



Taxation & Timber

**An Inventory of
State Tax Provisions in
Maine, New Hampshire
and Vermont**

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Introduction

The Scope of this Report

The Northern Forest spans northern New England, from Maine across New Hampshire and Vermont and into New York. As development pressure builds in northern New England and as the forest products industry comes under increased global pressure, ownership patterns of forestlands are changing. Paper companies, the traditional owners of large tracts of land, are selling some of their holdings, and in the last several years, conservation agencies and organizations and agencies have stepped in to acquire significant tracts of land that have gone on the market in Maine, New Hampshire and Vermont. As ownership patterns are shifting, it is important to continue to study the forces behind change. One significant question is: How are the economics of the ownership of forestlands and the economics of the forest products industry affecting decisions about whether to sell these lands for development? Another question is: As forestlands remain as working forests, how environmentally sensitive are the management of the forestlands and the production of forest products?

The economics of land ownership, land management and the forest products industry involve many complex factors, one of which is the tax cost associated with owning forestlands, managing the forestlands and converting timber into saleable forest products. This report explores the tax codes of Maine, New Hampshire and Vermont in order to determine the extent to which these states have used their tax systems to positively affect the ownership and

management of forestlands and the timber industry in their states by employing timber-specific tax measures. To what extent do these states use their state tax codes to encourage the continued ownership of forestlands as open space? To what extent do they use their tax codes to positively affect the financial viability of the forest products industry? And to what extent do they use their tax codes to encourage any particular types of environmentally sensitive management activities for the forestlands or production activities using forest products?

The scope of this report is limited in several significant respects. For the most part, it focuses on provisions explicitly designed for forestlands and the forest products industry, so it does not address many tax measures that are generally applicable but could affect forestlands and the forest products industry, such as the issue of overall tax rates. While examining the forest-related tax provisions in these three states, the report does not look beyond the language of the states' tax codes to determine the actual empirical impact of tax provisions on the forestlands and the forest products industry. It does not explore the linkage between federal tax provisions and state tax provisions nor does it suggest policy measures that might be implemented. However, by outlining the contours of the tax provisions currently in effect, it lays the foundation for these important inquiries as discussions about the Northern Forest move forward.

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Section 1

The Tax Structures of the Three States

Before delving into the details of specific tax measures that affect forestlands and the forest products industry, it is useful to look at the overall tax structure of the three states to help set the context. All three states rely on the property tax at a local level, but at the state level, they rely to varying extents on different types of state-wide taxes. Maine and Vermont both have broad-based individual and corporate income taxes, on the other hand, New Hampshire has a very limited individual income tax, which applies just to dividends and interest, and a business enterprise tax on business income. Maine and Vermont have broad-based sales taxes, while New Hampshire's sales tax is limited to certain commodities. The chart at right, which compares the revenues that the states received in 2001 from their state (not local) taxes, provides a picture of each state's reliance on various types of taxes.^[1]

The relative burden of statewide taxes (excluding local taxes) also varies significantly from state to state. The average per capita tax burden for state taxes in Maine was \$2,074 in 2001, and Maine ranked 17th in the nation in the amount of taxes paid per capita that year. The per capital tax burden in New Hampshire in 2001 was \$1,470, putting it in 47th rank, and the average in Vermont was \$2,532, placing it highest among the three states at 7th rank in the nation.^[4]

Type of tax	Percent of total state tax revenues in 2001		
	Maine	New Hampshire	Vermont
Property tax	1.8	25.8	34.1
Sales and gross receipts	44.1	33.5	23.7
Licenses	5.2	8.2	5.0
Individual income tax	43.5	4.3	31.1
Corporate income tax	3.6	19.7 ^[2]	2.0
Death and gift tax	1.1	3.3	.9 ^[3]
Documentary and stock transfer	.7	5.2	1.4
Other	—	—	1.0

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Section 2

A Brief Analysis of the Findings

Sections 3, 4 and 5 of this report contain descriptions of the state tax provisions identified in each of the three states that explicitly or directly affect the ownership and management of forestlands in their states, presented on a state-by-state basis, and a chart at the end of this section provides an overview of these tax provisions. A number of trends and conclusions emerge from these details as one compares the use of timber-related tax measures in the three states.

The Influence of Inherent Differences in the Tax Systems:

The approaches in Maine and Vermont differ from the approach New Hampshire given the fundamental differences in the basic structure of the tax system between Maine and Vermont, on one hand, and New Hampshire, on the other. With their broad-based income tax on individuals and corporations and their general sales tax, Maine and Vermont have tax vehicles into which they can build timber-related provisions. With no general sales tax and a very limited income tax on individuals, New Hampshire does not have the same opportunity, and it has chosen not to build timber-related provisions into its business enterprise tax. Consequently, Maine and Vermont have a broader array of types of timber-related tax provisions, while New Hampshire almost exclusively uses its property taxation system to address timber-related issues.

Using Current Use Assessment of Forestlands to Encourage Continued Ownership and Sustained Yield:

All three states embrace the principle of offering current use assessment of forestlands for property tax purposes. Valuation of the land at its current use value as timberland, rather than its fair market value, can reduce one cost of ownership that might otherwise cause owners to sell their property, and by reducing the tax burden on the standing timber, it can encourage landowners to manage their forests on a sustained yield basis. The details of the current use programs in each state, however, vary significantly in a number of respects. For example:

- **Acreage:** Eligible acreage varies from 10 acres in Maine and New Hampshire to 25 in Vermont.
- **Management plans:** Requirements for forestry management practices differ, from no specific management requirements in New Hampshire (although lower assessments are available for land with documented stewardship) to mandatory management plans in Maine and Vermont. Vermont mandates periodic state inspections of the property for compliance with the management plans.
- **Public access:** The assessed value in New Hampshire is reduced by an additional 20 percent if the landowner offers year-round public access.
- **Penalties:** The penalties for changes in use are substantially different in each state. In Maine the penalty is linked either to repayment of taxes the landowner has saved as a result of enrollment in the program or to a percentage of the fair market value of the property (ranging from 30 to 20 percent, depending on how long the land has been enrolled). In New Hampshire, the penalty is a flat 10 percent of the fair market value of the land. In Vermont, the penalty is either 20 or 10 percent of the fair market value, depending on the number of years the land was enrolled.
- **Use of the penalty revenues:** New Hampshire allows municipalities to elect to deposit the revenues they collect in penalties in a dedicated municipal conservation fund. Maine and Vermont have no comparable provisions.
- **Local fiscal impact:** Both Maine and Vermont have mechanisms for reimbursing the municipalities for property tax revenue that is lost as a result of enrollment of land in the current use program, but New Hampshire makes no provision for reimbursement.

Many of these features will influence the landowners' calculations about whether to enroll their land in the current use program and, once enrolled, whether to bear the cost of withdrawing the land. Consequently, they will influence the long-term effectiveness of current use assessment in encouraging the continued ownership and sound management of the forestlands.

Using the Property Tax Exemption for Standing Timber to Encourage Sustained Yield

Both Maine and Vermont include the value of standing timber in the valuation of the land for property tax purposes but, as indicate above, allow valuation of the timber and land at its current use value. New Hampshire, however, takes a different approach. It explicitly exempts growing wood and timber from the annual, general property tax and instead imposes a yield tax on the timber at the time that it is cut. As a result, New Hampshire's current use program applies only to the underlying land. Removing standing timber from the general property tax reduces one economic pressure to cut the timber to meeting short-term financial obligations, arguably encouraging owners to manage the forestlands on a sustained yield basis.

Using Other Forestry Management Incentives

Beyond requiring management plans as a prerequisite for enrollment in current use assessment, Maine provides landowners a \$200 income tax credit once every 10 years to help offset the cost of preparing forestry management plans regardless whether the land is enrolled in the current use program. Maine also exempts seedlings from the sales tax, which can help subsidize the cost of reforestation.

Using the Taxation of Gains to Discourage Speculative Transfers

Vermont has a unique tax on capital gains from the sale of undeveloped land. If an owner of more than 10 acres sells the land within six years of purchase, the landowner will pay a capital gains tax linked to the length of time the property has been owned and the extent to which it has appreciated in value during that period of time. This tax was designed to inhibit the market for short-term, speculative transfers of land that could lead to development of the land.

Using Tax Measures that Improve the Economics of Activities Associated with the Forest Products Industry

A number of provisions in all three states give positive economic benefits to activities that are part of the process of converting timber into consumer products without linking the economic benefit to any particular environmental result. Some of these provisions are general in nature and are not specifically targeted to the forest products industry. For example:

- **Manufacturing equipment and facilities:** In a number of generally applicable

provisions not targeted to the forest products industry, Maine and Vermont offer tax benefits for certain types of investment that may help reduce the cost of investment in manufacturing facilities and equipment used in the forest products industry. For example, Vermont gives municipalities the option of exempting manufacturing facilities from the property tax for a limited period of years exempt, and Maine provides a 12-year property tax reimbursement for certain depreciable business equipment installed after April 1, 1995. Vermont exempts sales of manufacturing equipment from the sales tax. Vermont has a special income tax credit for manufacturing facilities that qualify under a statewide economic advancement program, which could apply to new manufacturing facilities. Maine and Vermont also exempt from the sales tax purchases of research equipment used in laboratory research (not for quality control). In one provision that is specific to the timber industry, Maine provides a trade-in credit that excludes the value of a traded-in chain saw from the sales tax due on the sale of a new chain saw.

- **Inputs:** Maine and Vermont exempt from the sales tax personal property that is a component of or consumed in the process of manufacturing products for sale. These generally applicable provisions would apply to inputs into the manufacture of forest products, reducing the tax burden associated with those products. The provision applies equally to all inputs, regardless of their environmental attributes.
- **Outputs:** Several provisions provide tax relief for forest products which may enhance the economics of the industry by reducing the tax cost associated with its products, although some of these provisions may have been enacted for other policy reasons. Maine exempts forest products, such as logs, timber and woodchips, from its personal property tax. Maine and Vermont exempt sales of domestic wood fuel and packaging materials from the general sales tax. Vermont specifically exempts property that is an component part of or consumed in the manufacture of newspapers, which would include newsprint, and it exempts building materials in limited situations. New Hampshire allows municipalities to exempt central heating systems that use wood from the property tax, which presumably would enhance the market for wood.

Using Tax Measures that Encourage Environmentally Sensitive Manufacturing Processes

The provisions described above are not explicitly environmental in nature. All three states, however, also have provisions for which the forest products industry might be eligible that may encourage certain types of environmentally beneficial behavior as timber products move from the forestland to consumers. For example:

- **Air and water pollution control facilities:** All three states to some degree exempt certain pollution control facilities from the property tax under provisions that apply to industry in general. These exemptions help subsidize the cost of pollution control facilities.
- **Alternative energy systems:** In a generally applicable provision, Vermont exempts its sales tax sales of net metering systems, energy systems not connected to the utility distribution grid and property used in hot water systems that function from solar energy. This provision may encourage manufacturers, including those in the forest products industry, to use alternative energy systems.
- **Waste facilities:** In another generally applicable provision, Vermont imposes a franchise tax on waste delivered to waste facilities, a provision that could have the effect of limiting waste. The tax exempts recycled

waste. It also exempts brush, logs, stumps and roots, but not other wood wastes or products, so it could have both a negative and a positive effect on reducing waste.

Using Tax Measures that Encourage Permanent Protection of Forestlands

All three states have some tax provisions that encourage the permanent protection of land. They operate by reducing the cost of acquiring or owning conserved land.

- **Property tax exemptions for conservation lands.** New Hampshire provides a property tax exemption for land owned for land conservation purposes by qualifying charities or governmental agencies.
- **Property tax abatement for conservation lands.** Vermont allows land owned for conservation purposes by qualifying charities to be assessed at its current use value.
- **Property tax reductions for land under conservation easement.** All three states afford some degree of property tax relief for land under conservation easement. Maine

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provides explicit current use treatment for land that is permanently protected by a conservation easement, with the option of applying specified percentage reductions in assessed value. New Hampshire defines the circumstances under which land under a perpetual conservation easement can qualify for a reduced assessment at least as low as the value that would be set under the current use program, and it allows municipalities to accept shorter term easements that would qualify for assessment at less than fair market value. Vermont requires that the assessor value the property based only on the value of the rights that the landowner continues to own after granting the conservation easement.

- **Real estate transfer tax exemptions.** All three states impose a real estate transfer tax at the time real property is transferred or sold. Maine and Vermont, but not New Hampshire, exempt qualifying land conservation transfers from the transfer tax.

Using Taxes that Generate Revenue Dedicated to Timber-related Issues or Land Conservation

A relatively limited number of tax measures in the three states provide revenue that is or can be dedicated to forest and land conservation purposes. For example:

- **Using the yield tax for land use regulation and forest conservation purposes:** New Hampshire provides that the yield tax collected in unorganized towns and places will be used for land use regulation and forest conservation purposes.
- **Using a forestry excise tax to fund fire protection.** Maine imposes an excise tax on the owners of commercial forest land in excess of 500 acres that helps fund the state's forest fire protection activities.
- **Using the current use penalty for land conservation:** New Hampshire allows municipalities to elect to dedicate the revenues from the current use penalty to land conservation.
- **Using the real estate transfer tax for land conservation:** Vermont's real estate transfer tax helps fund the Vermont Housing and Conservation Board, which engages in part

in land conservation activities. Maine and New Hampshire dedicate their transfer taxes to other purposes (housing and education, respectively). The two major state land acquisition programs in Maine and New Hampshire, the Land for Maine's Future Board and New Hampshire's Land and Community Heritage Investment Program, do not rely on dedicated tax revenues.

- **Using general revenues for research.** Vermont offers a nongame wildlife checkoff on individual income tax returns that allows taxpayers to dedicate some portion of their tax payment to the research and management of nongame wildlife, which potentially could have implications for forest management practices. This mechanism is different from those listed above because a specific tax does not generate dedicated revenues; instead, the taxpayers have the option of dedicated general tax revenues.

As indicated in the Introduction, this report does not evaluate the effectiveness of any of these provisions, but this survey indicates that there is some level of legislative attention to forest-related issues in the tax codes of these three states. However there is little consistency among the states, even the current use programs, which are fundamental to forestland policy in each state, vary substantially from state to state. To some extent, these differences are logical, given the differences in tax structure among the states and differences in economic and environmental policy objectives. Nevertheless, the differences mean that the owners of forestland and forest products industries face varying tax burdens in each state that may cause them to behave differently in each state. Similarly, policymakers and advocates who are looking at forest-related policy issues across the region must learn three sets of laws and consider how the relative tax burdens influence policies to promote a secure, long-term sustainable forest for the future. A fundamental policy question beyond the scope of this report, however, is how significant these differences are in the regional and global market for land and forest products.

The following Sections outline, on a state-by-state basis, the various forest-related tax measures that were summarized above. For each state, they describe measures related to the property tax, sales tax, income tax and, lastly, any special taxes.

Summary of the Forest-related Tax Measures

Tax Measure	Maine	New Hampshire	Vermont
Property Tax			
current use assessment	X	X	X
current use for easement land	X	X	X
yield tax		X	
abatement for roadside shade trees		X	
abatement for conservation holdings			X
tax exemptions			
forest products	X		
pollution control facilities	X	X	X
business property	X		X (LIMITED)
conservation land holdings		X	
woodheating energy systems		X	
Sales Tax			
tax exemptions			
tree seedlings	X		
domestic wood fuel	X		X
pollution control facilities	X		
research equipment	X		X
manufacturing equipment	X		X
manufacturing inputs	X		X
special newsprint exemptions			X
certain building materials			X
certain energy systems			X
packaging material	X		X
trade in credit			
chain saws	X		
Income Tax			
tax on speculative capital gains			X
tax credits			
forest management plans	X		
economic advancement			X
checkoff for nongame wildlife			X
Special Taxes			
forestry excise tax	X		
franchise tax on waste facilities			X
real estate transfer tax	X	X	X
exemption for conservation	X		X

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Section 3

Forest-related Provisions in Maine

Forest-related tax provisions in Maine are built into various different types of tax systems. These types of tax systems, which do not represent all the types of taxes in Maine, are:

- The local property tax which funds municipal government.
- A general sales and use tax of 5 percent on the value of most tangible personal property and certain services, with sales taxes at higher rates for certain property or services, such as liquor and accommodations.
- A corporate income tax that ranges from 3.5 percent of Maine net income to 8.93 percent for net income of at least \$250,000.
- An individual income tax that ranges from 2 percent of Maine taxable income to 8.5 percent of income. The threshold for the top marginal rate starts at \$16,700 for single individuals and rises to \$33,400 for married individuals filing joint returns.
- Special taxes, including the forestry excise tax.
- A real estate transfer tax of \$2.20 for each \$500 of value.

The following paragraphs briefly describe the forest-related provisions within each of these tax systems.

Property Tax Provisions

Maine has significant property tax provisions that reduce the burden of property taxes on forestlands and two provisions that aid the forest products industry, one of which is specific to wood products and one of which is general in nature but presumably assists the forest products industry.

The General Policy for Assessing Forest Land

As a matter of public policy, state and local officials are directed to use their powers as assessors to encourage “the operation of all forest lands on a sustained yield basis” and “to establish and maintain uniformity in methods of assessment for purposes of taxation according to the productivity of the land,

giving due weight in the determination of assessed value to location and public facilities as factors contributing to advantage in operation.” (Me. Rev. Stat. Ann. tit. 36 §563)

If a landowner provides proof that the assessment creates an incentive to abandon or strip the land or to operate it in a way contrary to the general policy of encouraging sustained yield, then a court shall deem the assessment to be in excess of just value. The landowner’s proof must include a showing that the tax prevents the landowner from efficiently operating the forest land on a sustained yield basis that will generate an adequate annual net return. This relief is available to landowners who own, under single ownership, land in excess of 25 acres that is held to grow trees for commercial cutting. (Me. Rev. Stat. Ann. tit. 36 § 564)

Maine Tree Growth Tax

Recognizing how valuation of forestland at fair market value can discourage the management of forests on a sustained yield basis and the public interest in encouraging landowners to retain their holdings of forest lands, Maine amended its constitution in 1970 to allow for the valuation of forestland according to its current use, and a year later the legislature enacted the Tree Growth Tax Law to implement this concept.

Eligibility

Any landowner who owns 10 or more acres of forestland used “primarily for the growth of trees to be harvested for commercial use” is eligible to have the land certified under the Tree Growth Tax subject to certain qualifications, a number of which are summarized below.

Excluded land: Eligible acreage does not include ledges, marshes, swamps, bogs and similar areas not suitable for growing forest products or commercial harvesting even in situations where these types of land are located within eligible forestlands.

Forest products deemed to have commercial value: Land is eligible only if the trees will be harvested for forest products that have commercial value. Products that have commercial value include logs, pulpwood, woodchips, Christmas trees, maple syrup, biomass, wreaths, bough material and cones and other enumerated products.

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Land deemed to be used primarily for the growth of trees for commercial use: The law requires that the land must be used primarily for the growth of trees for commercial harvest, but it contains some exceptions to this requirement. It allows qualification in the following situations where the land might not otherwise be deemed to be used primarily for commercial growth: where the land use also used for public recreation (with special provisions for recreational leases); where governmental restrictions prevent harvesting or require another primary use; where deed restrictions, covenants or charters effective before 1982 prevent commercial harvesting or require another primary use; where the only use is harvesting for personal use if the property is less than 100 acres; and where the land is or was also used for mineral exploration.

The management plan requirement: In order to qualify, the landowner must submit a management and harvest plan that is prepared by a licensed professional forester or, if prepared by the landowner, is certified by a licensed professional forester. This plan must outline the landowner's plans to "regenerate, improve and harvest a standing crop of timber," and it must be updated every 10 years. The landowner is eligible for an income tax credit of up to \$200 to help defray the cost of preparing the plan. (See discussion of income taxes below.) When ownership of the land or timber rights is transferred, the new owner must file a statement that a new plan has been prepared or a statement from a licensed professional forester that the land is being managed in accordance with the previous owner's plan. The municipal assessor or the State Tax Assessor can request the Bureau of Forestry to assist in reviewing management plans and determining whether the landowner is complying with the plans.

Tax Effect Once Qualified

The State Tax Assessor is responsible for determining the current use value of forestland for each county and region based on the productivity of the land to grow timber and the type of forest. The local assessor (the assessor for the municipality and the State Tax Assessor for the unorganized territory) will adjust this 100 percent current use valuation according to the percentage used in the jurisdiction to determine the assessment of all other property. The land is then taxed according to the tax rate generally applicable in the jurisdiction. Each municipality is entitled to an appropriated reimbursement for 90 percent of the tax

revenue lost as a result of enrollments of property in the program, subject to certain qualifications.

Penalty for Withdrawal or Change in Use

When a landowner withdraws from the program or changes the land use, the owner will be subject to a penalty. The penalty is equal to the greater of the following two amounts:

- 1 the property taxes that would have been paid over the preceding five years (or the number of years the land was enrolled in the program, if fewer than five years), minus the taxes actually paid, plus interest; and
- 2 a percentage of the fair market value of the land that is linked to the number of years that land has been enrolled in the program — 30 percent of fair market value for land enrolled 10 years or less, declining one percent each year to 20 percent for land enrolled for at least 20 years.

If the owner fails to report withdrawal or the change in land use, the assessor will add an additional 25 percent penalty. The penalties are not required by statute to be dedicated to any particular use.

Sale of the land will not trigger the penalty unless the sale involves less than 10 acres, in which case the transferor must pay the tax. In addition, withdrawal of the land from the program in order to enroll it in the Farm and Open Space Program, described below, will not trigger the penalty, but the years of enrollment in the Tree Growth Tax Law program will be included in calculating any penalty under the Farm and Open Space Program.

Statutory Citation

Me. Rev. Stat. Ann. tit. 36 §§ 571-581

Farm and Open Space Tax Law

When it instituted current use assessment for forest lands, the state also provided parallel relief for farm and open space land. These provisions are relevant to forestland because they may apply in instances where the forestland does not meet the eligibility requirements of the Tree Growth Tax Law.

Eligibility

In order to qualify, farmland must comprise of at least 5 contiguous acres on which agricultural or farming activities have contributed \$2,000 per year to the household income in 1 of 2 or 3 of the 5 years preceding date of the application. Farmland includes woodland and wasteland.

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In order to qualify as open space, the land does not have to meet minimum acreage requirements, but the preservation of the land must provide one of the following types of public benefit: the conservation of scenic resources, the enhancement of recreational opportunities, the promotion of game management or the preservation of wildlife or wildlife habitat.

For both farmland and open space land, the landowner must submit a schedule to the assessor, who will then determine whether the land qualifies. In applying the criteria for open space, which are somewhat subjective in nature, the assessor will consider whether preserving the land will achieve one of the required public benefits in light of all of the circumstances surrounding the land and the vicinity. The statute suggests a number of factors the assessor should consider, such as the proximity of the parcel to extensive development, the scenic, natural and fiscal consequences if the land were developed, the relationship of the property to conserved properties, the intent of the landowner to permanently protect the land, the consistency of protection with local, state or federal planning objectives and a number of other factors.

Tax Effect Once Qualified

For farmland, the municipal tax assessor, or State Tax Assessor for unorganized territories, will determine the 100 percent valuation of the property according to its current use, guided by values set by the Department of Agriculture, Food and Rural Resources. The assessor must substantiate any deviations from these guidelines. Farm woodlands within the qualifying farmland, however, will be assessed

according to the values developed under the Tree Growth Tax Law, described above. The assessor will then adjust the 100 percent valuation by the percentage of current use value applied to other properties in the jurisdiction.

For open space, the current use value is the fair market value of the land if it remained as open space. However, if the assessor cannot determine that value, the assessor can elect to reduce the ordinary assessment by the total percentage for which the land qualifies when applying the following reductions on a cumulative basis:

- A 20 percent reduction for all open space;
- An additional 30 percent reduction for permanently protected open space;
- An additional 20 percent reduction for forever wild open space that is permanently protected; and
- An additional 25 percent open space that involves public access.

In the case of forestland, however, the value cannot fall below the value that would apply under the Tree Growth Tax Law. After determining the value, the assessor will then adjust the 100 percent valuation by the percentage used in the jurisdiction to determine the assessment of all other property.

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Recapture Penalty

In the case of farmland, the penalty is equal to the taxes that would have been paid for the preceding five years, minus the taxes paid, plus interest. The penalty can be paid in five annual installments. If the land has been enrolled for less than 5 years, the penalty is equal to 40 percent of the assessed fair market value of the land. In the case of open space, the penalty is the same formula used under the Tree Growth Tax Law, described above. In the case of both types of land, the assessor will impose an additional 25 percent penalty if the landowner does not notify the assessor of any change in use, but the assessor may waive this additional penalty for cause.

Certain transactions are not considered to be changes that will trigger the tax. The transfer to another current use classification for property tax purposes will not trigger the penalty but may affect the way in which the penalty is calculated for the property if it ultimately is withdrawn or the use is changed. The transfer of ownership of a portion of an open space property will not trigger the penalty unless either or both of the resulting parcels no longer provide the public benefit that allowed the property to be enrolled in the program.

Statutory Citation

Me. Rev. Stat. Ann. tit. 36 §§1102-1121

Standing Wood Taxed to Purchaser

If a landowner sells the wood, bark or timber standing on the land pursuant to a written contract, the owner may notify the property tax assessor of the sale and the assessor will impose the property tax on the purchaser. This administrative provision does not affect the actual property tax burden but rather only the identification of the taxpayer. (Me. Rev. Stat. Ann. tit. 36 § 562)

Property Taxation of Timber on Public Reserved Lots

The State can hold timber and grass claimed on public reserved lots for the payment of taxes assessed against the timber and grass. Timber forfeited under this provision will be held by the Bureau of Parks and Lands in trust for the benefit of the people of the state. (Me. Rev. Stat. Ann. tit. 36 §§ 1541-1545)

Property Tax Exemptions

The personal property tax applies to tangible property, but it specifically exempts certain forest products from the definition of taxable personal property forest

products, including logs, pulpwood, woodchips and lumber. (Me. Rev. Ann. Stat. tit. 36 § 655)

The personal property tax exempts qualifying water and air pollution control facilities. (Me. Rev. Ann. Stat. tit. 36 § 655) The property tax on real property also exempts qualifying air and water pollution control facilities. (Me. Rev. Stat. Ann. tit. 36 § 656) Although these exemptions for pollution control facilities are not specific to the forest products industry, they may be directly relevant to manufacturers involved in manufacturing forest products.

Business Property Tax Reimbursement

Taxpayers can claim a reimbursement from the state for property taxes paid on qualified business property placed in service after April 1, 1995. Qualified business property is defined in part as property held exclusively for business purposes that is subject to depreciation, and it includes property attached to real estate that is used in a trade or business taking place in that building or on the land. This reimbursement is designed to overcome the cost of owning business property in the state and to avoid a disincentive for the capital investment, and although it is not specific to the forest products industry, it may be directly relevant.

This reimbursement is limited for certain energy-producing equipment, including co-generation facilities, which again might affect the forest products industry. The portion of the co-generation facility eligible for reimbursement is based on the ratio of (1) electricity produced and consumed without transmission by the manufacturing facility the preceding year to (2) the amount of total energy produced by the facility the preceding year.

In all cases, the reimbursement is available for up to 12 years, but the number of years is reduced by the number of years for which the taxpayer also claims a solid waste reduction investment tax credit or an investment tax credit for the same equipment (see discussion below). (Me. Rev. Stat. Ann. tit. 36 §§6651-6663)

Sales and Use Tax Provisions

Exemptions

The sales and use tax exempts some sales that may directly or indirectly affect the forestry and forest products industry, although these exemptions may reflect a range of policy goals. It exempts:

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- Tree seedlings for use in commercial forestry (subsection 73);
- Wood used for cooking and heating in structures used for human habitation and sleeping; (subsection 9-A);
- Qualifying water and air pollution control facilities, including material used to construct, repair or maintain the facilities (subsections 29 and 30);
- Machinery and equipment used in the production of personal property for sale or for research and development in "an experimental and laboratory sense" (subsections 31 and 32);
- Tangible personal property that becomes part of or is consumed during the production of tangible personal property for sale or lease (subsection 74); and
- Packaging materials, including boxes and bags that could be forest products, where the materials are used in the business of packing and shipping or for packaging and shipping items for sale or servicing (subsection 12-A).

Me. Rev. Stat. Ann. tit. 36 § 1760.

Trade-in Credit

The sales tax provides a credit for trade-ins of certain types of products so that the sales tax will apply only to the difference between the sale price of the purchased item and the trade-in allowance of the trade-in property. Chain saws are eligible for this relief, and lumber harvesting vehicles were eligible for it until 1997. (Me. Rev. Stat. Ann. tit. 36 § 1765)

Income Tax Provisions

Income Tax Credit for Forest Management Planning

The income tax provisions provide a non-refundable income tax credit for the cost of developing a forest management and harvest plan, up to \$200, for any parcel of land greater than 10 acres. Plans prepared by a licensed professional forester in the regular employment of the taxpayer do not qualify. The credit can be claimed only once every 10 years and taxpayers who deduct the cost of preparing the plan under the federal Internal Revenue Code must reduce that deduction by the amount of the credit. (Me. Rev. Stat. Ann. tit. 36 §§5219-C, 5219-H)

Reclaimed Wood Waste and Cedar Waste Credit

From 1989 through 1993, the income tax provisions included an income tax credit for reclaimed wood waste and cedar waste. The credit, now no longer in effect, was equal to \$5 per green ton of reclaimed waste purchased by the taxpayer and used in the taxpayer's plant in Maine for fuel for the generation of electricity of thermal energy. (Me. Rev. Stat. Ann. tit. 36 § 5219-F (repealed)) Maine also had an investment tax credit and a tax credit for solid waste reduction, both of which applied to investments made during certain time periods in the 1990s. (Me. Rev. Stat. Ann. tit. 36 §§ 5219-D, 5219-E)

Special Taxes

Commercial Forestry Excise Tax

Maine imposes an excise tax on the owners of commercial forest land (other than governmental owners) for the privilege of engaging in forestry in the state. The total amount of the tax paid each year is 40 percent of the amount that the state appropriates or allocates for forest fire protection activities, and the tax is allocated among landowners according to their acreage of commercial forest land in excess of 500 acres. Commercial forest land that is subject to the tax is defined as land eligible for classification under the Maine Tree Growth Tax Law unless governmental restrictions or deed restrictions prevent commercial harvesting. (Me. Rev. Stat. Ann. tit. 36 §§ 2721-2728)

Real Estate Transfer Tax

Maine applies a tax of \$2.20 for each \$500 in value on the transfer of property, imposed half on the transferor and half on the transferee. This tax provides a number of exemptions, which include transfers to governmental agencies and gifts of title or interests in land (such as conservation easements) to charitable conservation organizations for qualifying conservation purposes. Ten percent of the revenues from the transfer tax are distributed to the registries of deeds that collect the tax, and the remainder is distributed to the state to be used half for the General Fund and half for the Housing Opportunities for Maine Fund. (Me. Rev. Stat. Ann. tit. 36 §§ 4641-4641N)

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Section 4

Forest-Related Tax Provisions in New Hampshire

Forest-related tax provisions in New Hampshire are incorporated primarily into the property tax, but it is useful to put the property tax in the context of New Hampshire's overall tax structure. New Hampshire relies in large part upon:

- The local property tax, plus a statewide property tax to fund education.
- A variety of sales taxes rather than a general sales tax, including a sales tax on tobacco (52 cents per package of cigarettes) and meals and rooms (8 percent).
- A business profits tax of 8.5 percent of the taxable business profits of business organizations.
- A business enterprise tax of $\frac{3}{4}$ of one percent of the taxable enterprise value tax base of business enterprises, which is linked to the compensation and dividends paid by the enterprise.
- An individual income tax of 5 percent only on dividends and interest.
- A real estate transfer tax of \$.75 for each \$100 of value.

The following paragraphs briefly describe the forest-related provisions in New Hampshire.

Property Taxation Provisions

Yield Tax

Standing wood and timber is not subject to the general property tax, with the exception of special types of trees such as fruit trees, nursery stock, Christmas trees and ornamental trees. Instead, the timber is subject to a yield tax when it is cut at a rate of 10 percent of the stumpage value at the time of cutting. The stumpage value is determined by the local assessor. Certain types of cutting do not trigger the tax, such as when:

- A person cuts up to 10,000 board feet a year on his or her own land for the purposes of construction, reconstruction, or alteration of structures (including fences) that person owns

in New Hampshire, provided the structures are not built for sale;

- A person cuts up to 20 cords of fuel wood for his or her own consumption in New Hampshire for domestic fuel purposes or any amount cut for making maple syrup;
- Federal or state government, cities, towns, school districts or other political subdivisions cut wood or timber for their own use; and
- A person cuts up to 10,000 board feet of logs and 20 cords of wood or the equivalent in whole tree chips a year from his or her own property for land conversion purposes pursuant to all required permits.

Yield taxes collected by municipalities go into their general funds. Yield taxes collected in the unorganized towns or places are used first to pay the county commissioners' cost of administering the tax. The county commissioners then distribute an amount (determined by the county's legislative delegation to the Department of Resources and Economic Development) to be held in the Unorganized Towns and Unorganized Places Forest Conservation Fund for the benefit of the towns and places where the tax was collected. The money in this fund can be used for land use regulation and forest conservation purposes, which include forest and fire protection facilities and equipment and insect and disease control. Any remaining funds are allocated among unincorporated towns and places according to collections over the prior two years and are used to offset the county tax the next year.

N.H. Rev. Stat. Ann. §§ 79:1-19 (2002).

Current Use Taxation

In 1973 the New Hampshire legislature enacted the Current Use Tax in order to encourage the preservation of open space and forest resources by reducing the risk that property taxation will cause the conversion of open space into more intensive uses.

Eligibility

Land that qualifies for current use assessment is "open space land", which includes "farm land," "forest land" and "unproductive land" (including wetlands). The statute and the implementing rules adopted by the State Current Use Board contain definitions for qualifying land, but a significant feature relevant to forest land is that the land must total 10 or more acres in some combination of forest land, farmland or unproductive land (or a certified tree farm of any

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size). The owner of the land need not prepare or submit a forest management plan in order to qualify for current use assessment.

Tax Effect Once Qualified

Once qualified, the land is subject to assessment according to assessed values established each year by the state Current Use Board. The Board uses forest land classifications (White Pine, Hardwood and All Other) and sets two ranges of values for each, one for properties with documented forest stewardship and one for properties without stewardship. The local assessor will determine where the property falls within the range depending upon the class, grade, type and location of the land.

If a landowner opens the land to the public for recreational use, without entrance fee, the Board allows an additional reduction in the assessment of the current use value by 20 percent. To qualify for this additional benefit, the landowner must allow skiing, snowshoeing, fishing, hunting, hiking and nature observation unless these activities would be detrimental to a specific agricultural or forest crop or activity. A landowner who opens land to the public will not be liable for personal injury or property damage to any person using the land.

Land Use Change Tax

The landowner must pay a land use change tax when the use is changed to a use that would not qualify for current use assessment. Examples of changes are construction that causes physical changes in the earth (but not including construction of roads for forestry purposes), excavation of topsoil, gravel or minerals (but not the removal of gravel or maintenance of roads

for forestry purpose) and changes in the size of the property so that the minimum acreage requirements are not met. The tax is not triggered when the property changes from one use that qualifies for current use assessment to another qualified use. The land use change tax is equal to 10 percent of the "full and true value" of the land, not the current use value.

The revenues from the land use change tax are paid to the municipality. The municipality has the authority to put the revenues in a "conservation fund" separate from the general fund. In order to establish such a fund, the municipality must follow statutory procedures that require the matter to be voted upon by ballot at a town meeting, in the case of a town, or to be adopted in the same manner as an ordinance, in the case of a city. If the municipality has not created a conservation fund, the revenues from the land use change tax are added to the municipality's general fund.

Statutory Authority

N.H. Rev. Stat. Ann. §§79-A:1-72 through 79-A:25-b

Conservation Restriction Assessment

If undeveloped land is permanently restricted for conservation uses, the land must be assessed based on the permanent restrictions and, in no event, more than the fair market value of open space set by the Current Use Board. The landowner must apply for this treatment, but no minimum acreage is required. In

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order to qualify, the protected land must have at least one of the following demonstrated public benefits:

"(a) The preservation of land for the outdoor recreation by, or education of the general public, whereby:

- (1) The general public must have the regular opportunity for access to and use of the land for pedestrian purposes; and
- (2) The land has conservation and recreational values which make it attractive for public use.

(b) A relatively natural habitat for fish, wildlife and plants, or similar ecosystem, whereby:

- (1) The property must be in a relatively natural state; and
- (2) Rare or endangered or threatened species must be present; or the property must contribute to the ecological viability of a park or other conservation area; or it must otherwise represent a high quality native terrestrial or aquatic ecosystem.

(c) The preservation of open space land, whereby:

- (1) There is scenic enjoyment by the general public from a public way or from public waters; or
- (2) The open space protection is pursuant to a clearly delineated federal, state, or local government conservation policy.

(d) The preservation of a historically important land area, whereby:

- (1) The property is either independently significant due to recorded local, regional or state history, or is within a historic district; or
- (2) The property is immediately adjacent to a historic district; or
- (3) The land's physical or environmental features contribute to the historic or cultural integrity of a property listed on the National Register of Historic Places."

If the land is developed or used in a way that violates the perpetual restrictions, the owner must pay a property tax penalty equal to 10 percent of the "full and true value" of the portion of the land that is put to inconsistent use and can no longer qualify for reduced assessment under this provision. This penalty is in addition to any civil penalties the landowner might owe.

N.H. Rev. Stat. Ann. §§79-B:1-6

Discretionary Easement

If land does not meet the criteria for open space under the current use assessment program, described above, a landowner may seek to obtain a reduced property tax assessment by granting an easement to the municipality for more than 10 years if the land demonstrates a public benefit. These public benefits are the same as those used to evaluate perpetual conservation restrictions, described above, plus two additional types of public benefits — the preservation of an airport and the preservation of a golf course open to the general public. The easement must prohibit subdivisions or other development activities inconsistent with this provision.

If the municipality accepts the easement, the municipality will assess the land according to a method included in the easement, but the value, which the municipality will determine based on the public benefits conferred, must fall between (1) the values used for current use assessment of open space land and (2) an amount equal to 75 percent of the fair market value of the land multiplied by the current equalization rate.

The easement is binding on the landowner and successive landowners for the term of the easement. In case of extreme personal hardship, the landowner may apply for release from the easement, but if a release is granted, the owner must pay 20 percent of the full value assessment of the land in the case of a release during the first half of the term of the easement and 15 percent in the case of a release during the second half. The municipality may also require a payment of up to 10 percent of the full value assessment upon the termination of the easement if it includes this provision in the easement agreement.

N.H. Rev. Stat. Ann. §§ 79-C:1-15

Exemption for Pollution Control Facilities

Treatment facilities used to reduce or control air or water pollution are exempted from the property tax to the extent that the facilities are used for pollution abatement. The taxpayer seeking the exemption must file an application with the Department of Environmental Services, which will notify the municipality of the extent of the exemption. The facilities remain exempt for as long as they continue to be used for pollution control purposes. Although not targeted to the forest products industry, this provision could apply to any qualifying pollution

control facility used by the industry. (N.H. Rev. Stat. Ann. §§ 72:12-a, 72:12-b)

Exemption for Charitable Property

Real and personal property owned and used by a charitable organization for the organization's charitable purposes is exempt from the property tax. A charitable organization is defined in part as an organization that performs "some service of public good or welfare advancing the spiritual, physical, intellectual, social or economic well-being of the general public or a substantial and indefinite segment of the general public that includes residents of the state of New Hampshire". Each year the charitable organization must file with the relevant municipality an annual statement of the information necessary to establish eligibility for the exemption. In addition, it must file an annual list of all real property for which exemption is claimed. (N.H. Rev. Stat. Ann. §§ 72:23.V and VI, 72:23-c, 72:23-l)

Exemption for Woodheating Energy System

Municipalities may choose whether to exempt from the property tax central heating systems that use wood or a combination of wood and another source of energy. The exemption is allowed only if the municipality places the issue of exemption on the official ballot of the town elections and a majority of the voters approve the exemption. This exemption does not apply to fireplaces or to woodstoves that do not operate as a central heating system or sole source of heat. (N.H. Rev. Stat. Ann. §§ 72:69-72)

Tax Abatement for Shade Trees

A person who plants and protects shade trees by a highway adjoining his or her land can apply for abatement of property taxes, and the selectmen may make an abatement to the extent they deem "just and equitable." (N.H. Rev. Stat. Ann. § 76:19)

Special Taxes

Transfer Tax on Real Property

A transfer tax of \$.75 per \$100 of the price or other consideration (or a minimum of \$20 for transfers where the price is \$4,000 or less) applies to transfers of real estate. The tax does not apply to some types of transactions, including sales to governmental units, but it does apply to sales of land to conservation organizations. Consequently, transactions involving the protection of forest lands would be subject to the tax unless a governmental agency is purchasing the land. The recent conservation transactions to protect the Connecticut Lakes, which resulted from International Paper's sale of the forestlands, was not subject to the transfer tax under a special legislative provision enacted for those transactions. The revenues from the transfer tax, beyond the register of deeds' cost of administering the tax, are paid to the state treasurer. An amount equal to \$.25 per \$100 is deposited in the education trust fund. (N.H. Rev. Stat. Ann. §§ 78-B:1 et seq.)

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Section 5

Forest-related Tax Provisions in Vermont

Forest-related tax provisions in Vermont are built into various different types of tax systems. These types of taxes, which do not represent all the types of taxes in Vermont, are:

- The local property tax which funds municipal government. A statewide property tax also funds education.
- A general sales and use tax of 5 percent of the value of most tangible personal property and certain services. Vermont also has other sales taxes with higher rates for certain property or services, such as cigarettes, cars, meals and accommodations.
- A corporate income tax that ranges from 7 percent of Maine net income to 9.75 percent for net income in excess of \$250,000.
- An individual income tax that ranges from 3.6 percent of taxable income to 9.5 percent of income. The threshold for the top marginal rate starts at \$307,050 for all taxpayers except married individuals filing separate returns, in which case the top marginal rate starts at \$153,525.
- Special taxes, including the hazardous waste tax.
- A real estate transfer tax of one and one-quarter percent of value.

The following paragraphs briefly describe the forest-related provisions within each of these tax systems.

Property Tax Provisions

Agricultural and Managed Forest Land Use Value Program

Like Maine and New Hampshire, Vermont has a program, started in 1977, that allows landowners to seek assessment of forestland based on its current use, not its fair market value.

Eligibility

The owners of agricultural land, managed forestland and farm buildings can apply for current use assessment. Qualifying parcels must be at least 25 acres in size, exclusive of any house site. In the case of forestlands, land in private ownership must be 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." Land owned by certain types of charitable organizations may be eligible if the land is under active conservation management under standards set by the Commissioner of Forests, Parks and Recreation.

In order to qualify for current use assessment of forestlands, the landowner must file a signed, 10-year management plan with the Department of Forests, Parks and Recreation. The state will determine whether the land qualifies, but it will also seek advice from the local assessor about whether there are any reasons why any particular property should not be eligible.

Once the property is enrolled the landowner must file reports of management activity following the plan. The Department of Forests, Parks and Recreation is required to audit the plans and monitor for conformance at intervals not exceeding five years, and any adverse inspection report that finds that the property is not being managed in accordance with the plan or minimum acceptable standards will disqualify the land from eligibility. If a parcel is removed from the program as the result of an adverse inspection report, the landowner cannot apply for enrollment for five years and then must certify that measures have been taken to bring the property into compliance. At the end of each 10-year plan, the owner must file a new plan.

In the case of agricultural land, eligibility is linked to the active conduct of agricultural activities, which include the cultivation of fruit trees and the production of maple products, and requirements for minimum amounts of annual gross income from the sale of crops.

Tax Effect once Qualified

When the land is enrolled in the program, it is assessed based on its current use value. These values are recommended by the State Current Use Board and set by the director of the Division of Property Valuation and Review, who provides the local tax assessor with the values. The land is then qualified for subsequent years provided the assessing officials determine that the land's use remains consistent with the management plan and qualifies for the use value.

The program contains a provision requiring the state to reimburse the municipality for revenue lost as a result of properties enrolled in the program so that the municipality will have no increase in its tax rate as a result of the program. If the state does not appropriate

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funds sufficient to fully reimburse the towns, the reimbursements will be made on a proportionate basis.

Land Use Change Tax

If the land classified under this chapter is developed, the landowner must pay the municipality a land use change tax. That tax is 20 percent of the full fair market value of the changed land, or 10 percent if the property has been enrolled for more than 10 years. If the land change affects only part of the land, the tax is applied to the fair market value of the affected portion, prorating the fair market value of the parcel by acreage.

For purposes of the change tax, development that triggers the land use change tax includes construction of any building or road (other than for farming, forestry or conservation purposes), the subdivision of the land into two or more parcels less than 25 acres each (with exceptions for intra-family transfers), and the cutting of timber contrary to the terms of the management plan or minimum acceptable standards for forest management.

Landowners with enrolled land are required to immediately notify the director of the Division of Property Tax Valuation and Review and the local assessor of any development or any other change that would cause the property not to be eligible, as well as any transfer in ownership (which would not trigger the land use change tax). A landowner may petition for withdrawal of the land from the program and listing of the property at its fair market value. That fair market value would be used as the basis for determining the land use change tax if the land is subsequently developed.

Statutory Authority

Vt. Rev. Stat. tit. 32 §§ 3751-3763,

Taxation of Land Held by Conservation Organizations

Land owned by a publicly supported charity may be eligible for assessment based on its actual current use. The organization must be principally engaged in the preservation of undeveloped land (including forestland) in order to prevent development, enhance scenic resources, increase employment and plan for orderly growth. If the land ceases to be used for the qualified purpose, the owner will pay the municipality a conversion tax equal to five times the tax avoided as a result of the exemption during the most recent year. Alternatively, the land may be enrolled in the current use program described above. (Vt. Rev. Stat. tit. 10 § 6303(b)).

Taxation of Land Subject to a Conservation Easement

If a landowner grants an interest less than the fee, such as a conservation easement, to certain state agencies or certain publicly supported charity, the owner of the land will be assessed only on the value of the remaining rights that the owner continues to own. The charity must be principally engaged in the preservation of undeveloped land (including forestland) in order to prevent development, enhance scenic resources, increase employment and plan for orderly growth. The owner, the town assessor, the holder of the granted rights and the state department of taxes will cooperate to determine the fair market value of the remaining rights. (Vt. Rev. Stat. tit. 10 § 6306(c))

Standing Timber

For property tax purposes, the sale of standing timber will not affect the valuation of the underlying land. (Vt. Rev. Stat. tit. 32 § 3606)

Property Tax Exemptions

The state exempts various types of property from the property tax, some of which may affect holdings of forestland and the forest products industry. For example, the code exempts:

- Real and personal property used for charitable uses, but this exemption does not apply to timber lands owned or leased by colleges, academies or public schools unless acquired before January 28, 1911. (Vt. Rev. Stat. tit. 32 § 3802(4))
- Real and personal property used exclusively for abatement of water pollution of waters within the New England Interstate Water Pollution Compact. (Vt. Rev. Stat. tit. 32 § 3802(12))
- Manufacturing establishments and equipment for a period of up to 10 years from the start of the business if the town votes to approve the exemption and the investment exceeds \$1,000. (Vt. Rev. Stat. tit. 32 § 3834)

Sales and Use Tax Provisions Exemptions

Vermont imposes a sales and use tax of 5 percent on the sales of tangible personal property. The tax contains a number of exemptions, some of which may be relevant to the forest products industry. For example, it does not apply to:

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- Property that is a component of or is consumed in the manufacture of tangible personal property for sale, machinery and equipment used to manufacture tangible personal property for sale, and devices that monitor the manufacturing process. This generally applicable provision would apply to purchases of equipment by the forest products industry. It would also apply to inputs into the manufacturing process for forest products.
- Property that “becomes an ingredient or component part of or is consumed or destroyed, or loses its identity in the manufacture of newspapers”. For example, this provision presumably would apply to sales of newsprint by the forest products industry.
- Packaging materials, such as boxes and bags, that a manufacturer or distributor uses for packing or shipping tangible personal property. This generally applicable provision would apply to packaging products produced by the forest products industry or its customers.
- Property used exclusively for industrial research or development “in the experimental or laboratory sense”, not ordinary testing or quality control.
- Fuel (presumably including wood) used in a residence for domestic heating and fuel used in manufacturing tangible personal property for sale.
- Sales of building materials which exceed \$1 million over three years (or \$250,000 for certain manufacturing facilities upon approval of the Vermont economic progress council) or for qualifying downtown redevelopment projects.
- Property incorporated into net metering systems, certain business energy systems not connected to a utility’s electric distribution system, or qualifying property used in hot water heating systems that use solar energy.

Vt. Rev. Stat. tit. 32 § 9741

Income Tax Provisions

Nongame Wildlife Account Checkoff

Income tax returns filed by individuals offer taxpayers the opportunity to designate funds to the state’s nongame wildlife account that otherwise would be paid to the taxpayer as a refund or overpayment of tax liability. This mechanism was established to

provide an independent funding mechanism for research and management of nongame wildlife. (Vt. Rev. Stat. tit. 32 § 5862a)

Income Tax Credits for Economic Advancement

The Vermont tax code provides income tax credits for certain economic advancement activities that apply to businesses in general but may also be relevant to the forest products industry. The Vermont economic progress council decides on the eligibility of taxpayers for these credits, based on the determination in part that the economic activity would not occur but for the award of the credit(s). Among the guidelines governing the council are the extent to which the activity will: create new jobs for Vermonters that will contribute to the employment in the area at wage levels at least as high as prevailing levels for the relevant business; have a positive fiscal effect; protect or improve Vermont’s natural, historical, and cultural resources; enhance Vermont’s historic settlement patterns; use Vermont resources; and use existing infrastructure or locate in an existing downtown. Total amount of credits is set by appropriation each year. No one business can offset more than 80 percent of its income tax liability each year, and the credits can be carried forward (but not back) for five years. A business cannot request approval for more than three of the five incentives. The five incentives are:

- A payroll tax credit;
- A research and development tax credit;
- A workforce development incentive tax credit;
- A Vermont export tax incentive; and
- A small business investment tax credit.

Vt. Rev. Stat. tit. 32 §§ 5930a-5930i

Gains Tax on the Sale of Land

Vermont imposes a tax on the gains from the sale or exchange of land held less than six years in order to deter short-term, high-profit land speculation transactions. Accordingly, the tax rate varies depending on the number of years that the land has been held prior to the sale and the extent to which it has increased in value.

The tax applies to transfers of land in excess of 10 acres or transfers less than 10 acres if the land is not used for a principal residence. The tax also applies to the sale of timber and timber rights within six years of

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their purchase if the underlying land is also sold within six years. The tax contains a number of exemptions, including: purchases of land by the State of Vermont from certain charitable organizations; open-space land sold to certain publicly supported charities that are established to preserve agricultural, forestry and open space lands, provided the charity holds the property for at least six years; sales of land by the federal government or Vermont governmental bodies; and sales of land by charities if the sale would be exempt from federal income taxation.

The tax is applied to the taxable gain, which is determined by subtracting the basis (tax cost) of the land from the sales price, with certain adjustments. Reasonable expenses related to the sale may be excluded from the amount realized from the sale, thereby reducing the taxable gain, unless the seller has owned the land for less than one year. In that case, the gross amount realized cannot be reduced by a total of more than 12 percent. The tax applies the following rates to the taxable gain:

Vt. Rev. Stat. tit. 32 §§10001-10004

Special Taxes

Franchise Tax on Waste Facilities

Vermont imposes a franchise tax on the operators of waste facilities. The amount of the tax is \$6 per ton of waste delivered for disposal at the facility or delivered to a transfer facility for shipment to another facility or for shipment out of state. If the waste is shipped directly out of state, the tax is paid by the commercial hauler of solid waste. Landfills that receive less than 1,000 tons of municipal waste per year can pay the tax based on volume, rather than weight, at the rate of \$2.60 per cubic yard.

The code exempts certain transactions from the tax, including waste delivered to a recycling facility for recycling, sludge that is not delivered to a landfill, and brush, logs, stumps and roots, but not other wood wastes or products.

Although this is a general provision, it may affect the manufacturing procedures of the forest products industry, to the extent that they generate waste, and the exemptions for wood materials may directly affect the industry. (Vt. Rev. Stat. tit. 32 §§ 5952 – 5953)

Property Transfer Tax

When a landowner transfers a deed of title, the landowner must pay a tax of one and one quarter percent of the value of the property transferred, or \$1.00 whichever is greater. The value of the property is the full consideration, in the case of a sale, and the fair market value in the case of a gift. This tax applies to transfers of the full title to the property and transfers of certain property interests, including perpetual easements.

Property that is enrolled in the current use program is subject to a lower tax of 5/10ths of one percent of the value of the property if the property is not converted to a use that would trigger the land use change tax under the current use program for three years after the transfer. The tax does not apply to certain exempt transfers. If the property is transferred to a publicly supported charitable organization established to acquire property interests to preserve farmland or open space (land without structures), the transfer will either be exempted or the tax will be deferred until a subsequent transfer, depending on the type or charity and the type of public financial support the charitable organization receives. (Vt. Rev. Stat. tit. 32 §§9601-9602)

Revenue from the property transfer tax provides half of the funding for the Vermont Housing and Conservation Board, which was created in 1987 to assist Vermonters with their goals of creating affordable housing and conserving and protecting Vermont’s agricultural land, historic properties, important natural areas and recreation lands that are “of primary importance to the economic vitality and quality of life of the state.” (Vt. Rev. Stat. tit. 10 §§ 301-324)

Years land was held by transferor

Gain, as a percentage of basis

	0-99% gain	100-199% gain	200% or more gain
less than 4 months	60% tax rate	70% tax rate	80% tax rate
4 months, but less than 8	35%	52.5%	70%
8 months but less than 1 year	30%	45%	60%
1 year, but less than 2	25%	37.5%	50%
2 years, but less than 3	20%	30%	40%
3 years, but less than 4	15%	22.5%	30%
4 years, but less than 5	10%	15%	20%
5 years, but less than 6	5%	7.5%	10%

Vt. Rev. Stat. tit. 32 §§10001-10004

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Seeking Additional Information

If you know of any forest-related provisions that are not included here, or if you are aware of any information about the effectiveness of any of these provisions, we invite you to contact Brian Dunkiel of the Friends of the Earth or the author of the report, Janet Milne. We would be delighted to hear from you.

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[1] See US Census Bureau, Maine State Government Tax Collections: 2001, <http://www.census.gov/govs/statetax/0120mestax.html>; US Census Bureau, New Hampshire State Government Tax Collections: 2001, <http://www.census.gov/govs/statetax/0130nhstax.html>; US Census Bureau, Vermont State Government Tax Collections: 2001, <http://www.census.gov/govs/statetax/0146vtstax.html>

[2] In New Hampshire, the tax is a business profits tax on all forms of business, not just corporations

[3] New Hampshire repealed its inheritance tax in 2002.

[4] U.S. Census Bureau, States Ranked by Total Taxes and Per Capita Amount: 2001, <http://www.census.gov/govs/statetax/01staxrank.html>.

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