



# 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 July, 2010; Replaces February, 2010 Revision.

### 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. 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. 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.

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”** 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, notwithstanding that 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 forestland as softwood, hardwood or mixed wood.

### 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% 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.

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 a sworn statement to that effect submitted to the assessor(s). The forest management plan must be updated every 10 years.

D. **Unanimous consent** - unanimous 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 by April 1 of the year in which classification is first requested with the assessor(s) of the jurisdiction where the parcel is located. See Section 6 for the filing requirements related to the transfer of classified forest land. Annual filing is not necessary; however, assessor(s) may request the filing of a new application at any time giving 120 days written notice.

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.

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.

The application includes a sworn statement that a forest management and harvest plan has been prepared for the parcel and that the owner will follow the provisions of the plan. 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.

**B. *Reclassification*** - Any owner(s) of classified land has a responsibility and must report any changes in forest types or changes in land use of classified forestland. If the landowners do not give notice of any change in classification, the assessor(s) must reclassify the parcel where the facts justify a change in classification or use.

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

**D. *Valuation of Land 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.

**E. *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 forestland. The valuation is to be reduced by 75% for the first 10 years following the loss.

**F. *Recreational Lease*** - When the value of a recreational use lease exceeds the value established for tree growth as 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.

## 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.

**Important:** *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).*

**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 owner's plan was initially certified or last revised.

Failure to timely file one of the above statements with the assessor(s) disqualifies land from classification and a penalty for withdrawal must be imposed.

## 7. 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.

## 8. Appeal from the Assessor(s)

Assessments on classified forestland 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 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 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.

*For a more thorough explanation of the abatement and appeals process, see Bulletin #10*

## 9. Withdrawal of Classification: Penalty

Classified forestland 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. 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.

If the assessor determines that land subject to this subchapter no longer meets the requirements of this subchapter, the assessor must withdraw the land from taxation under this subchapter (**36 MRSA §581, sub-§1.**) 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.

Parcels of less than 10 forested acres resulting from sale of classified land must be withdrawn from classification. The penalty resulting from such sale 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 36 M.R.S.A § 713-B.

**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%

**\*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.

**Notice of compliance.** No earlier than 185 days prior to a deadline established by section 574B, if the landowner has not yet complied with the requirements of that section, the assessor must provide the landowner with written notice informing the landowner that failure to comply will result in the withdrawal of the property from taxation under this subchapter. The notice, at a minimum, must inform the landowner of the statutory requirements that need to be met and the date of the deadline for compliance and that the consequences of withdrawal could include the assessment of substantial financial penalties against the owner. If the notice is issued less than 120 days before the deadline, the owner has 120 days from the date of the notice to provide the assessor with the documentation to achieve compliance with section 574B, and the notice must specify the date by which the owner must comply. (36 MRSA §581, sub-§1-A)

At the expiration of the deadline for compliance with section 574B or 120 days from the date of the notice, whichever is later, if the landowner has failed to meet the requirements of section 574B, the assessor must withdraw the parcel from taxation under this subchapter and impose a withdrawal penalty under subsection 3.

This subsection does not limit the assessor from issuing other notices or compliance reminders to property owners at any time in addition to the notice required by this subsection.

**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.”

**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 under 36 M.R.S.A., §1109.

**10. 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 of a forester who 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.

#### **11. Tree Growth Application Schedule- Specific Instructions**

Select the description that best describes your application for Tree Growth classification:

1. First Year of classification for parcel
2. New Application for parcel already classified
3. Adopted previous owners forest management plan
4. Recertification of forest management plan

#### **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. Parcels that are in different municipalities or townships must have a separate application filed in the each municipality or township.

**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 (ex. Book 231, Page 16, Kennebec Registry) can be substituted. Check the appropriate structures or improvements box and indicate the tax year this parcel was first accepted for taxation under current use. Parcels that are non-contiguous must have separate tree growth application schedules.

**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:

1. "*Softwood type*" means forests in which pine, spruce, fir, hemlock, cedar and larch, singularly or in combination, comprise 75% or more of the stocking.
2. "*Mixed wood type*" means forests in which neither hardwoods nor softwoods comprise 75% of the stand but are a combination of both.
3. "*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 the total acreage of land unsuitable for commercial forest production in the following categories:

1. Natural Water and/or Man-made Water Areas
2. Wetlands (swamp, marsh)
3. Ledges and barrens

**Line 5C** Show the total acreage of land not used primarily for commercial forest production in the following categories:

1. *Building Area* – means the area utilized for an existing building or reserved for future development.
2. *Fields* – means an area that is open field area.
3. *Gravel Pits* – means an area that is either an active or inactive gravel pit.
4. *Quarry and mining areas* – means an area that is an active or inactive quarry and mining area.
5. *Transmission Line or Pipeline R/W area* – means an area that is used for transmission/pipe line such as CMP, Bangor Hydro, etc
6. *Roads, Class I* – means roads that include culverts, ditching and gravel base, 2 lane road
7. *Roads, Class II* – means roads where little gravel added for passability, no ditching, may be 2 lane road
8. *Blueberry area* – means an area used primarily for growing blueberries
9. *Other Agricultural area* – means an area other than blueberries; such as potatoes, cranberries, etc.
10. *Other areas* – means an area that does not fall into the above 9 categories. Specific description of area needed.

**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**

**TO BE COMPLETED BY FORESTER** – This section must be filled out by the forester who is preparing your forest management and harvest plan. Foresters must enter their names, license number, telephone number, date the parcel was inspected and the date the plan was prepared. If signature is required, forester must sign and date.

**TO BE COMPLETED BY THE LANDOWNER** - This part shall constitute an affidavit when properly completed. Landowners must check the category under which they are seeking classification.

**Category 1** The landowner is seeking initial certification of a parcel not previously classified as Tree Growth land. Landowner swears that they will follow the provisions of the Forest Management and Harvest Plan prepared for the parcel.

**Category 2** The landowner has a new Forest Management and Harvest Plan created for the parcel that has previously been classified as Tree Growth land. Landowner swears that they will follow the provisions of the new Forest Management and Harvest Plan prepared for the parcel.

**Category 3** A new landowner acquiring a classified parcel from a former owner when the new owner intends to continue to classify the land under the previous owner's Forest Management and Harvest 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. Landowner swears that they will follow the provisions of the Forest Management and Harvest Plan prepared for the previous owner. Must enter date previous plan was prepared.

**Category 4** The landowner is re-certifying classified land pursuant to an existing plan following a 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. Owner swears that they have followed and will continue to follow the provisions of the Forest Management and Harvest Plan prepared for the parcel.

Owner must enter in the renewal date of the current forest management plan as well as sign and date the application.

**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.**

**NOTE TO LANDOWNER: If you own one or more parcels of Tree Growth classified land in the State of Maine that in the aggregate total more than 500 acres, you must annually report and pay a Commercial Forestry Excise Tax (CFET) to the State. Please contact the Maine Revenue Services Property Tax Division if you have any questions.**

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.

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  
PO BOX 9106  
AUGUSTA, MAINE 04332-9106  
TEL: (207) 287-2013

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