

## Changes in the Law Affecting the Current Use Program in 2015

The laws relating to the Current Use Program experienced several changes during the 2015 legislative session. This fact sheet explains the major changes.

### Changes to the Land Use Change Tax Calculation and the Temporary “Easy Out” for Withdrawing Land

Land use change tax (LUCT) applies when agricultural land and managed forestland is developed or when it is withdrawn from the Current Use Program and the lien is removed. During the 2015 legislative session, the legislature changed how the LUCT is to be calculated and also created a temporary “easy-out” period in which landowners can remove a parcel, or portion of a parcel, without paying the full LUCT liability.

#### Land Use Change Tax Calculation

Starting Oct. 2, 2015, the LUCT is imposed at a rate of 10% of the full fair market value of land that is developed. LUCT is also due when land is withdrawn from the Current Use Program and the owner removes the lien. When an owner withdraws land but does not remove the lien, LUCT is due when the land is later developed or the lien is later removed. In any case, land that is withdrawn or developed will be valued at the time it is withdrawn, even if LUCT is not immediately due. If only a portion of a parcel is developed or withdrawn, that portion will be valued as a separate parcel and the 10% tax rate will apply to that portion of the parcel.

#### What Changed?

The legislature changed the method for determining the value of land that is developed or withdrawn from the program. In addition, the rate that is applied to the land’s value to determine tax due is now 10% for all land developed or withdrawn.

The change in law has the greatest effect when a land owner develops or withdraws only a portion of an enrolled parcel. Under the previous method, the entire enrolled parcel would be assessed and the value of the portion developed or withdrawn would be prorated based on acreage. For instance, if two acres were developed or withdrawn from an enrolled 100 acre parcel, the value of the two acres was assessed at 2% of the value of the entire 100 acre parcel. In cases where the developed or withdrawn land is more valuable per acre than the remaining enrolled land, the land value used to calculate LUCT was below market value.

After Oct. 2, 2015, the portion developed or withdrawn will be valued separately as its own parcel. The 10% tax rate will apply to the separately assessed value of the developed or withdrawn land. In cases where the developed or withdrawn land is more valuable per acre than the remaining enrolled land, this will lead to a greater amount of tax due than it would under the previous calculation. Recognizing this, the legislature created a temporary “easy-out” option for enrollees to remove land before the new calculation takes effect. (See below for details of the “easy-out.”)

This change requires the local assessing official to separately determine the value of the developed or withdrawn land in order for LUCT to be calculated. Starting Oct. 2, 2015, when land is developed or a landowner notifies the Current Use Office that he or she would like to withdraw land, the Vermont Department of Taxes will notify the local assessing official so that he or she will know to value the removed land as a separate parcel for purposes of the LUCT.

#### “Easy-Out” Option to Withdraw Land from Current Use

Between July 1 and Oct. 1, 2015, owners of enrolled land may use an “easy-out” option to withdraw land from the Current Use Program, and remove the lien, without paying the full LUCT. A property owner who withdraws

*What if I withdrew land prior to the “easy-out” but have not removed the lien and not paid LUCT?*

Land that is withdrawn prior to Oct. 2, 2015, without using the “easy-out” option will remain valued as of the date the land was no longer eligible for use value appraisal and in accordance with the law in effect at that time.

enrolled land during the “easy-out” period is exempt from paying the first \$50,000 of LUCT. In addition, the LUCT due will be calculated using the old method (described on page 1) that prorates the value of the land on the basis of acreage.

A property owner who uses the “easy-out” is required to pay the full property tax based on the full fair market value for the 2015 assessment. The Department will not reimburse municipalities for land that is unenrolled using the “easy-out.”

Land that is withdrawn using the “easy-out” cannot be re-enrolled for at least five years.

The \$50,000 cap on LUCT relief is on a per-owner basis. The Department strongly encourages owners who choose to use the “easy-out” to remove multiple parcels, or multiple portions of parcels, to submit all the applications together. This is to help ensure that an owner does not receive more than \$50,000 of relief, which would require the Department to later bill the owner for the amount in excess of \$50,000.

Before July 1, the Department will publish an “Application to Discontinue Land through the ‘Easy Out’ Option” and will post it on the Department of Taxes website under the “Property” section. The application will require three copies of an updated Current Use Map in instances where the owner removes a portion of a parcel rather than the entire parcel. Owners who anticipate using the “easy out” to remove a portion of an enrolled parcel should prepare the maps in advance to avoid delays or having an application denied due to being incomplete. The Current Use Map Standards are available at <http://tax.vermont.gov/content/cu-map-standards>.

### **New Annual Requirement for Owners of Agricultural Land or Buildings**

The legislature created a new annual requirement for owners of agricultural lands and buildings enrolled in the Current Use Program. On or before Sept. 1 of every year, an owner must certify in writing under oath to the Vermont Department of Taxes that all enrolled agricultural land and buildings continue to meet the requirements for enrollment at the time of the certification.

Owners of enrolled agricultural land and buildings are required to use a certification form provided by Department. The certification form and related informational materials will be distributed in the near future and will also be available on the Department website.

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### **Removal of Agricultural Land and Farm Buildings for Water Quality Violations**

Starting July 1, 2015, the Agency of Agriculture, Food, and Markets (AAFM) will have authority to direct the Vermont Department of Taxes to remove agricultural land and farm buildings from the Current Use Program when the land or buildings are used by a person who is in violation of the water quality requirements established in law, administrative rule, or any permit or certification. A landowner whose land has been removed from the Current Use Program as a result of this provision may have the right to appeal AAFM’s decision. All appeals must be made to the AAFM. If you have questions, please contact the AAFM’s chief policy enforcement officer at 802-828-1732.

