

## MEMORANDUM

**TO:** Douglas Farnham, POLA Director and Tax Economist  
**FROM:** Abby Shepard, Tax Policy Analyst  
**DATE:** 4/9/2019  
**RE:** H.514; Current Use; Prorating Land Use Change Tax on Withdrawn Land

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Sec. 32 of [H.514, an act relating to miscellaneous tax provisions](#), amends 32 V.S.A. § 3757(a) regarding the land use change tax due on land withdrawn from the current use program. The bill adds language in subsection (a) of section 3757 to address the issue that arises when an owner withdraws enrolled land from the program, and then develops only a portion of it, often re-enrolling the remaining, undeveloped land. The current language in Sec. 32 of H.514 requires tax to be paid on all of the land that is withdrawn even if it is subsequently re-enrolled in the program; not just the portion that is developed.

The Department wishes to propose alternative solutions to this issue, with a preference for the first option.

- (1) Remove the changes to 32 V.S.A. § 3757(a) in Sec. 32 of H.514 and allow the Department to request changes through the rulemaking process before the Current Use Advisory Board. Although this process can be lengthy and take more than a year to complete, it would allow for greater transparency, public comment, and stakeholder engagement.
- (2) As an alternative, the Department prefers proration language closer to what the Administration proposed at the start of the session, as set out below. This would limit the basis to which the tax applies to the portion of withdrawn land that is developed, as opposed to all of the withdrawn land irrespective of whether it is developed.

In the instance where enrolled land is withdrawn and value established, and then a portion of the withdrawn land is developed or the owner applies to remove the lien on a portion, the Director shall assign a prorated value to the developed land for the purpose of assessing the land use change tax on the developed land only.

- (3) Lastly, if the current language in H.514 is retained, it should be amended to replace the term “parcel” with the word “land.” Parcel has a distinct statutory definition that does not apply to current use. Additionally, this option could create unequal tax treatment for owners based on their enrollment status. The Department of Forests, Parks and Recreation and the Agency of Agriculture can speak to the impact that this option might have on enrollment of agricultural or forest land.

In the instance where land is withdrawn and value established, and then a portion of the withdrawn land is developed or the owner applies to remove the lien on a portion, the land use change tax shall be due on the entire originally withdrawn land.