

USE VALUE APPRAISAL OF AGRICULTURAL, FOREST, CONSERVATION AND FARM BUILDINGS PROPERTY

Chapter 124 of Title 32 provides for a program which taxes farm and forest property according to its use value. The purpose of the program is to keep agricultural and forest land in production, and to slow development of these lands.

Enrolled property must remain in agriculture, forest or conservation use to be taxed at use value. If the property is developed, a land use change tax will be due. If only a portion of the property is developed, the penalty will apply only to that portion.

APPLICATIONS

Application forms are available at your Town Clerk's Office, County Foresters or from Property Valuation and Review.

Completed applications are due by September 1, for enrollment the following tax year. For parcels which contain managed forest land or conservation land, 3 copies of the map and one copy of the forest or conservation management plan are due on October 1. For parcels which do not contain managed forest or conservation land, maps are due on September 1 with the application.

By April 15, applicants will be notified of the Director's decision concerning the parcel's eligibility and the use value for the current tax year. If the landowner does not file a formal withdrawal with the Director, the property will be enrolled as of the date of the grievance hearing of the town where the parcel is located.

Once enrolled, the property will automatically continue in the program, unless it is withdrawn by the owner or the division of property valuation and review, it is converted or developed, or it becomes ineligible. Whenever property is withdrawn, developed or becomes ineligible, a Notice of Development or Discontinuance will be issued for the affected tax year. A Notice of Assessment will also be issued stating the fair market value of the withdrawn portion and for any developed portion and the amount of any land use change tax that may be due.

Eligibility requirements and penalties for conversion are discussed separately on the following pages.

Below are brief statements about the eligible property, tax benefits, and the penalty for development or conversion.

Agricultural land:

At least 25 contiguous acres in active agricultural use; or smaller parcels which generate at least \$2,000 annually from the sale of farm crops; or actively used agricultural land owned by or leased to a farmer;

- Taxed at use value.

Perpetual obligation to pay land use change tax of 10% or 20% of fair market value of developed portion.

Forest land:

At least 25 contiguous acres of forest land managed according to state standards and an approved forest management plan.

- Taxed at use value.

Perpetual obligation to pay land use change tax of 10% or 20% of fair market value of developed portion.

Conservation land:

Any land, exclusive of any house site which is certified under 10 V.S.A § 6306(b), is owned by an organization that was certified by the commissioner of taxes as a qualified organization as defined in 10 V.S.A. § 6301a and for at least five years preceding its certification was determined by the internal revenue service to qualify as a Section 501(c)(3) organization which is not a private foundation as defined in Section 509(a) of the Internal Revenue Code, and is under active conservation management in accord with standards established by the commissioner of forests, parks and recreation.

- Taxed at use value.

Perpetual obligation to pay land use change tax of 10% or 20% of fair market value of developed portion.

Farm Buildings:

Eligible farm buildings include all farm buildings and other farm improvements which are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a housesite adjoining enrolled land. Eligible farm buildings are exempt from all property taxes.

 For More Information Contact Property Valuation and Review (802) 828-5860 

⊠ STATUTORY PROGRAM DEFINITIONS

➤ TITLE 32, SECTION 3752

- (1) "*Agricultural land*" means any land, exclusive of any house site, in active use to grow hay or cultivated crops, pasture livestock or to cultivate trees bearing edible fruit or produce an annual maple product, and which is 25 acres or more in size except as provided below. There shall be a presumption that the land is used for agricultural purposes if:
- (A) it is owned by a farmer and is part of the overall farm unit; or
 - (B) it is used by a farmer as part of his farming operation under written lease for at least three years; or
 - (C) it has produced an annual gross income from the sale of farm crops in one of two, or three of the five, calendar years preceding of at least:
 - (i) \$2,000.00 for parcels of up to 25 acres; and
 - (ii) \$75.00 per acre for each acre over 25, with the total income required not to exceed \$5,000.00;
 - (iii) exceptions to these income requirements may be made in cases of orchard lands planted to fruit producing trees, bushes or vines which are not yet of bearing age.

For the purposes of this section, the term "farm crops" also includes animal fiber, cider, wine and cheese produced on the enrolled land or on a housesite adjoining the enrolled land from agricultural products grown on the enrolled land.

- (2) "*Assessing officials*" means the listers or other assessing authority of the municipality or the state of Vermont;
- (3) "*Board*" means the current use advisory board established in §3753 of this chapter;
- (4) "*Commissioner*" means the commissioner of the department of taxes;
- (5) "*Development*" means, for the purposes of determining whether a land use change tax is to be assessed under § 3757 of this chapter, the construction of any building, road or other structure, or any mining, excavation or landfill activity. "Development" also means the subdivision of a parcel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres each; but if subdivision is solely the result of a transfer to one or more of a spouse, parent, grandparent, child, grandchild, niece, nephew or sibling of the transferor, or to the surviving spouse of any of the foregoing then "development" shall not apply to any portion of the newly-created parcel or parcels which qualifies for enrollment and for which, within 30 days following the transfer, each transferee applies for re-enrollment in the use value appraisal program. "Development" also means the cutting of timber on property appraised under this chapter at use value in a manner contrary to a forest or conservation management plan as provided for in subsection 3755(b) of this title, or contrary to the minimum acceptable standards for forest management; or a change in the parcel or use of the parcel in violation of the conservation management standards established by the commissioner of forests, parks and recreation. The term "development" shall not include the construction, reconstruction, structural alteration, relocation or enlargement of any building, road or other structure for farming, logging, forestry or conservation purposes, but shall include the subsequent commencement of a use of that building, road or structure for other than farming, logging or forestry purposes;
- (6) "*Director*" means the director of the division of Property Valuation & Review created by § 2289 of Title 3;
- (7) "*Farmer*" means a person: (A) who earns at least one-half of the farmer's annual gross income from the business of farming as that term is defined in Regulation 1.175-3 issued under the Internal Revenue Code of 1986; or (B) (i) who produces farm crops that are processed in a farm facility situated on land enrolled by a farmer in a use value appraisal program or on a housesite adjoining the enrolled land; (ii) whose gross income from the sale of processed farm products pursuant to subdivision (i) of this subdivision (B), when added to other gross income from the business of farming as used in subdivision (A) of this subdivision (7), equals at least one-half of the farmer's annual gross income; and (iii) who produces on a farm a minimum of 75 percent of the farm crops processed in the farm facility; (C) the Agency of Agriculture, Food and Markets shall assist the director in making determinations of eligibility pursuant to subdivision (B) of this subdivision(7).
- (8) "*Housesite*" means the two acres of land surrounding any house, mobile home or dwelling;
- (9) "*Managed Forest land*" means:
- (A) any land, exclusive of any house site, which is at least 25 acres in size and which is under active long-term forest management for the purpose of growing and harvesting repeated forest crops in accordance with minimum acceptable standards for forest management; or

(B) any land, exclusive of any house site, which is:

- (i) certified under 10 V.S.A § 6306(b) of Title 10,
- (ii) is owned by an organization that was certified by the commissioner of taxes as a qualified organization as defined in 10 V.S.A. § 6301a and for at least five years preceding its certification was determined by the internal revenue service to qualify as a Section 501(c)(3) organization which is not a private foundation as defined in Section 509(a) of the Internal Revenue Code, and
- (iii) is under active conservation management in accord with standards established by the commissioner of forests, parks and recreation;

(10) "*Owner*" means the person who is the owner of record of any land. When enrolled land is mortgaged, the mortgagor shall be deemed the owner of the land for the purposes of this subchapter, until the mortgagee takes possession, either by voluntary act of the mortgagor or foreclosure, after which the mortgagee shall be deemed the owner;

(11) "*Person*" means any individual, firm, corporation, partnership or other form of organization or group of individuals;

(12) "*Use value appraisal*" means, with respect to land, the price per acre which the land would command if it were required to remain henceforth in agriculture or forest use, as determined in accordance with the terms and provisions of this subchapter. With respect to farm buildings, "use value appraisal" means zero percent of fair market value. The director shall annually provide the assessing officials with a list of farm sales, including the town in which the farm is located, the acreage, sales price, and date of sale.

(13) "*Minimum acceptable standards for forest management*" refer to certain standards established by the commissioner of the department of forests, parks and recreation.

(14) "*Farm buildings*" means all farm buildings and other farm improvements which are actively used by a farmer as part of a farming operation, are owned by a farmer or leased to a farmer under a written lease for a term of three years or more, and are situated on land that is enrolled in a use value appraisal program or on a house site adjoining enrolled land. "Farm buildings" shall include up to \$100,000.00 of the value of a farm facility processing farm crops, a minimum of 75 percent of which are produced on the farm and shall not include any dwelling other than a dwelling in use during the preceding tax year exclusively to house one or more farm employees, as defined in section 4469 of Title 9, and their families, as a nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of "farming" in subdivision 6001(22) of Title 10 or the definition of "farm structure" in subdivision 4413(d)(1) of Title 24.

(15) "Active Use" of agricultural land includes that portion of otherwise eligible land that is enrolled in a conservation reserve enhancement program for agricultural lands through a contract with the state or federal government.

➤ **TITLE 9, SECTION 4469**

(1) "*Farm employee*" means an individual employed by a farm employer in farming operations.

(2) "*Farm employer*" means an individual who earns at least one-half of his or her annual gross income from the business of farming as that term is defined in Section 1.175-3 of the regulations issued by the United States Department of the Treasury under the Internal Revenue Code of the United States, as amended.

(3) "*Housing provided as a benefit of farm employment*" means housing owned or controlled by the farm employer; whether located on or off the farm premises, and provided for the occupancy of the farm employee and his or her family or household members for no consideration other than the farm employee's labor. Payment of utility and fuel charges paid by the farm employee does not affect the designation of housing provided as a benefit of farm employment.



AGRICULTURAL AND FARM BUILDINGS PROGRAM



ELIGIBLE PROPERTY

In general, agricultural land must be at least 25 acres and in active use to do one of the following: grow and annually harvest hay or cultivate crops; cultivate and harvest Christmas trees; cultivate trees to produce an annual crop of edible fruit or syrup; pasture at least one animal unit per three acres for a minimum of 30 days per year. (An animal unit is defined as one horse, one cow, one mule, five goats, or five sheep).

Parcels less than 25 acres may be enrolled if they have produced an annual gross income of at least \$2,000 from the sale of farm crops in one of two or three of five immediately preceding calendar years or if they are owned by or leased to a farmer and actively used.

Housesites must be excluded (2 acres surrounding each dwelling, house, mobile home or camp). Actual acreage of developed land must be excluded along with any land used for fee hunting or fishing.

Land surrounding activities other than agriculture must be excluded.

Owners do not have to be farmers to participate.

Fee hunting prohibition: As of September 1, 1997, no person may charge or receive a fee, consideration or other thing of value in exchange for the right to hunt or fish on land enrolled in a use value program.

TAX BENEFITS

Land will be taxed based on its use value established annually by the Current Use Advisory Board and eligible farm buildings are exempt from all property taxes.

REQUIREMENTS AND TERMS

Property must continue to be actively used for agriculture purposes.

DEVELOPMENT AND PENALTIES

Once land is enrolled, it is subject to a lien. If this land is ever developed, the owner at the time of development must pay the land use change tax. The land use change tax is calculated as 10% or 20% of the fair market value of the developed portion prorated on the basis of acreage divided by the common level of appraisal. If land has been enrolled continuously more than 10 years, the rate is 10%. If land has been enrolled 10 years or less the rate is 20%.

In this program, development includes: subdivision so that one or more of the resulting parcels is less than 25 acres; construction of buildings, roads, or structures not used for farming purposes; commercial mining, excavation or landfill activity.

The obligation to pay this tax runs with the land in perpetuity. The tax is not due unless and until the land is developed; however, it may be prepaid if the landowner wishes to clear the title.

WITHDRAWAL

All or a portion of the land may be withdrawn by the owner. If the land is not developed, the land use change tax would not be due. However, the land use change tax would be due if the land is ever developed in the future. The tax would be calculated as 10% or 20% of the fair market value of the developed portion as of the date that the land was withdrawn from the program.

TRANSFER OF OWNERSHIP

FORM LU-CHANGE:03-CHANGE OF OWNERSHIP and an updated *APPLICATION FORM LU-AFCFB* with maps must be completed and forwarded within 30 days of the conveyance to Property Valuation and Review, Current Use Appraisal Program, 133 State St, Montpelier, VT 05633-1401 if:

- 1) Enrolled land is conveyed and is to remain in the program by the new owner.
- 2) A portion of the property is retained by the original owner and is to continue to be enrolled by the original owner.

FOREST AND CONSERVATION PROGRAM

ELIGIBLE PROPERTY

At least 25 contiguous acres of forest land, managed according to both state standards and a forest management plan approved by the Department of Forests, Parks and Recreation. Land which is not capable of growing 20 cubic feet per acre per year plus open land not to be restocked within two years under the provisions of a forest management plan cannot exceed 20% of the total eligible land appraised at use value. Any land owned by a qualifying organization and managed according to a conservation management plan approved by the Department of Forests, Parks and Recreation.

Housesites must be excluded (2 acres surrounding each dwelling, house, mobile home or camp). Actual acreage of developed land must be excluded along with any land used for fee hunting or fishing.

Land surrounding activities other than forestry must be excluded.

Fee hunting prohibition: As of September 1, 1997, no person may charge or receive a fee, consideration, or other thing of value in exchange for the right to hunt or fish on land enrolled in a use value appraisal program.

TAX BENEFITS

Land will be taxed based on its use value which is established annually by the Current Use Advisory Board.

REQUIREMENTS AND TERMS

Property must be managed according to the approved forest or conservation management plan and according to state standards. It will be inspected at least once every ten years. The main objective in requiring a management plan is to assure that the land is managed carefully. It is not intended to force a landowner into a particular type of management. A private consulting forester should be asked to prepare, or help prepare, a management plan which meets the landowner's objectives as well as the state standards.

A Forest Management Activity Report must be filed by February 1 with the Department of Forests, Parks and Recreation to report any management activity which occurred in the previous year.

DEVELOPMENT AND PENALTIES

Once land is enrolled, it is subject to a lien. If this land is ever developed, the owner at the time of development must pay the land use change tax. The land use change tax is calculated as 10% or 20% of the fair market value of the developed portion prorated on the basis of acreage divided by the common level of appraisal. If land has been enrolled continuously more than 10 years, the rate is 10%. If land has been enrolled 10 years or less, the rate is 20%.

In this program, development includes: subdivision so that one or more of the resulting parcels is less than 25 acres; construction of buildings, roads, or structures not used for forestry purposes; commercial mining, excavation or landfill activity, or cutting timber contrary to the management plan or contrary to state standards.

The obligation to pay this tax runs with the land in perpetuity. The tax is not due unless and until the land is developed; however, it may be prepaid if the landowner wishes to clear the title.

WITHDRAWAL

All or a portion of the land may be withdrawn by the owner. If the land is not developed, the land use change tax would not be due. However, the land use change tax would be due if the land is ever developed in the future. The tax would be calculated as 10% or 20% of the fair market value of the developed portion as of the date that the land was withdrawn from the program.

TRANSFER OF OWNERSHIP

FORM LU-CHANGE:03-CHANGE OF OWNERSHIP and an updated *APPLICATION FORM LU-AFCFB* with maps must be completed and forwarded within 30 days of the conveyance to Property Valuation and Review, Current Use Appraisal Program, 133 State Street, Montpelier, VT 05633-1401 if:

- 1) Enrolled land is conveyed and is to remain in the program by the new owner.
- 2) A portion of the property is retained by the original owner and is to continue to be enrolled by the original owner.