



Woodland Owner Notes

North Carolina's Forestry Present-Use Valuation (PUV) Property Tax Program

Qualified North Carolina owners of soundly managed commercial forestland have been eligible for property tax reductions since 1974 through the state's forestry present-use property tax program. To be eligible for Forestry Present Use Valuation, qualified forestland must be actively engaged in the commercial growing of trees under sound management (NC General Statutes 105 277.2- 277.7). Commercial growing of trees will entail a harvest as a thinning, partial, or complete harvest of trees (as prescribed in the forest management plan filed with the county tax office).

Numerous legislative changes, court decisions, and property tax commission rulings have altered the PUV program over the years. This document covers the major provisions of the law, forestry qualifications, and eligibility requirements for deferring property taxes through the Forestry PUV program.

This publication provides a brief overview of a complicated law. The interpretations are based on administrative guidance from the N.C. Department of Revenue as of January 2011. This general discussion is not meant to address every specific or detailed question related to this law. For answers to specific questions, contact your county property tax office, a tax attorney, or the state Department of Revenue.

WHAT IS FORESTRY PRESENT-USE-VALUE?

Forestry PUV is the value of a tract of land used as forestland, based solely on its ability to produce income from timber growth, assuming an average level of management. A county tax assessor calculates the associated property tax by applying the current tax rate

to the use-value of the land that is producing timber, rather than to the market value, which is based on the highest and best use of the property. In many counties the tax savings from enrolling in the PUV program are substantial and allow landowners to maintain their forestland despite development pressure.

ACREAGE REQUIREMENTS

The qualifying piece of land must have at least 20 acres of forestland in timber production. This constitutes the "parent tract." Once the 20-acre parent tract qualifies, smaller tracts may be brought under use-value as long as they are under the same ownership and current use, are under sound forest management, are in the same county or within 50 miles of the parent tract if the smaller tract is not in the same county, and have satisfied the ownership requirements noted below. Forestland is not required to produce annual income—a stipulation for agriculture and horticulture properties.

WHO QUALIFIES?

- An individual.
- A business entity. Eligible entities include certain types of corporations, limited partnership, a general partnership, or a limited liability company having as its principal business the commercial production of forest products and whose members are individuals or relatives of a member actively engaged in the business. Generally, business entities are not allowed to lease the land to another party for forestry purposes. However, in the limited circumstance in which all the members of the business entity are relatives, the business entity may lease out the land and still meet the “principal business” and “actively engaged” requirements.
- A trust. The trust must be created by an individual who transfers the land to the trust. Each of the beneficiaries must be currently entitled to receive income or principal and must meet at least one of the following criteria:
 - The beneficiary is the creator of the trust or a relative of the creator.
 - or
 - The beneficiary is a second trust whose beneficiaries are currently entitled to receive income or principal. All beneficiaries are either the creators of the first trust or relatives of the creators.
- A testamentary trust. This trust must be created by an individual. Land transferred to the trust must qualify in the creator’s name. At the time of the creator’s death, the creator must have no relatives, and the trust income, minus reasonable administrative expenses, must be used exclusively for educational, scientific, literary, cultural, charitable, or religious purposes.
- Tenants in common. Each tenant must be an individual, a qualifying business entity, or a trust as described above.
- Shareholders of a qualified corporation, partners of a general or limited partnership, and members of a limited liability company.

OWNERSHIP REQUIREMENTS

- Land where the applicant resides can qualify immediately.
- All other lands must have been owned for the preceding 4 years to qualify.

SOUND FOREST MANAGEMENT REQUIREMENTS

Sound management is a program of production designed to obtain the greatest net return from the land consistent with its conservation and long-term improvement. § (105-277.2(6)). A county tax assessor will require a landowner to apply for acceptance to the PUV program and submit information, including a sound, written, forest-management plan, to verify that the property qualifies for and continues to qualify for present-use valuation. Further, the assessor will expect the owner to implement the practices (or attempt to implement the practices) outlined in that forest management plan. Key elements of a written forest management plan are:

- A statement of management and landowner objectives.
- Location maps and photographs of forestland.
- A forest inventory/description that includes age, size, soil productivity, and condition of each delineated stand and corresponding to a map of forestland in timber production.
- Prescribed practices for forest management and stand management recommendations.
- Harvest and regeneration objectives with timetables of expected timber harvests and recommended regeneration systems to be implemented once the final harvest of crop trees is complete.

The forest management plan must be detailed enough for the assessor to determine if the forestland is in fact being managed soundly for commercial timber production. The plan must set forth reasonable and prudent management practices to be used in producing commercial timber, and the plan must be implemented over the stated life of the plan. Because forests and landowner objectives change, plans may have to be modified; if modified, a copy of the amended document should be sent to the county assessor’s office.

(To review the North Carolina State PUV application, go to the Department of Revenue website and view Appendix AV-5 in the Present-Use Value Program Guide: http://www.dor.state.nc.us/publications/puv_guide.pdf Note-certain counties may have specific applications that differ from this state application. Check with your county tax office prior to filing an application. Note:

- 1) Your county tax officials will be reviewing landowner objectives to ensure that commercial timber production is the primary goal.

- 2) PUV program expectations are production-focused; therefore, sound, active management for future commercial products (timber, pulpwood, or fiber) at the greatest net return consistent with land conservation and improvement is implied.
- 3) The signed application for PUV and its accompanying forest management plan constitute an agreement between the landowner and county tax office. Landowners who fail to implement their management activities in a timely manner may risk program disqualification, deferred tax reimbursement, and interest penalties.

APPLICATION PROCEDURE

A forest landowner must apply at the county tax office for forestry PUV consideration. The application must be submitted to the tax assessor's office in the county where the property is located. The landowner should be in compliance as of January 1 of the year of application. The application forms may be obtained from county tax assessors, and the application must be filed on a "timely" basis, which means:

- It must be filed during the regular listing period of the year in which the benefit of the classification is first claimed. The regular listing period (unless extended by a majority vote of the county commissioners) falls during the month of January and ends with the close of business on January 31. New owners of enrolled PUV property or existing enrollees can apply for PUV consideration within 60 days of a property transfer. If either of these deadlines is missed, individuals may request a listing extension in writing for "good cause." §105-307(c) The new owner will have to meet all the requirements for initial qualification and may or may not be immediately eligible for that year depending on the specifics of the situation.
- If the assessed value (market or PUV) of the property changes, as is often the case for periodic property tax revaluations, the application must be filed within 30 days of the date on the county tax assessor's "notice of a change."
- A complete forest management plan should be in place by January 1 of the year the application for the Forestry PUV program is made. Most county tax offices require the management plan to be filed when the landowner's Forestry PUV application is submitted. If forest landowners need a forest management plan for their property, they will need to begin the process of requesting/preparing for such a management plan early enough to meet the deadline. Refer to this document's Summary section for information on finding a Forester to assist with this process.

ENSURING COMPLIANCE

Non-compliance by landowners of all requirements for the Forestry PUV Program can result in removal from the program. Landowners must continually make efforts to implement their sound forest management plans, as PUV Program parcels may be reviewed for compliance annually. If circumstances change in a manner that justifies variation from the original forest management plan recommendations, the plan should be updated and submitted to the tax assessor's office to maintain PUV compliance. Compliance reviews are discussed further below. If your land is no longer eligible for the program, you are required to notify the county assessor to discontinue your land in the program. Common reasons for disqualification from the Forestry PUV Program include:

- Landowner is unable or unwilling to follow the recommendations in the forest management plan—especially pertaining to the harvesting of timber
- Transfer of land to someone other than a close relative.
- Change in land use or acreage.
- Land does not remain under a sound forest management plan or program.

DISQUALIFICATION — PENALTIES FOR CHANGE IN LAND USE

If a property is disqualified from the Forestry PUV Program, a "rollback" provision is triggered. This action rolls back the deferred taxes. **The owner will be taxed for the current year at market value, and deferred taxes** (the difference between what would have been collected at market value minus what was actually collected under the use-value assessment) **will be owed, plus interest on the deferred amount for the previous three tax years.** Substantial penalties may be levied if the landowner failed to notify the assessor of the changes that triggered the disqualification.

COMPLIANCE REVIEWS

Under N.C. General Statute 105-296 (J), at least one eighth of the parcels classified for taxation at PUV are to be reviewed annually by county tax assessors to verify that those parcels still qualify for the classification. Generally, the assessor is authorized to request from the owner any information needed to verify that the property still qualifies. The purpose of the review is to objectively evaluate continued compliance with Forestry PUV program requirements and ensure fairness to all taxpayers. **Properties not meeting the qualifications of ownership, size, or sound manage-**

ment will be disqualified, and the rollback penalty will be applied. County tax offices may employ additional personnel to assist in the evaluation of PUV program compliance when needed.

APPEAL PROCESS

If a tract loses its Forestry PUV classification, the landowner may appeal the county tax assessor's decision. According to N.C. General Statute 105-277.4 (b1), "Decisions of the assessor regarding the qualification or appraisal of property under this section may be appealed to the county board of equalization and review or, if that board is not in session, to the board of county commissioners. Decisions of the county board may be appealed to the "property tax commission."

FORESTRY-USE-VALUE SCHEDULES

County tax assessors have the authority to set Present Use Value Program tax rates. Because of this, the tax rates vary from county to county, which can create a frustrating situation for landowners. In 1985, the General Assembly created the Use-Value Advisory Board (UVAB) to compile and distribute annually to all counties a manual of recommended Present Use Value schedules, which are available for public use at the tax assessor's office. The schedules are based on six major land resource areas (MLRAs), five net income ranges (based on income potential from reasonable, prudent, average timber management regimes for preferred and/or predominant tree species on identified soil series), and a statutory 9 percent capitalization rate (see "Capitalization Rate" section below).

One purpose of the manual is to improve consistency, at least between counties within the same MLRA. The majority of counties have historically used the recommended use-value schedules in some fashion. Often, they will consolidate the ranges, pick one average figure for forestland, or otherwise adapt the figures to the local situation. However, county assessors also are fully authorized to ignore the manual and develop their own schedules.

WHAT IS CAPITALIZATION (CAP) RATE?

"Cap rate" is an interest rate used to convert the net annual income of forestland to use-value. The net annual income divided by the cap rate equals use-value. For example, if a soil type is capable of producing \$36 net income per acre per year, then the value of the land, using a 9 percent (0.09) cap rate, is: $\$36/0.09 = \400 use-value per acre.

Another way to look at it, in terms we are more familiar with, is that if you put \$400 in the bank at 9 percent annual interest, after one year, you would earn \$36 in interest.

WOODLAND AS PART OF AN AGRICULTURAL OR HORTICULTURAL UNIT

Agricultural or horticultural land classifications may include woodland that is part of a farm or horticultural unit. This woodland must be appraised under the use-value schedules as woodland if it is equal to or greater than 20 acres. The woodland is not required to be under sound forest management (have a forest management plan) if it less than 20 acres or if it is determined that the best use for the tract is to protect from wind erosion, protect water quality, or act as a buffer from adjacent agricultural, horticultural, livestock or poultry operations.

TAX TREATMENT OPTIONS FOR LANDOWNERS — NOT INTERESTED IN COMMERCIAL TIMBER PRODUCTION

Some landowners will find that their land management objectives do not closely match up with the Forestry PUV program requirements for commercial timber production. These landowners may want to pursue one of the alternative land and tax management options described briefly below:

The Wildlife Conservation Land Program (WCLP)

Since 2010, a new program for the taxation of wildlife conservation has been available for North Carolina landowners. Landowners must have at least 20 acres of contiguous qualifying acreage. No more than 100 acres of an owner's land in any one county may be classified as wildlife conservation land. To qualify, the land must meet the following criteria:

- Managed under a written wildlife habitat conservation agreement with the North Carolina Wildlife Resources Commission (NCWRC)
- Agreement must be in effect as of January 1 of the year in which the application is submitted
- The land must have been classified under the present-use value program when the conservation agreement was signed
- Landowner must protect an animal species that "lives on the land" and is listed on the North Carolina List of Endangered, Threatened and Species of Special Concern published by NCWRC, or
- Conserve any one of the following priority animal habitats:
 - Longleaf pine forest
 - Stream and riparian zone
 - Early successional habitat
 - Rock outcrop
 - Small wetland community
 - Bat cave

This is a rapidly-developing program, and interested landowners are encouraged to work directly with the NCWRC to ensure full understanding and compliance. For more information check the NCWRC website: http://www.ncwildlife.org/Wildlife_Species_Con/WSC_Land_Program.htm or call the WCLP program coordinator at (919) 707-0050

DONATED CONSERVATION EASEMENTS

Certain conservation easements donated on PUV land can continue to qualify for deferred property tax treatment subject to the restrictions listed below:

Property owners who convey a conservation easement that permits *continued commercial farm or forest production* under sound management will still qualify for present-use value tax deferment. Landowners about to enter a conservation agreement are advised to share potential language with their county tax assessor to get an opinion about continued PUV qualification before finalizing the agreement.

Since January 1, 2010, North Carolina landowners who have placed a conservation easement on qualifying present-use value acreage can continue in the PUV program without regard to actual production or income requirements, provided the following requirements are met:

Property is in present-use value on the date the easement is granted

The property is legitimately receiving present-use value

The easement is enforceable and meets the qualifications for the North Carolina Conservation tax credit http://www.onencnaturally.org/pages/CTC_Overview.html

The taxpayer may not have received more than 75 percent of the fair market value of the donated property in compensation

For conservation easements entered into before the January 1, 2010, timeframe, the easement must have been fully donated to qualify for this special exception.

Complete details are available in the "PUV guide, Chapter 8. Conservation Easements" http://www.dor.state.nc.us/publications/puv_guide.pdf

SUMMARY

Reduced property taxes are a benefit available to qualified owners of soundly managed commercial forestland. North Carolina's forestry present-use-value law has been in existence for 30 years and is still evolving. If you have questions related to the Forestry PUV Program, contact a tax attorney, your county tax assessor, or the state Department of Revenue.

If you have questions about locating a forester to prepare a forest management plan for Forestry PUV or other management needs, please visit the following websites:

- The Association of Consulting Foresters of America Inc: www.acf-foresters.org
- North Carolina Forest Service: www.ncagr.gov
- North Carolina State Board of Registration for Foresters: www.ncbrf.org
- North Carolina Cooperative Extension: www.ces.ncsu.edu/depts/
- North Carolina Forestry Association: <http://www.ncforestry.org>

It is also permissible for landowners to prepare their own forest management plan, but it must meet all the sound Forestry PUV Program's requirements noted above.

Prepared by

Mark A. Megalos, Robert Bardon, *Extension Forestry Specialists*
and Rick A. Hamilton, *Emeritus Extension Forestry Specialist*

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