

NORTHEAST FOREST LAND TAXES AND PROGRAMS

Thanks for joining us today.
The presentation will begin shortly.

Everyone will be muted for the first portion of the presentation and you will be able to unmute yourself for the question/answer period.

You can type comments or questions into the CHAT feature at any time.

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USDA Agricultural Marketing Service:
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NORTHEAST FOREST LAND TAXES AND PROGRAMS

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DISCLAIMER

DISCLAIMER: Nothing in these presentations should be interpreted as legal advice. These presentations are intended to help a person to understand the area of law to help ask the right questions with the attorney of their choice. These information are not intended to substitute for professional legal advice and does not create an attorney-client relationship. You should accept legal advice only from a licensed legal professional with whom you have an attorney-client relationship.



PRESENTATION OVERVIEW

- Overview of Current Use Programs
- Vermont
- Maine
- New York
- Discussion Questions



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CURRENT USE GENERALLY

Created in the 1950's-1970's – anti-sprawl motivation

Goals:

- Lessen conversion pressure (particularly in areas with rising property values)
- Fairness to existing owners/operators
- Conservation goals/objectives
- Aligning property tax with use of community services
- Value Proposition: Pay taxes at use value/keep in “current” use

Lands Targeted:

- Agricultural Lands
- Forested Lands
- Conservation Lands



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GENERAL PROVISIONS

Eligibility Requirements:

- Land-related criteria (vary by program type and from state to state)
- Owner-related criteria (more common on the farmland side (income and years of operation))

Nature of Benefit:

- Assessment at Use Value v. FMV
- Differential Assessment ratios
- Use Rates established by State
- Other specific programs for other goals (ex: MD provides additional tax benefits for certain conserved lands)



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GENERAL PROVISIONS

Length of Enrollment:

- Some states: no penalty (year to year or auto enrollment)
- Others have specific enrollment period (with exit cost)
- Generally, enrollment can be transferred to new owner

Exit from Program:

- Free exit (no penalty)
- Penalty tiered to % of Property Value (ex. CT- 10% of property value in year 1, reduced in out years to 0% after 10 years)
- Tax Rollback (repayment of tax savings)
- Other potential penalties (failure to notify of development)



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COMMON ISSUES/CRITICISMS

- Ensuring that benefits go to farmers/larger properties
- Incomplete incentive (the design a state uses may prove insufficient) (ex. States tiering agricultural assessment to commodity prices with market volatility).
- Lack of permanence/cost of benefit
- Structures (to include/not include)



VERMONT

- Established in 1977.
- Current Use Tax Rates established by state board.
- 2.4 million acres of land enrolled (18,000+ parcels) (more than 1/3 of state).
- Agriculture and Forest Land are primary categories.



VERMONT: HOW TO APPLY

- An application fee of \$100.00.
- A completed CU-301 Form (the Current Use Program Use Appraisal Voucher Application for Agricultural Land, Forest Land, and Conservation Land and Farm).
- A completed CU-307 Form (the Current Use Payment Voucher).
- If there are multiple landowners, each owner must submit a completed CU-302 Form (Additional Owners Form for Use Appraisal Application).



VERMONT: POTENTIAL PENALTIES FOR EXITING

- Once enrolled, subject to a land use change tax of 10% of the fair market value of the developed parcel.
- Statutory contingent lien to protect state interest.
- “Development” construction of road, building or other structure – and can include failing to abide by forest management plan.



VERMONT: FORESTLAND

- \$152 an acre/\$114 an acre if more than one mile from Class I-III road.
- 25+ contiguous acres (with 20 being forested).
- Forest Management Plan (10 years).
- Forest Management Activity Report (annually for management activities).



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VERMONT SUGARBUSH MANAGEMENT STANDARDS

In 2015, Vermont Department of Forests, Parks and Recreation developed sugarbush management standards and tapping guidelines applicable to enrolled lands being used for maple sugar production within the forestland category. These requirements allow maple sugaring to occur on enrolled lands while also ensuring the health of the enrolled lands.

- To avoid a monoculture, 25% of the sugarbush's basal area must be in a combination of non-sugar maple species. There is a permissible 25% variance if approved by the county forester to meet specific harvest-related issues.
- There are limits/guidelines on removal of woody material to run and maintain saplines to avoid impairing forest health.
- There are tree quality standards that apply regardless of whether the tree is still producing maple (related to defects such as rot, wounds, etc.).
- Conversion of a stand to sugarbush requires some special considerations working with the county forester.
- Tapping guidelines are in place (limiting when and how many taps by spout size may be used by tree size).

Vermont Department of Forests, Parks and Recreation, Sugarbush Management Standards and Tapping Guidelines for Forest in Use Value Appraisal (2015).



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VERMONT: AGRICULTURAL LAND

- Farmland: \$405/acre
- Broad definition of farmland (if owned by farmer, leased to farmer, and certain size/revenue targets)
- Owner requirements (half income from farming, leases to farmer under a qualifying lease, etc.)
- Includes land used for producing an annual maple product
- 25 acre minimum (but can be less if make sufficient revenue)
- Requirement to comply with RAPS/water quality standards
- Accessory on-farm businesses



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VERMONT MAPLE: AGRICULTURE V. FORESTLAND

- Use Tax Rate
- Forest management plan
- Size limitations (acreage)
- Buildings? Processing?



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CURRENT USE PROGRAMS IN MAINE

- First established in 1971/based on Maine's constitution.
- Tree Growth Law and Farmland and Open Space primary categories.



MAINE TREE GROWTH LAW

- 10 acre requirement.
- Taxed at use value (actual tax rate depends on municipal assessment).
- Commercial harvesting or commercial harvesting must be primary use (defined to include harvesting of products that have commercial (maple syrup qualifies)).
- Forest management plan required.
- Withdrawal penalty (30% of the margin between the Tree Growth Valuation and the FMV at withdrawal (ratio falls over time/length of enrollment)) (this can result in large penalties).



MAINE FARMLAND TAX LAW

- Note: Maple production may not qualify for this category.
- Five acre requirement.
- Land must earned more than \$2,000 in gross income annually to qualify. Some flexibility for new/beginning farmers.
- Land must be used for agricultural purposes (not clear if maple production qualifies).
- Withdrawal penalty (the marginal tax savings over the past five years) plus an additional penalty if fail to provide notice of conversion.
- There is also an open space category that might be a possibility if conserved/provides public benefit.



CURRENT USE IN NEW YORK

- Forest Tax Law (enacted in 1974).
 - 480 (lands may still be enrolled) (closed to new applicants in 1974) (15 acre minimum).
- 3,400 landowners participating/1.2 million acres of land enrolled.



NEW YORK FOREST TAX LAW

- 50 acre minimum exclusive of any portion not in forest use.
- Forest Management Plan required.
- If land is withdrawn, a withdrawal penalty of 2.5x the tax savings (plus interest) is owed.
- Stumpage/yield tax on enrolled wood of 6% is also required (and notice provided of harvesting).
- Rolling 10 year commitment (every year you receive tax preference, you have another 10 year obligation to comply with program requirements)



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NEW YORK FOREST TAX LAW

- Savings equal to 20% of the fair market value of the land (or taking the equalization rate for the town and applying it by \$40 an acre and subtracting this from the assessment if less).
- Hypothetical Example:
 - Parcel assessed at \$120.00 per acre.
 - Town's equalization rate = 70%.
 - $80\% \times \$120/\text{acre} = \$96.00/\text{acre}$
 - $70\% \text{ equalization rate} \times 40 \text{ acre} = \$28/\text{acre}$ (which would be the rate)



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MAPLE SAP PRODUCTION UNDER NEW YORK'S FOREST LAW

- 61 Maple Sap Production – Maple sap production could be considered as a compatible forest use when the stand being tapped is not yet mature and the tapping is incidental to the primary purpose of timber production. In such cases the stand prescription shall be directed toward the primary purpose of forest crop production and the tapping shall be described as a secondary use. Under no circumstances can an over mature sugar bush be retained as such and comply with the Rules and Regulations.

New York Forest Tax Law Certification Procedure Handbook



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NEW YORK AGRICULTURAL ASSESSMENT

- Established in 1971.
- 7 acre minimum.
- 5-8 year enrollment (depending on if within an agricultural district).
- Expressly includes sugarbush.
- Gross annual income requirement (\$10,000 for preceding two years).
- Potential eligibility for certain agricultural structures to be taxed at lower rate (not under ag assessment but other program).
- Withdrawal penalty: 5 years recapture if fail to remain in program for specified period.



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COMPARISON OF CURRENT USE TAX PROGRAMS

	Vermont Forestland	Vermont Farmland	Maine Forest Growth	Maine Farmland	New York Forest Law	New York Farmland
Acres	25	25 *	10	5	50	7
Tax Rate	\$152	\$405	100% of state use rate times municipal ratio	100% of state use rate times the municipal ratio	Greater of 20% tax savings or equalization value ratio	Taxed at rate based on agricultural classification for soil group.
Enrollment Length	Perpetual	Perpetual	Perpetual	Perpetual	Rolling 10 years	Rolling 5-8 years
Withdrawal Penalty	10% of FMV	10% of FMV	30% of margin between tax rate and FMV.	Tax savings over last five years	2.5x tax savings	5+ years recapture.



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DISCUSSION QUESTIONS

- What challenges does current use cause your operation?
- Any issues with buildings/sugarhouses qualifying?
- What about processing/retail?
- How does well does maple production fit into your state's current use programs?
- What changes would you like to see your state's current use program make to assist/facilitate maple producer enrollment?



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