

Title 32 : Taxation And Finance

Chapter 124 : Agricultural And Forest Lands

Subchapter 001 : Agricultural And Managed Forest Land Use Value Program

An Act to amend chapter 124 of Title 32, Agricultural and Managed Forest Land Use Value Program

It is hereby enacted by the General Assembly of the State of Vermont:

• § 3755. Eligibility for use value appraisals

(a) Except as modified by **subsection (b)** of this section, any agricultural land, managed forestland, and farm buildings which meet the criteria contained in this subchapter and in the regulations 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), which:

(A) is signed by the owner of the parcel;

(B) complies with subdivision 3752(9) of this title;

(C) is filed with and approved by the Department of Forests, Parks and Recreation; and

(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 no later than 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 no later than 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.

(2) An ~~management~~ annual conformance report on a form approved by the Director of whatever activity has occurred, signed by the owner, has been filed with the Department of Forests, Parks and Recreation and the Director by February 1 each

year and shall contain the following information: of the year following the year when the management activity occurred

(A) a detailed description of all forest management activities that occurred in the previous year;

(B) a certification that no management activities occurred in the previous year if applicable;

(C) written certification by the owner stating that the land is either currently open and will remain open for recreational use, including hunting, fishing and trapping, or that the land is closed to recreational use, including hunting fishing and trapping. An owner may prohibit recreational use, including hunting fishing and trapping, in an area not to exceed 2 acres surrounding a residence or recreational camp. The owner of property enrolled land that is not open to the public for recreational use, including hunting, fishing or trapping, shall pay 120% of the use value appraisal. For the purposes of this chapter: 1) recreational use does not include recreational motorized use; and 2) land is not considered open for hunting fishing and trapping if it is posted as open for hunting, fishing and trapping by permission only pursuant to 10 V.S.A. §5201.

(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 include a detachable section signed by all the owners that shall contain the federal tax identification numbers of all the owners. The section containing federal tax identification numbers shall not be made available to the general public, but shall be forwarded to the Commissioner of Taxes within 30 days after receipt and used for tax administration purposes. If any owner shall satisfy the Department that he or she was prevented by accident, mistake, or misfortune from filing an initial or revised management plan which is required to be filed on or before October 1, or a management plan update which is required to be filed on or before April 1 of the year in which the plan expires, or a management activity report which is required to be filed on or before February 1 of the year following the year when the management activity occurred, the Department may receive 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. 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. 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 of the inspection.

(d) After a parcel of managed forestland has been removed from use value appraisal due to an adverse inspection report, a new application for use value appraisal will not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application 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).

Sec. 1. 32 V.S.A. §3756 is amended to read:

- **§ 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. Forest land that is not open to the public for recreational use, including hunting, fishing or trapping, shall only be eligible to receive 120% of the use value appraisal.

(b) [Repealed.]

(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, the assessing officials shall:

(1) determine the contributory value of each portion such that the fair market value of the total parcel is comparable with other similar parcels in the municipality; and

(2) notify the landowner according to the procedures for notification of change of appraisal. The portion of the parcel that is not to be appraised at use value shall be appraised at its fair market value.

If forest land to be appraised is posted to prohibit public recreational use, including hunting, fishing or trapping, the assessing officials shall appraise such land at 120% of the use value.

(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 a change of whether forest land is open or closed to public recreational use, including hunting, fishing or trapping, 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) The Director shall remove from use value appraisal an entire parcel of managed forest land and notify the owner in accordance with the procedure in subsection (b) of this section when the Department of Forests, Parks and Recreation has not received a ~~management activity~~ an annual conformance 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.

(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.