



Woodland Owner Notes

North Carolina's Forestry Present-Use Property Tax Program

*Qualified North Carolina owners of soundly managed commercial forestland have enjoyed property tax reductions since 1974 through the state's forestry present-use property tax program. However, tax savings via this program vary widely across the state. First, tax rates differ from county to county. Second, in urban counties, there is often a wide difference between **market value** (which reflects the highest-priced and best use of property) and the **use value** of property on which a timber crop is growing. In rural areas, the difference between market value and use value is often slight. Therefore, forestland owners in urban counties may see the greatest savings. Third, the program, detailed in N.C. General Statutes 105-277.2 through 105-277.7, is still evolving. Numerous legislative changes, court decisions, and property tax commission rulings have altered it over the years. In the following pages, landowners can learn the major provisions of the law and the steps they must follow to qualify for the tax savings offered through the forestry present-use program.*

This publication provides a brief overview of a complicated law. The interpretations are based on administrative guidance from the N.C. Department of Revenue as of July 2004. This is a general discussion and not meant to address every specific or detailed question surrounding this law. For answers to specific questions, contact your county property tax office, a tax attorney, or the state Department of Revenue.

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WHAT IS FORESTRY PRESENT-USE-VALUE?

Forestry present-use-value is the value of a tract of land used as forestland, based solely on its ability to produce income from timber growth, assuming an average level of management. A county tax assessor calculates the property tax by applying the current tax rate to the use-value of the land that is producing timber, rather than to the market value, which is based on the highest and best use of the property.

ACREAGE AND INCOME REQUIREMENTS

The qualifying piece of land must have at least 20 acres of contiguous forestland in actual timber production. This constitutes the "parent tract." Once the 20-acre parent tract qualifies, smaller tracts may be brought under use-value as long as they are under the same ownership and actual use, are under sound forest management, are in the same county or within 50 miles of the parent tract if the smaller tract is not in the same county, and have satisfied the ownership requirements noted below. Forestland is not required to produce annual income.

WHO QUALIFIES?

- A natural person.
- A business entity. This entity must be a closely held corporation, a general partnership, or a limited liability company having as its principal business the commercial production of forest products and whose members are either natural persons or relatives of a member actively engaged in the business. Generally, business entities are not allowed to lease the land to another party for forestry purposes. However, in the limited circumstance in which all the members of the business entity are relatives, the business entity may lease out the land and still meet the “principal business” and “actively engaged” requirements.
- A trust. The trust must be created by a natural person who transfers the land to the trust. Each of the beneficiaries must be currently entitled to receive income or principal and must meet one of the following criteria:
 - The beneficiary is the creator of the trust or a relative of the creator.
 - The beneficiary is a second trust whose beneficiaries are currently entitled to receive income or principal. All beneficiaries are either the creators of the first trust or relatives of the creators.
- A testamentary trust. This trust must be created by a natural person who transfers to the trust land that qualifies in the creator’s name. At the time of the creator’s death, the creator must have no relatives, and the trust income, minus reasonable administrative expenses, must be used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes.
- Tenants in common. However, each tenant must be a natural person or a qualifying business entity as described above.
- Shareholders of a qualified corporation, partners of a general or limited partnership, and members of a limited liability company.

OWNERSHIP REQUIREMENTS

For an owner to qualify for forestry present-use-value, the property must meet one of the following requirements:

- It is the owner’s place of residence.
- It has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of use-value is claimed. If owned by a business entity or trust, it must have been owned by the business entity or trust or by one or more of the members of the business or creators of the trust

for the four-year period preceding January 1 of the year for which the benefit of use-value is claimed.

- In a transfer of property from a business or trust to a new owner, the land that qualified under the business or trust qualifies immediately, assuming that the new owner is/was a member of the business or a beneficiary of the trust.

The four-year ownership tenure requirement (second item in the list above) will be waived if:

- The land is appraised at its present-use-value or is eligible for appraisal at present-use-value when the title to the land passes to the current owner, and;
- When the title to the land passes to the current owner, that owner acquires the land for a qualifying forestry use and continues to use the land in a qualifying forestry use, and;
- The current owner files an application (within 60 days of the title transfer date) with the county tax office saying he or she accepts liability for the deferred taxes and intends to keep the property in its present use, in this case, forestry.

Land enrolled in the federal Conservation Reserve Program (CRP) and planted to trees qualifies for forestry use-value assessment, assuming all other ownership requirements are met. Forestland that qualifies for forestry use-value assessment and becomes part of a perpetual and enforceable conservation easement (which qualifies for the state’s conservation tax credit) shall continue to qualify for forestry use-value assessment without regard to sound management or actual production requirements.

SOUND FOREST MANAGEMENT

A county tax assessor may require a landowner to submit information, including a sound, written, forest-management plan, to verify that the property qualifies for and continues to qualify for present-use valuation. Further, the assessor will expect the owner to implement the practices (or attempt to implement the practices) outlined in that management plan. Suggested elements of a written management plan are:

- A statement of management and landowner objectives.
- Location maps, photographs, and descriptions.
- Prescribed practices for forest management.
- An inventory of species that includes age, size, soil

productivity, and condition of each delineated stand, with individual stands corresponding to a map of the forestland in actual production.

- Harvest and regeneration objectives with timetables of expected timber harvests and recommended methods to insure regeneration upon final harvest.

Although a forest-management plan may not be required to have all the elements listed above, it must be detailed enough that the assessor can determine if the forestland is being managed soundly for the production of commercial timber products. The plan must set forth reasonable and prudent management practices to be used in producing commercial timber crops, and all aspects of the plan must be implemented over the stated life of the plan. Because forests change, plans may have to be modified; if modified, a copy of the amended document should be sent to the county assessor's office.

APPLICATION PROCEDURE

A forest landowner must apply for forestry present-use consideration. The application forms may be obtained from county tax assessors, and the application must be filed on a "timely" basis, which means:

- It must be filed during the regular listing period of the year in which the benefit of the classification is first claimed.
- If the market value or present-use-value of the property changes, for instance, during periodic property tax revaluations, the application must be filed within 30 days of the date on the tax assessor's "notice of a change."

The regular listing period (unless extended by a majority vote of the county commissioners) falls during the month of January and ends with the close of business on January 31. The application must be submitted to the tax assessor's office in the county where the property is located. A new application is not required unless the property is transferred in whole or unless the property becomes ineligible due to a change in use or acreage. When property is transferred in whole or in part, the seller must notify the assessor of the change. The buyer must re-qualify the property by submitting a new application within 60 days of the title transfer date.

PENALTIES FOR CHANGE IN USE OR FOR TRANSFER TO AN UNQUALIFIED OWNER

A property may lose its eligibility for forest present-use-value if one of the following occurs:

- The property is sold, transferred, or otherwise conveyed to anyone, and the use changes to a nonqualifying use.
- The use of the property changes to a nonqualifying use.
- The property is judged not to be under a sound management program.

If a property is disqualified, a "rollback" provision is triggered. This action rolls back the deferred taxes. The owner will be taxed for the current year at market value, and the deferred taxes (the difference between what would have been collected at market value minus what was actually collected under the use-value assessment) will be owed, plus interest on the deferred amount for the previous three tax years. An additional 10 percent penalty may be levied if the landowner failed to notify the assessor of the changes that triggered disqualification.

COMPLIANCE REVIEWS

Under N.C. General Statute 105-296 (J), at least one eighth of the parcels classified for taxation at present-use-value are to be reviewed annually by tax assessors in every county to verify that those parcels still qualify for the classification. Generally, the assessor is authorized to request from the owner any information needed to verify that the property still qualifies. The purpose of the review is not to look for a reason to deny present-use-value, but to evaluate objectively all available information and ensure fairness to all taxpayers. Properties not meeting the qualifications of ownership, size, and/or sound management will be disqualified, and the rollback penalty will be applied.

APPEAL PROCESS

If a tract loses its present-use-value classification, the owner may appeal the tax assessor's decision. According to N.C. General Statute 105-277.4 (b1), "Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the Property Tax Commission."

FORESTRY-USE-VALUE SCHEDULES

County tax assessors have the authority to set use-value rates. Because of this, the rates vary from county to county, which creates a frustrating situation for landowners. In 1985, the General Assembly created the Use-Value Advisory Board (UVAB) to compile and distribute annually to all counties a manual of recommended use-value schedules, which are available for public use at the assessor's office. The schedules are based on six major land resource areas (MLRAs), five net income ranges (based on income potential from reasonable, prudent, average timber management regimes for preferred and/or predominant tree species on identified soil series), and a **statutory 9 percent capitalization rate**.

One purpose of the manual is to improve consistency, at least between counties within the same MLRA. The majority of counties have historically used the recommended use-value schedules in some fashion. Often, they will consolidate the ranges, pick one average figure for forestland, or otherwise adapt the figures to the local situation. However, county assessors also are fully authorized to ignore the manual and develop their own schedules.

WOODLAND AS PART OF AN AGRICULTURAL OR HORTICULTURAL UNIT

Agricultural or horticultural land classifications may include woodland that is part of a farm or horticultural unit, and the woodland must be appraised under the use-value schedules as woodland. If the agricultural or horticultural unit contains fewer than 20 acres of woodland,

WHAT IS CAPITALIZATION (CAP) RATE?

"Cap rate" is an interest rate used to convert the net annual income of forestland to use-value. The net annual income divided by the cap rate equals use-value. For example, if a soil type is capable of producing \$36 net income per acre per year, then the value of the land, using a 9 percent (0.09) cap rate, is:

$$\$36/0.09 = \$400 \text{ use-value per acre}$$

Another way to look at it, in terms we are more familiar with, is that if you put \$400 in the bank at 9 percent annual interest, after one year, you would earn \$36 in interest.

then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the tract is to diminish wind erosion, protect water quality, or serve as a buffer from adjacent agricultural, horticultural, livestock, or poultry operations.

SUMMARY

Reduced property taxes are a benefit available to qualified owners of soundly managed commercial forestland. North Carolina's forestry present-use-value law, which details how the benefit may be claimed, has been in existence for 30 years and is still evolving. If you have questions, contact a tax attorney, your county assessor, or the state Department of Revenue.

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