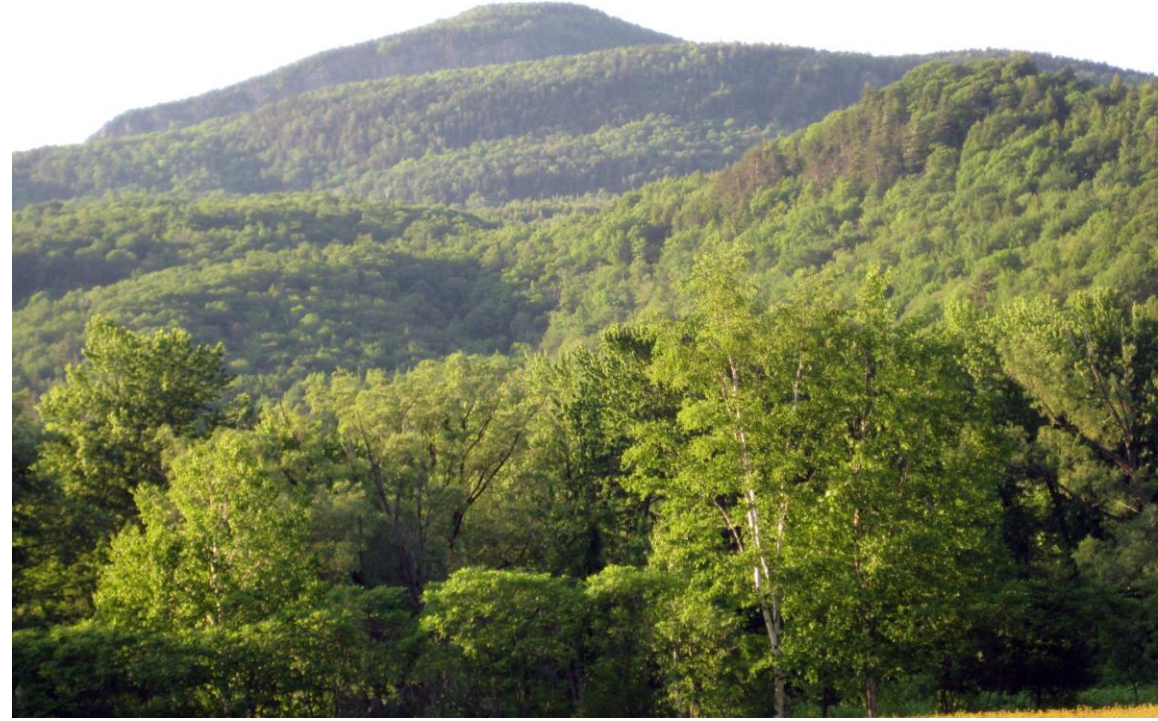


Zooming out: Use Value Appraisal Program (Current Use) & Land Use Change Tax (LUCT)



Jill Remick, Director, PVR

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February 2023

UVA Purpose (32 V.S.A. Chapter 124)

The statutory purpose of the Vermont Use Value Appraisal Program is to preserve the working landscape, preserve the rural character of Vermont, and protect the natural ecological systems and natural resources of the forestland of Vermont.

Great information in the [PVR Annual Report](#)

Current Enrollment

- › Currently, there are more than 19,000 parcels of land enrolled totaling more than 2.5 million acres, about one-third of Vermont's total acreage.

Tax Year	Parcels	Owners	Agricultural Acres	Forest Acres	Total Acres
2022	19,535	15,954	545,477	2,014,163	2,559,641

Taxation Impacts

Annually, the municipalities are paid a “hold harmless payment” from the General Fund to make up for the foregone municipal revenue from Current Use enrollment. This payment in 2022 was \$18 million.

Foregone Education Tax revenue of \$47.5 million (cost shifted to all education property taxpayers)

Tax Year	Municipal Tax Savings to Enrolled Landowners	Education Tax Savings to Enrolled Landowners	Total Tax Savings to Enrolled Landowners
2022	\$18,075,693	\$47,552,112	\$65,630,805

Current Use Policy History

- › Tax policy trend of the 1950s and 1960s
- › Response to post-war suburbanization, starting with MD
- › Today almost every state has some form of a use-value assessment program for agriculture. Many of these programs extend to timberland.
- › Less common are programs that include conservation, open space, or recreational purposes.

Land Use Change Tax basics

- › Mechanism meant to encourage long-term enrollment of land in current use; discourage temporary "parking" of acreage.
- › Land Use Change Tax is due upon development of the land, or if you wish to remove the lien
- › Liability is 10% of the value of the enrolled land, and in the case of a portion of the parcel, the liability is 10% of the value of the portion *valued as a separate parcel*
- › A withdrawal is not the same as "development"
- › Tax is calculated upon withdrawal, but only due upon development/lien removal

Table 14: Withdrawals of Enrolled Land and Buildings and Land Use Change Tax (LUCT)

Calendar Year	LUCT Assessed on Developed Acres	LUCT passed on to Municipality	Acres Developed and/or Lien Removal Requested	Acres Withdrawn (LUCT Not Due)	Number of Farm Buildings With-drawn	Number of Completed Withdrawals
2022	\$1,725,911	\$556,911	2,013	23,516	260	778
2021	\$1,289,306	\$407,463	1,466	18,259	90	511
2020	\$516,061	\$229,261	889	20,362	106	451
2019	\$761,257	\$274,904	1,196	17,452	133	492
2018	\$714,088	\$311,085	1,028	19,844	295	592
2017	\$753,392	\$210,935	1,502	9,865	-	399
2016	\$432,534	-	1,487	9,792	-	344
2015	\$398,881	-	1,483	5,119	-	358
2014	\$418,604	-	1,826	10,863	-	453
2013	\$575,675	-	2,350	8,331	-	457
2012	\$528,492	-	3,005	8,792	-	432
2011	\$539,781	-	2,865	10,271	-	412
2010	\$528,710	-	1,807	5,484	-	341

**Total Acres
2.6M**

Why are acres withdrawn but not developed?

Some examples:

- › Transfers to a new owner – no paperwork
- › No 10-year update to the forestry plan
- › No longer eligible
 - Not farming anymore
 - Lease to a farmer expires
 - Can't find a farmer to lease land to
 - No annual certification paperwork (recent change)

Reminder: Vermont LUCT prior to 2015 reform

- › Liability was 20% of the value of the enrolled land if a property has been enrolled for less than a decade. After ten years, the tax rate fell to 10%
- › In the case of a portion of the parcel, the taxable value was calculated as a pro-rated portion of the total
 - Strengths: Directly encouraged longer-term UVA enrollment
 - Concerns: Pro-rating acreage generated a penalty that was too lenient, especially on larger enrollments

What do other states do about development?

- › 21 states impose no development penalty when some or all land is removed from current-use classification
- › The remaining have adopted some variant of a penalty for the purpose of recapturing some of the foregone property taxes and discouraging parcel development
- › Two main penalty styles
 - Conveyance (VT!)
 - Rollback

What do other states do about development?

- › Conveyance states collect a penalty based upon the market value of the property when developed. Sometimes the rate declines with years of enrollment.
 - 6 states (2014 data) including VT
 - CT and RI, for example, use a sliding scale version of this type of penalty: penalty declines with the number of years that a parcel has been enrolled

What do other states do about development?

- › Rollback states collect several years of tax savings, often plus interest, for the period immediately prior to development
 - 25 states
 - › 4 of these states are partial – levy a penalty for certain UVA categories but are also counted as “no penalty” states for agricultural land
 - Ranging 3-10 years of deferred taxes owed upon development
 - › Takes many forms. E.g., NY penalty is 5x the taxes saved in the most recent assessed year, plus 5 years of interest at 6%.

What would the Lincoln Institute of Land Policy do?

- › Laments the 21 “no penalty” states where eligible landowners pay lower rates than homeowners without any financial pressure to delay development.
- › Recommends strong withdrawal penalty that declines with the length of enrollment – this encourages long enrollments.
 - Conveyance states: cites Vermont (c. 2014!!!) as an example of a well-designed penalty (20% for first decade, then 10%).
 - Rollback states: praise for 10-year models; 3-year models “weak”
- › Praise for California’s unique requirement of a 10-year contract that is difficult to cancel. Penalty of at least 12.5% applies after contract expires. Tradeoff: discourages enrollment.
 - CA’s system for valuing a partial parcel removed from UVA is like VT, but it makes removal very difficult, which reduces the need for local assessors to conduct valuations.

Other takeaways from Lincoln Institute:

- › “To the extent that UVA is effective, the result may only be a temporary delay of development. Other methods of altering land-use such as conservation easements, public acquisition, and purchase of development rights programs may be considered for more permanent changes in land use.”
- › UVA program most effectively postpones development by featuring penalties that decline over time.

LUCT stakeholders to hear from

- › John McClain, Chair, Current Use Advisory Board
- › Jamie Fidel, Vermont Natural Resources Council
- › Keith Thompson, Private Lands Program Manager, Department of Forest, Parks and Recreation

Constituents Consulted

Vermont League of Cities and Towns (VLCT)

Vermont Association of Listers and Assessors (VALA)

Vermont Farm Bureau

Vermont Woodlands Association

Vermont Natural Resources Council

Vermont Municipal Clerks and Treasurers Association

Department of Forests, Parks and Recreation

Agency of Agriculture

Current Use Advisory Board

Sources

- › Use-Value Assessment of Rural Land in the United States. Lincoln Institute of Land Policy. John E. Anderson and Richard W. England © 2014
- › Current-Use Property Assessment and Land Development: A Theoretical and Empirical Review of Development Penalties. Lincoln Institute of Land Policy Working Paper. Richard W. England © 2002
- › International Association of Assessing Officers (IAAO) Library

Additional Current Use Review



Forestland Enrollment

- › At least 25 acres of enrolled land, exclusive of house sites and developments, with minimum 20 acres of productive managed forest
- › Forest management plan with map
- › Lands where timber is not principal objective may be enrolled with for:
 - Ecologically Significant Treatment Areas (ESTAs)
 - Reserve forest land
 - Significant wildlife habitat
 - Special places
 - Sensitive sites
- › Site IV lands: all eligible with minor caveats (Site IV is not capable of producing 20 cubic feet of wood per acre per year)
- › If owner is a “qualified” farmer, unlimited non-productive forest land & up to 25 acres of productive forestland can be enrolled

Agriculture Land & Buildings

- › In Active Agricultural Use
 - Pasture livestock
 - Grow crops/hay
 - Orchards
 - Produce an annual maple product
- › If less than 25 acres, owner must be “qualified” farmer; leased to a qualified farmer; or \$2,000/year income from the sale of farm crops
 - At least 50% of Gross Annual Income from the business of farmer per IRS definition
- › Annual agricultural certification
- › Ag Buildings must be in active agricultural use and either owner or leased to a “qualified” farmer

Prior slides: Land Use Change Tax Streamline

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Property Valuation and Review

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Department of Taxes

February 2023

Land Use Change Tax (32 V.S.A. § 3757)

- › When land enrolled in the Current Use program (also known as the Use Value Appraisal Program) is removed from the program, a Land Use Change Tax liability is established.
- › Currently the liability is 10% of the value of the enrolled land, and in the case of a portion of the parcel, the liability is 10% of the value of the portion *valued as a separate parcel* (See 32 V.S.A. § 3757(a)).
- › The policy purpose of the tax is to discourage development, particularly the creation of smaller parcels of land in areas which are currently used for agriculture or forestry.

Current Process Ramifications

- › In 2015, the calculation change introduced significant complexities in the case of withdrawals of partial parcels (most withdrawals).
- › The impact that this has had on taxpayers, and the related administrative burden on town officials, have led to confusion, frustration, delays, and unpredictability in tax liability that have undermined the policy goals of the 2015 changes.
- › Landowners cannot make an informed decision about what to do with a portion. Pre 2015 we could tell every landowner exactly what their liability would be. Pre 2015 – very easy and straightforward to understand and make decisions.
- › The value of the withdrawn portion as a standalone parcel becomes stale quickly – land can stay withdrawn but not developed indefinitely, yet that LUCT liability is from a point in time in the past.

Current Process Ramifications, cont'd

- › Only about 1/3 of the calculated LUCT liabilities are actually paid (lien removed). Two-thirds remain undeveloped with the lien remaining, or eventually get reenrolled.
- › Calculating the tax base for a partial parcel withdrawal currently requires a unique assessment from town assessing officials outside the norms of standard valuation practice and schedule.
- › The resulting tax liability (when compared to a simple proration of withdrawn acreage) is equivalent to applying effective tax rates between 1%-200% (with outlier cases reaching as high as an 800%) on the withdrawn land – raising equity concerns.

Equivalent Land Use Change Tax Rates

2018-2021

Equivalent Tax Rate	
Bin	Number of Returns
0% - 10%	150
11% - 20%	225
21% - 30%	148
31% - 40%	90
41% - 50%	61
51% - 60%	57
61% - 70%	39
71% - 80%	34
81% - 90%	39
91% - 100%	21
101% - 200%	128
201% - 300%	60
Over 300%	26

LUCT Current Law

Distribution of Current Land Use Change Tax by Acres Withdrawn

Acres Withdrawn	Min Current Tax	Average Current Tax	Max Current Tax
2 or Fewer	14	2,362	12,494
2.01 to 25	124	5,873	31,061
25.01 to 90	2,684	12,590	44,357
90.01 or More	15,099	32,241	55,466

Current Process Ramifications, cont'd

- › There is no evidence that the 2015 reform has changed behavior

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Delay caused by current system

LUC Cases Days from "Request Value from Town" to "Waiting for Payment" stages

Created Year	Average Days	Maximum Days	Minimum Days
2020	60	634	0
2021	64	646	0
2022	52	272	0

LUC Cases Request Values from Town Reminders:

Created Year	Request Value 1 st Reminder	Request Value 2 nd Reminder
2020	224 Cases	143 Cases
2021	170 Cases	115 Cases
2022	162 Cases	87 Cases

Proposal

The Department proposes a simplification of the LUCT calculation of a partial parcel withdrawal that would maintain the higher tax rate for withdrawing only a portion of a parcel from the program, but standardize its application across municipalities, ensuring equity transparency, and predictability.

Two Elements to the Proposal

Element 1: Revert to pro-ration as was practice prior to 2015 changes.

Element 2: If Legislature desires to keep the policy implications of 2015 reform, use tiered tax rate depending on size of parcel and size of withdrawn portion.

Land Use Change Tax Streamline

Taxpayers will be able to make informed decisions about their parcels as they will be able to estimate tax liability prior to withdrawal from the program or the purchase of enrolled land;

Towns will be freed from these standalone valuations which take significant time between valuation and appeals;

Towns will no longer have to utilize use state software to input value calculations, as these calculations would happen automatically and be managed by the Tax Department;

Revenue generated by the Land Use Change Tax will be substantially equal to the current practice, while eliminating subjectivity, hours of lister time, unpredictability and most importantly keeping the policy goals of the Legislature in place.

Policy Implications

- › This proposal is not driven by policy.
- › The proposed tax rates represent the same policy impact as the current varied process, in a predictable and transparent manner.

Fiscal implications

- › This proposal was designed to be revenue neutral.
- › It is not driven by financial implications, beyond the expected time savings for taxpayers, municipalities, and the department.

Constituents Consulted

- › Vermont League of Cities and Towns (VLCT)
- › Vermont Association of Listers and Assessors (VALA)
- › Vermont Farm Bureau
- › Vermont Woodlands Association
- › Vermont Natural Resources Council
- › Vermont Municipal Clerks and Treasurers Association
- › Department of Forests, Parks and Recreation
- › Agency of Agriculture
- › Current Use Advisory Board

LUCT Proposal: Nuts and bolts

Proposed Revenue-Neutral Tax Rates

	25 or Fewer Acres Withdrawn	25.01 to 90 Acres Withdrawn	More than 90 Acres Withdrawn
25 or Fewer Acres Enrolled	35%		
25.01 to 90 Acres Enrolled	40%	20%	
More than 90 Acres Enrolled	60%	30%	15%

LUCT Proposal: Nuts and bolts

Current Law Average Effective Tax Rate for Parcel Group

	2 or Fewer Acres Withdrawn	2.01 to 25 Acres Withdrawn	25.01 to 90 Acres Withdrawn	More than 90 Acres Withdrawn
25 or Fewer Acres Enrolled	27%	35%		
25.01 to 90 Acres Enrolled	84%	40%	15%	
More than 90 Acres Enrolled	142%	68%	23%	13%

Current vs. Proposal – Average Tax

Average Current Land Use Change Tax Charged by Parcel Size

	2 or Fewer Acres Withdrawn	2.01 to 25 Acres Withdrawn	25.01 to 90 Acres Withdrawn	More than 90 Acres Withdrawn
25 or Fewer Acres Enrolled	809	6,214		
25.01 to 90 Acres Enrolled	2,313	5,898	10,406	
More than 90 Acres Enrolled	2,532	5,812	14,183	32,241

Average Proposed Land Use Change Tax by Parcel Size

	2 or Fewer Acres Withdrawn	2.01 to 25 Acres Withdrawn	25.01 to 90 Acres Withdrawn	More than 90 Acres Withdrawn
25 or Fewer Acres Enrolled	1,560	5,792		
25.01 to 90 Acres Enrolled	1,189	7,770	12,590	
More than 90 Acres Enrolled	1,138	7,422	18,091	33,273

Thank you!