



# The National Agricultural Law Center

[nationalaglawcenter.org](http://nationalaglawcenter.org) | [nataglaw@uark.edu](mailto:nataglaw@uark.edu) | [@nataglaw](https://twitter.com/nataglaw)

## States' Differential Tax Assessment of Agricultural Land Statutes *Vermont*



This material is based upon work supported by the National Agricultural Library, Agricultural Research Service, U.S. Department of Agriculture

# A National Agricultural Law Center Research Publication

## States' Differential Tax Assessment of Agricultural Land Statutes State of Vermont

### [32 Vt. Stat. Ann. ch. 124:](#) **32 Vt. Stat. Ann. §§ 3750–3763**

*Current through all acts of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018) and through all acts of the First Special Session of the Adjourned Session of the 2017-2018 Vermont General Assembly (2018).*

#### **§ 3750. Statutory purpose**

The statutory purpose of the Vermont Use Value Appraisal Program in chapter 124 of this title is to preserve the working landscape and the rural character of Vermont.

#### **§ 3751. Statement of Purpose**

The purpose of this subchapter is to encourage and assist the maintenance of Vermont's productive agricultural and forestland; to encourage and assist in their conservation and preservation for future productive use and for the protection of natural ecological systems; to prevent the accelerated conversion of these lands to more intensive use by the pressure of property taxation at values incompatible with the productive capacity of the land; to achieve more equitable taxation for undeveloped lands; to encourage and assist in the preservation and enhancement of Vermont's scenic natural resources; and to enable the citizens of Vermont to plan its orderly growth in the face of increasing development pressures in the interests of the public health, safety, and welfare.

#### **§ 3752. Definitions**

As used in this subchapter:

- (1) "Agricultural land" means any land, exclusive of any housesite, in active use to grow hay or cultivated crops, pasture livestock, cultivate trees bearing edible fruit, or produce an annual maple product, and that is 25 acres or more in size, except as provided in this subdivision (1). Agricultural land shall include buffer zones as defined and required in the Agency of Agriculture, Food and Markets' Required Agricultural Practices rule adopted under 6 V.S.A. chapter 215. 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 or her 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 that are not yet of bearing age. As used in 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 section 3753 of this chapter.
- (4) “Commissioner” means the Commissioner of Taxes.
- (5) “Development” means, for the purposes of determining whether a land use change tax is to be assessed under section 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 or transferor applies for reenrollment 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 during the remaining term of the plan, or contrary to the minimum acceptable standards for forest management if the plan has expired; 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. “Development” also means notification of the Director by the Secretary of Agriculture, Food and Markets under section 3756 of this title that the owner or operator of agricultural land or a farm building is violating the water quality requirements of 6 V.S.A. chapter 215 or is failing to comply with the terms of an order issued under 6 V.S.A. chapter 215, subchapter 10. 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 and Review created by 3 V.S.A. § 2289.



(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 the farmer in a use value appraisal program or on a housesite adjoining the enrolled land;  
  
(ii) whose gross income from the sale of the 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 the 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 forestland" 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. Such land may include eligible ecologically significant treatment areas in accordance with minimum acceptable standards for forest management and as approved by the Commissioner; or
- (B) any land, exclusive of any house site, which is:
  - (i) certified under 10 V.S.A. § 6306(b);
  - (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 26 U.S.C. § 509(a); 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 or the lessee under a perpetual lease as defined in subsection 3610(a) of this title provided the term of the lease exceeds 999 years exclusive of renewals. 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.
- (13) “Minimum acceptable standards for forest management” refer to certain standards established by the Commissioner of Forests, Parks and Recreation.
- (14) “Farm buildings” means all farm buildings and other farm improvements that 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 housesite 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 prior 12 months exclusively to house one or more farm employees, as defined in 9 V.S.A. § 4469a, and their families, as a nonmonetary benefit of the farm employment. This subdivision shall not affect the application of the definition of “farming” in 10 V.S.A. § 6001(22) or the definition of “farm structure” in 24 V.S.A. § 4413(d)(1).
- (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.

### **§ 3753. Current Use Advisory Board; members; Chair**

- (a) There is hereby established a Current Use Advisory Board.
- (b) The membership of the Board shall consist of:
- (1) The following persons or their designees:
- (A) Commissioner of Taxes;
  - (B) Director of the Division of Property Valuation and Review;
  - (C) Secretary of Agriculture, Food and Markets;
  - (D) Commissioner of Forests, Parks and Recreation;
  - (E) Deleted by 2011, Adj. Sess., No. 143, § 46, eff. May 15, 2012.



(F) Deleted by 1997, No. 60, § 67, eff. June 26, 1997.

- (2) Eight additional members to be appointed by the Governor with the advice and consent of the Senate. Two of these members shall represent the private agricultural sector; two shall represent the private forestry sector; one shall be experienced in agricultural and forestry property appraisal and valuation techniques; one shall be a representative of local government; one shall be a selectboard member; and one shall be a lister. Fifty-one percent or more of the Board membership shall be persons who do not own enrolled land, and have no spouse, child, or parent who owns enrolled land. These members shall be appointed for three-year terms, beginning February first of the year in which the appointment is made, except that the initial appointment of three of the members shall be for a two-year term. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term vacated.
- (c) A Chair shall be designated biennially by the Governor from among the members of the Board and any vacancy in the office of Chair shall be filled by designation of the Governor.
- (d) Members of the Board who are not State employees shall be paid \$50.00 a day, each, for each day that they are actually engaged in the work of the Board. All members shall be paid their actual expenses incurred as a result of that work.
- (e) The Board shall be attached for administrative purposes to the Division of Property Valuation and Review of the Department of Taxes of the Agency of Administration.

### **§ 3754. Powers and duties of Board**

- (a) The Board shall meet at least annually, prior to February 1, to review all past current use land values for agricultural land and managed forest land recommended by past boards, to review the criteria for lands previously established and to establish new criteria and values as legislation and land management practices may indicate, to establish a schedule of criteria and values to be recommended for the current tax year, and to recommend such changes and improvement in the administration of this subchapter as experience and public reaction may recommend. The Board's criteria and recommended values may reflect the class, type, grade, and location of the land, together with its productive capacity and income producing capability of agricultural and forestland.
- (b) Annually, on or before October 15, the Board shall hold a public hearing and such other hearings as they deem necessary to receive public testimony on the criteria and values for use value appraisals in the coming tax year and on the administration of this subchapter.
- (c) Prior to February 15 each year, the Board shall submit to the Director its recommended schedule of criteria and values for use value appraisals for the current tax year. The Director shall then distribute the valuations to all municipalities, towns, and gores, and the assessing officials shall appraise qualifying agricultural and managed forestland at these use values.
- (d) The Board may adopt rules under the authority granted to agencies by 3 V.S.A. §§ 801-808 to interpret and carry out the provisions of this subchapter.



(e) A member of the Board shall not vote on any issue on which he or she, or when applicable his or her agency, has a conflict of interest.

### **§ 3755. Eligibility for use value appraisals**

(a) Except as modified by subsection (b) of this section, any agricultural land, managed forestland, and farm buildings that meet the criteria contained in this subchapter and in the rules adopted by the Board shall be eligible for use value appraisal.

(b) Managed forestland shall be eligible for use value appraisal under this subchapter only if:

(1) The land is subject to a forest management plan, or subject to a conservation management plan in the case of lands certified under 10 V.S.A. § 6306(b), that is filed in the manner and form required by the Department of Forests, Parks and Recreation and that:

(A) Is signed by the owner of the parcel.

(B) Complies with subdivision 3752(9) of this title.

(C) Is approved by the Department of Forests, Parks and Recreation.

(D) Provides for continued conservation management or forest crop production on the parcel for 10 years. An initial forest management plan or conservation management plan must be filed with the Department of Forests, Parks and Recreation on or before October 1 and shall be effective for a 10-year period beginning the following April 1. Prior to expiration of a 10-year plan and on or before April 1 of the year in which the plan expires, the owner shall file a new conservation or forest management plan for the next succeeding 10 years to remain in the program.

(E) The Department may approve a forest management plan that provides for the maintenance and enhancement of the tract's wildlife habitat where clearly consistent with timber production and with minimum acceptable standards for forest management as established by the Commissioner of Forests, Parks and Recreation.

(F) The Department, upon giving due consideration to resource inventories submitted by applicants, may approve a conservation management plan, consistent with conservation management standards, so as to include appropriate provisions designed to preserve: areas with special ecological values; fragile areas; rare or endangered species; significant habitat for wildlife; significant wetlands; outstanding resource waters; rare and irreplaceable natural areas; areas with significant historical value; public water supply protection areas; areas that provide public access to public waters; and open or natural areas located near population centers or historically frequented by the public. In approving a plan, the Department shall give due consideration to: the need for restricted public access where required to protect the fragile nature of the resource; public accessibility where restricted access is not





required; facilitation of appropriate, traditional public usage; and opportunities for traditional or expanded use for educational purposes and for research.

(2) A management report of whatever activity has occurred, signed by the owner, has been filed with the Department of Taxes, Director of Property Valuation and Review on or before February 1 of the year following the year when the management activity occurred.

(3) There has not been filed with the Director an adverse inspection report by the Department stating that the management of the tract is contrary to the forest or conservation management plan, or contrary to the minimum acceptable standards for forest or conservation management. The management activity report shall be on a form prescribed by the Commissioner of Forests, Parks and Recreation in consultation with the Commissioner of Taxes and shall be signed by all the owners and shall contain the tax identification numbers of all the owners. All information contained within the management activity report shall be forwarded to the Department of Forests, Parks and Recreation, except for any tax identification number included in the report. If any owner satisfies the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan that is required to be filed on or before October 1, or a management plan update that is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report that is required to be filed on or before February 1 of the year following the year when the management activity occurred, the owner may submit that management plan or management activity report at a later date; provided, however, no initial or revised management plan shall be received later than December 31, and no management plan update shall be received later than one year after April 1 of the year the plan expires, and no management activity report shall be received later than March 1.

(c) The Department of Forests, Parks and Recreation shall periodically review the management plans and each year review the management activity reports that have been filed.

(1) At intervals not to exceed 10 years, that Department shall inspect each parcel of managed forestland qualified for use value appraisal to verify that the terms of the management plan have been carried out in a timely fashion.

(2) The Department shall have the ability to enter parcels of managed forestland for the purpose of inspections. The Department may bring any other staff from the Agency of Natural Resources that have the expertise to evaluate compliance with this chapter or staff that may be required to ensure the safety of the Department while conducting the inspections.

(3) If that Department finds that the management of the tract is contrary to the conservation or forest management plan, or contrary to the minimum acceptable standards for conservation or forest management, it shall file with the owner, the assessing officials, and the Director an adverse inspection report within 30 days after the conclusion of the inspection process.





- (d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then the forest management plan shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new forest management plan, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.
- (e) Any applicant for appraisal under this subchapter bears the burden of proof as to his or her qualification. Any documents submitted by an applicant as evidence of income shall be held in confidence by any person accepting or reviewing them pursuant to provisions of this subchapter, and shall not be made available for public examination, whether or not such person is subject to the provisions of 1 V.S.A. § 317(c)(6).
- (f) On or before November 1 of each year, the owner of agricultural land or buildings enrolled in the use value program as agricultural land or buildings shall certify in writing under oath to the Commissioner that the agricultural land or buildings enrolled by that owner continue to meet the requirements for enrollment in the use value program at the time of the certification. The form of the certification shall be made on a form specified by the Director of Property Valuation and Review.

#### **§ 3756. Qualification for use value appraisal**

- (a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form approved by the Board and provided by the Director. A farmer, whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.
- (b) Deleted by 2007, Adj. Sess., No. 190, § 2, eff. July 1, 2008.
- (c) The Director shall notify the applicant no later than April 15 of his or her decision to classify or refusal to classify his or her property as eligible for use value appraisal by delivery of such notification to him or her in person or by mailing such notification to his or her last and usual place of abode. In the case of a refusal, the Director shall state the reasons therefor in the notification.
- (d) The assessing officials shall appraise qualifying agricultural and managed forestland and farm buildings at use value appraisal as defined in subdivision 3752(12) of this title. If the land to be appraised is a portion of a parcel, any portion not receiving a use value appraisal shall be valued at its fair market value as a stand-alone parcel, and, for the purposes of the payment under section 3760 of this chapter, the entire parcel shall be valued at its fair market value as other similar parcels in the municipality.
- (e) Once a use value appraisal has been applied for and granted under this section, such appraisal shall remain in effect for subsequent tax years



pursuant to the provisions of subsection (f) of this section, and until the property concerned is transferred to another owner or is no longer eligible under provisions of section 3752 or 3755 of this chapter, or due to a change of use or as otherwise provided in section 3757 of this chapter. If enrolled property is transferred to another owner, the new owner shall be entitled to continue to have the eligible property appraised at its use value, provided the property remains eligible and provided the new owner shall elect the continuation of use value appraisal on the property transfer tax return at the time of transfer and, within 30 days after the property transfer tax return has been received by the municipality for recording, has applied to the Director and paid the fees described in this subsection. The grant of use value appraisals of agricultural forestland and farm buildings shall be recorded in the land records of the municipality by the clerk of the municipality. Applications shall include the fees specified in subdivision 1671(a)(6) or subsection 1671(c) of this title, and a fee of \$70.00 for deposit in a special fund established and managed pursuant to subchapter 5 of chapter 7 of this title. The Fund shall be available as payment for the fees of the clerk of the municipality and to offset the costs of administering the application and managing the program.

- (f) Each year the Director shall determine whether previously classified property is still eligible for use value appraisal and whether the amount of the previous appraisal is still valid. If the Director determines that previously classified property is no longer eligible, or that the property has undergone a change in use such that the use change tax may be levied, in accordance with section 3757 of this chapter, or that the use value appraisal should be fixed at a different amount than the previous year, he or she shall thereafter notify the property owner of that determination by delivery of the notification to him or her in person or by mailing such notification to his or her last and usual place of abode.
- (g) The Director shall execute such other forms and the board shall adopt such other procedures and regulations, as are needed to assure a fair opportunity for owners to qualify under this subchapter and to assure compliance with the provisions of this chapter.
- (h) By March 15, the Director shall mail to each municipality a list of property in the municipality which is to be taxed based on its use value appraisal. The list shall include the owners' names, a grand list number or description of each parcel of land to be appraised at use value, the acreage to be taxed on the basis of use value, the use values to be used for land, and the number and type of farm buildings to be appraised by the assessing officials at use value. The assessing officials shall determine the listed value of the land to be taxed at use value and its estimated fair market value, and fill in these values and the difference between them on the form. This form shall be used by the Treasurer or the collector of current taxes to make up tax bills such that the owner is billed only for taxes due on his or her property not enrolled in the program, plus taxes due on the use value of property enrolled in the program. The assessing officials shall submit the completed form to the Director by July 5.
- (i) (1) After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report,



unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.

- (2) (A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:
- (i) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or
  - (ii) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

- (j) The Commissioner may exempt a farmer-owner of agricultural land and farm buildings located within the municipality and otherwise eligible under this subchapter for use value appraisal from the terms of the definition of a "farmer" contained in subdivision 3752(7) of this chapter, for a year at a time, because of personal hardship created by personal or family disability or death, by economic disaster such as loss of farm buildings, equipment, or livestock due to fire or disease, or natural disaster such as flood or drought. The agricultural land and farm buildings concerned shall continue in this instance to be taxed on the basis of use value appraisal.

### **§ 3757. Land use change tax**

- (a) Land which has been classified as agricultural land or managed forestland pursuant to this chapter shall be subject to a land use change tax upon the development of that land, as defined in section 3752 of this chapter. The tax shall be at the rate of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. If changed land is a portion of a parcel, the fair market value of the changed land shall be the fair market value of the



changed land as a separate parcel, divided by the common level of appraisal. Such fair market value shall be determined as of the date the land is no longer eligible for use value appraisal. This tax shall be in addition to the annual property tax imposed upon such property. Nothing in this section shall be construed to require payment of an additional land use change tax upon the subsequent development of the same land, nor shall it be construed to require payment of a land use change tax merely because previously eligible land becomes ineligible, provided no development of the land has occurred.

- (b) Any owner of eligible land who wishes to withdraw land from use value appraisal shall notify the Director, who shall in turn notify the local assessing official. In the alternative, if the Director determines that development has occurred, the Director shall notify the local assessing official of his or her determination. Thereafter, land which has been withdrawn or developed shall be appraised and listed at its full fair market value in accordance with the provisions of chapter 121 of this title and subsection 3756(d) of this title, according to the appraisal model and land schedule of the municipality.
- (c) For the purposes of the land use change tax, the determination of the fair market value of the land shall be made by the local assessing officials in accordance with the provisions of subsection (b) of this section and divided by the municipality's most recent common level of appraisal as determined by the Director. The determination shall be made within 30 days after the Director notifies the local assessing officials of the date that the owner has petitioned for withdrawal from use value appraisal or that the Director or local assessing official has determined that development has occurred. The local assessing officials shall notify the Director and the owner of their determination, and the provisions for appeal relating to property tax assessments in chapter 131 of this title shall apply.
- (d) The land use change tax shall be due and payable by the owner 30 days after the tax notice is mailed to the taxpayer. The tax shall be paid to the Commissioner who shall remit to the municipality the lesser of one-half the tax paid or \$2,000.00. The Director shall deposit three-quarters of the remainder of the tax paid in the Education Fund, and one-quarter of the remainder of the tax paid in the General Fund. The Commissioner shall issue a form to the assessing officials which shall provide for a description of the land developed, the amount of tax payable, and the fair market value of the land at the time of development or withdrawal from use value appraisal. The owner shall fill out the form and shall sign it under the penalty of perjury. After receipt of the completed and signed form, the Commissioner shall furnish the owner with one copy, shall retain one copy, and shall forward one copy to the local assessing officials, one copy to the register of deeds of the municipality in which the land is located, and one copy to the Secretary of Agriculture, Food and Markets if the land is agricultural land and in all other cases to the Commissioner of Forests, Parks and Recreation.
- (e) The owner of any classified land receiving use value appraisal under this subchapter shall immediately notify the Director, who in turn shall notify the local assessing officials and the Secretary of Agriculture, Food and Markets if the land is agricultural land, and in all other cases the Commissioner of Forests, Parks and Recreation, of:



- (1) The development of the land, as defined in section 3752 of this chapter.
  - (2) Any change or discontinuance of use of the classified land so that it is no longer eligible for use value appraisal or is eligible for a different use value appraisal under this subchapter.
  - (3) Any transfer of ownership. A transfer of ownership, alone, will not affect eligibility of the parcel, and no new maps will be required solely because of a transfer, but failure to provide maps, a new application, or transfer information to the Division of Property Valuation and Review within 30 days of a request being sent by certified mail by the Director will result in removal of the parcel from the program.
- (f) (1) When the application for use value appraisal of agricultural and forestland has been approved by the State, the State shall record a lien against the enrolled land in the land records of the municipality that shall constitute a lien to secure payment of the land use change tax to the State upon development. The landowner shall bear the recording cost. The land use change tax and any obligation to repay benefits paid in error shall not constitute a personal debt of the person liable to pay the same, but shall constitute a lien which shall run with the land. All of the administrative provisions of chapter 151 of this title, including those relating to collection and enforcement, shall apply to the land use change tax. The Director shall release the lien when notified that:
- (A) the land use change tax is paid;
  - (B) the land use change tax is abated pursuant to this section;
  - (C) the land use change tax is abated pursuant to subdivision 3201(5)1 of this title;
  - (D) the land is exempt from the levy of the land use change tax pursuant to this section and the owner requests release of the lien; or
  - (E) the land is exempt from the levy of the land use change tax pursuant to this section and the land is developed.
- (2) Nothing in this subsection shall be construed to allow the enrollment of agricultural land or managed forestland without a lien to secure payment of the land use change tax. Any fees related to the release of a lien under this subsection shall be the responsibility of the owner of the land subject to the lien.
- (g) Upon application, the Commissioner may abate a use change tax levy concerning agricultural land found eligible for use value appraisal under subdivision 3752(1)(A) of this title, in the following cases:
- (1) If a disposition of such property resulting in a change of use of it takes place within five years of the initial assessment at use value because of the permanent physical incapacity or death of the individual farmer-owner or farmer-operator of the property.



- (2) If a disposition of the property was necessary in order to raise funds to continue the agriculture operation of the seller. In this case, the Commissioner shall consider the financial gain realized by the sale of the land and whether, in respect to that gain, payment of the use change tax would significantly reduce the ability of the seller to continue using the remaining property, or any part thereof, as agricultural land.
- (h) Land condemned as a result of eminent domain or sold voluntarily to a condemning authority in anticipation of eminent domain proceedings is exempt from the levy of a land use change tax under this section.
- (i) Nothing in this section shall be construed as permitting an owner to engage in the development of land in violation of any conservation restriction in effect on said land.
- (j) (1) Land transferred to the U.S. Forest Service is exempt from the levy of a use change tax under this section, provided one of the following applies:
- (A) land transferred is eligible for use value appraisal at the time of the transfer;
  - (B) the transfer is in consideration for the receipt from the U.S. Forest Service of land of approximately equal value, as determined by the Commissioner; or
  - (C) the landowner has submitted to the Commissioner in writing a binding document that would substitute the land received for the land transferred to the Forest Service, for the purposes of this chapter.
- (2) Land acquired by the Green Mountain National Forest for public use is exempt from the levy of a use change tax under this section.
- (k) Conservation and preservation rights and interests held by an agency of the United States or by a qualified holder, as defined in 10 V.S.A. chapter 34, shall be exempt from the levy of a use change tax. Upon request of the agency or qualified holder, the Commissioner may petition the Director to release the conservation and preservation rights and interests from any lien recorded pursuant to this chapter.
- (l) Land acquired by the Agency of Natural Resources; the Department of Forests, Parks and Recreation; the Department of Fish and Wildlife; or the Department of Environmental Conservation for public uses, as authorized by 10 V.S.A. § 6303(a)(1)-(4), is exempt from the levy of a land use change tax under this section.

### § 3758. Appeals

- (a) Whenever the Director denies in whole or in part any application for classification as agricultural land or managed forestland or farm buildings, or grants a different classification than that applied for, or the Director or assessing officials fix a use value appraisal or determine that previously classified property is no longer eligible or that the property has undergone a change in use, the aggrieved owner may appeal the decision of the Director to the Commissioner within 30 days of the decision, and from there to Superior Court in the county in which the property is located.





(b) Any owner who is aggrieved by the determination of the fair market value of classified land for the purpose of computing the land use change tax may appeal in the same manner as an appeal of a grand list valuation.

(c) Whenever the Director denies a request for an exemption from the terms of the definition of a “farmer” as provided in subsection 3756(j) of this title, the aggrieved person may appeal the decision of the Director to the Commissioner within 30 days of the decision, and from there to the Superior Court in the county in which the property is located.

(d) Any owner who is aggrieved by a decision of the Department of Forests, Parks and Recreation concerning the filing of an adverse inspection report, a denial of approval of a management plan may appeal to the Commissioner of Forests, Parks and Recreation within 60 days of the filing of the adverse inspection report, the decision to deny approval, or the certification to the Director. An appeal of this decision of the Commissioner may be taken to the Superior Court in the same manner and under the same procedures as an appeal from a decision of a Board of Civil Authority, as set forth in chapter 131, subchapter 2 of this title.

(e) When the Director removes agricultural land or a farm building pursuant to notification from the Secretary of Agriculture, Food and Markets under section 3756 of this title, the exclusive right of appeal shall be as provided in 6 V.S.A. § 4996(a).

### **§ 3760. Payment to municipalities**

(a) (1) Annually, the State shall pay to each municipality the amount necessary to limit its tax rate increase in the prior year due to the loss of municipal property tax revenue for that year based on use value of enrolled property as compared to municipal property tax revenue for that year based on fair market value of enrolled property, to zero.

(2) The Director of Property Valuation and Review shall determine the amount of the available funds under this section to be paid to each municipality, and a municipality may appeal the Director's decision in the same manner and under the same procedures as an appeal from a decision of a Board of Civil Authority, as set forth in subchapter 2 of chapter 131 of this title.

(3) On November 1 of each year, the Director of Property Valuation and Review shall pay to each municipality the amount calculated as described in this section. If the appropriation for the year is insufficient to pay the full amount due to every municipality under this subsection, payments in that year shall be made to such towns proportionately.

(4) If the appropriation for the year is insufficient to pay the full amount due to any municipality for enrolled property owned by another municipality, the municipality in which the property is located may assess the other municipality and the other municipality shall pay the difference.

(5) The Director's calculation of payment amounts to municipalities shall be based on grand list values and total tax appropriations as submitted to the director for the prior year.





- (b) Assessing officials shall appraise property enrolled in the program at fair market value consistent with other appraisals. On or before July 5, the assessing officials shall provide the Director with the listed value of all enrolled property in the municipality. If the Director certifies that the value set by the assessing officials is significantly above the fair market value or is not equitable with other assessments, the Director's estimate of the fair market value shall be substituted for that of the assessing officials.
- (c) A town aggrieved by the Director's decision under this section may appeal that decision under the same procedures as an appeal from a decision of the Board of Civil Authority.

### **§ 3760a. Valuation audits**

- (a) Annually, the Director shall conduct an audit of three towns with enrolled land to ensure that parcels with a use value appraisal are appraised by the local assessing officials consistent with the appraisals for nonenrolled parcels.
- (b) In determining which towns to select for an audit, the Director shall consider factors that demonstrate a deviation from consistent valuations, including the following:
  - (1) the fair market value per acre of enrolled land in each town;
  - (2) the fair market value of enrolled land versus unenrolled land in the same town;
  - (3) the fair market value of enrolled farm buildings in each town; and
  - (4) the fair market value of enrolled farm buildings in relation to the fair market value of the associated land.
- (c) For each town selected for an audit, the Director shall:
  - (1) conduct an independent appraisal of enrolled parcels and enrolled farm buildings in that town;
  - (2) compare the appraisals reached by the Director for each enrolled parcel with the appraisal reached by the local assessing officials; and
  - (3) review the land schedule and appraisal model applied by the town.
- (d) If, as a result of an audit, the Director determines that an appraisal reached by the Director differs from the appraisal reached by the local assessing officials by more than 10 percent, then the Director shall substitute his or her appraisal of fair market value for the appraisal reached by the local assessing officials. A substitution of a fair market appraisal under this subsection shall be treated as a substitution by the Director under subsection 3760(b) of this title.

### **§ 3761. Notice to property taxpayers**

Each year prior to June 1, the Director shall prepare a notice of the Current Use Value Appraisal Program established by this subchapter describing its pertinent provisions, the



manner in which taxpayers may apply to participate, and the dates and deadlines for application. Such notice shall be printed by the Director and supplied in sufficient number to each town in the State for inclusion in property tax bills. The town Treasurer or collector of taxes shall include such notice in each tax bill, where applicable. Towns which use envelopes or mailers not able to accommodate notices describing the Current Use Value Appraisal Program may distribute such notices in an alternative manner.

### **§ 3763. Public records**

Notwithstanding any provision to the contrary in 1 V.S.A. § 317, section 3102 of this title, or any other provision of law, the names and addresses of taxpayers, the description of eligible property, the current use valuation of such property participating in the Current Use Value Appraisal Program under this chapter and the amount reimbursed by the State to the town with respect to the eligible property shall be public records subject to public inspection and copying under 1 V.S.A. chapter 5, subchapter 3.

