement from a licensed professional forester stating that the landowner is complying with the plan. The Application for Tree Growth Tax Law Program (“Tree Growth Application”) is the accepted form for filing these statements.
- D. Attestation. A landowner must provide an attestation that the landowner's primary use for the parcel is to grow trees to produce forest products that have commercial value or that the parcel otherwise qualifies as forest land under 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 claiming compliance with a forest management and harvest plan prepared by the previous classified land owner.

The existence of multiple uses on forest land does not render it ineligible for the Tree Growth program, as long as the parcel remains primarily used for the growth of trees to produce forest products that have commercial value.

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

5. General Provisions

- A. Filing. Owners must file an application with the assessor of the municipality where the parcel is located by April 1 of the year in which classification is first requested. Assessors may request the filing of an updated application at any time by giving the landowner a minimum of 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 located in more than one municipality. If filing an application for part of a parcel of less than ten forested acres in a municipality with the remaining parcel located in an adjacent municipality, the owner must provide copies of both applications to each municipality.
 - (2) An application must be accompanied by a land classification map.
 - (3) A completed application serves as both the landowner attestation and evidence of compliance with the forest management and harvest plan, including the forester's sworn statement. The official application form, along with instructions, can be found on the MRS website at: www.maine.gov/revenue/taxes/tax-relief-credits-programs/property-tax-relief-programs/land-use-programs.
- B. Review. An assessor may require proof to confirm a landowner's sworn statement. However, a forest management and harvest plan provided to the assessor for review is confidential and is not a public record. After reviewing a forest management and harvest plan, the assessor must return it to the owner or the owner's agent on request.
- For additional information on forest management and harvest plans, or to locate a licensed forester, contact the Maine Forest Service at (207) 287-2791, www.maineforestservice.gov, or forestinfo@maine.gov.
- C. Reclassification. An owner of classified forest land is responsible for reporting any changes in forest type or the use of the 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 parcel no longer qualifying for the Tree Growth program, the reclassification will result in a withdrawal penalty as described in section 9 below, plus an additional 25% penalty. The additional penalty may be waived by the assessor, for cause. See 36 M.R.S. § 579.
- 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 assessed on the basis of just value. This includes the following areas which are specifically excluded from classification as forest land:
- (1) Structures. Classified forest land must exclude the land on which a structure requiring a minimum lot size is located. The excluded land is the greater of the local minimum lot size or one-half acre.

(2) Shoreland areas. For each residential structure requiring a minimum lot size located within a shoreland area, a parcel must exclude the area in paragraph (1) above. The excluded area must also include the greater of 100 feet of shoreland frontage or the minimum shoreland frontage required by the local zoning ordinance. If the parcel has less than 100 feet of shoreland frontage, the entire shoreland frontage must be excluded. An exception applies for commercial structures where residential use is nonrecreational, temporary in duration, and purely incidental to the commercial use.

F. Reduced value. Upon written request, an assessor may reduce the value of land in the Tree Growth program if fire, disease, insect infestation, or other natural disaster reduces the volume of trees to less than three cords per acre of salable wood. The reduced value is equal to 25% of the otherwise applicable value for the first ten years following the loss.

G. Recreational use 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 used primarily for the growth of trees to produce forest products that have commercial value. When an assessor determines the recreational use lease value exceeds the forest land value, the landowner has 60 days to either terminate the lease, adjust the lease terms to reduce the value to an acceptable level, or withdraw the parcel from the Tree Growth program. See 36 M.R.S. § 574-A.

6. Transfer of Classified Forest Land

When an owner sells or transfers forest land enrolled in the Tree Growth program to another person, the new owner must, within one year of the date of transfer, file with the assessor one of the following:

- A. A sworn statement that the new owner has prepared a forest management and harvest plan; 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. If the new owner chooses to follow the previous landowner's plan, the new owner must complete the required ten-year compliance inspection and recertification within ten years from the date the previous owner's plan was most recently certified.

The Tree Growth Application is the accepted form for filing these statements. Failure to timely file one of the above statements may result in a notification of noncompliance from the assessor and the assessment of penalties (see section 8 below).

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

7. Notice of Noncompliance

- A. Notice. No earlier than 185 days prior to the ten-year filing deadline for an updated Tree Growth Application and accompanying land classification map, if the landowner has not yet complied with the requirements of 36 M.R.S. § 574-B, 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 maintain compliance with the Tree Growth program, including filing an updated Tree Growth Application and accompanying land classification map, and the deadline for compliance or the deadline by which the parcel may be transferred to the Open Space or Farmland program;
- (2) Failure to meet the deadline for filing an updated Tree Growth Application and accompanying land classification map or for transferring the parcel to either the Open Space or Farmland program will result in an administrative penalty of \$500; and
- (3) Continued noncompliance will lead to a second administrative penalty of \$500.

The notice must specify the date by which the owner must comply. If the assessor issues the notice of compliance fewer 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 the statutory requirements.

- B. Administrative penalty. If a landowner fails to provide the assessor with the documentation to achieve compliance with the requirements of the Tree Growth program, or fails to transfer the parcel to either the Open Space or Farmland program by the deadline specified in the notice under subsection A, the assessor will impose a \$500 penalty to be collected as a supplemental assessment in accordance with 36 M.R.S. § 713-B.
- C. Second administrative penalty. At the expiration of six months, if the landowner has not complied with the statutory requirements or transferred the parcel to either the Open Space or Farmland program, the assessor will impose an additional \$500 penalty to be collected as a supplemental assessment in accordance with 36 M.R.S. § 713-B.

The assessor must 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 statutory requirements or transfer the parcel to either the Open Space or Farmland program, or the land will be withdrawn from the Tree Growth 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 program and assess a withdrawal penalty as described in section 8 below.
- E. Other notices. The assessor may issue other notices or compliance reminders to property owners at any time in addition to the notices described in this section.

8. Withdrawal of Classification; Penalty

- A. Forest land may be withdrawn from the Tree Growth program in one of two ways:
 - (1) Withdrawal by landowner. Landowners must report forest land that is no longer used primarily for the growth of trees to be harvested for forest products that have commercial value to the assessor and the parcel must be removed from the program.

At any time, the landowner may request, in writing, withdrawal of a parcel or portion of a parcel. In the case of withdrawal of a portion of a parcel, a revised land classification map showing the area withdrawn and the area remaining as forest land must be filed. For the portion of the parcel that remains in the Tree Growth program, the forest management and harvest plan must be revised to reflect the withdrawal. The resulting portions must thereafter be treated as separate parcels.

- (2) Withdrawal by assessor. If the assessor determines that classified forest land no longer qualifies as forest land, and all required notices have been provided, the assessor must withdraw the parcel from the Tree Growth program.

- B. Withdrawal penalty. A penalty is imposed when forest land is withdrawn from the Tree Growth program, either by the landowner or by the assessor. The penalty applies to that portion of the land that is withdrawn, and is in addition to the administrative penalties described in section 7 above.

- C. Penalty exceptions. No penalty is generated on the withdrawal of forest land from the Tree Growth program if that forest land is accepted for classification under either the Open Space or Farmland program pursuant to 36 M.R.S. § 1109, or if the land is withdrawn as a result of the exercise or threatened exercise of eminent domain.

- D. Calculation of penalty. The withdrawal penalty is the greater of:
 - (1) The difference between the taxes that would have been assessed for the preceding five tax years if the land had been assessed at its just value on the date of withdrawal, and the taxes that were actually paid on the land for the preceding five tax years, plus interest at the prevailing municipal rate from the date each year's taxes were due. If the land has been classified under the Tree Growth program for less than five years, the penalty must be calculated starting with the year in which the land was first classified.

 - (2) A percentage of the difference between the 100% value of the classified forest land on the April 1 immediately preceding withdrawal (calculated using the values published in MRS Rule 202 – Tree Growth Tax Law Valuations) and the just value of the land on the date of withdrawal. The percentage is based on the number of years the land has been classified in the Tree Growth program, and equals:

| | |
|------------------|-----|
| 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% |

9. Appeal from the Assessor

Assessments under the Tree Growth program, including assessments of penalties, as well as denials of applications for classification under the program, may be appealed using the abatement process in 36 M.R.S. § 841. A decision rendered under section 841 regarding the Tree Growth program may be appealed to the State Board of Property Tax Review. For additional information on the abatement and appeal process, see Bulletin No. 10 – Property Tax Abatement and Appeals Procedures.

10. Financial Assistance

Financial assistance for preparation of forest management and harvest plans may be available from federal and state sources. Ask your forester, 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.

MAINE REVENUE SERVICES
PROPERTY TAX DIVISION
P.O. BOX 9106
AUGUSTA, MAINE 04332-9106
TEL: (207) 624-5600
EMAIL: prop.tax@maine.gov
www.maine.gov/revenue/taxes/property-tax

The Department of Administrative and Financial Services does not discriminate on the basis of disability in admission to, access to, or operation of its programs, services or activities. This material can be made available in alternate formats by contacting the Department's ADA Coordinator at (207) 624-8288(voice) or V/TTY: 7-1-1.

(Published under Appropriation No. 1037.1)