ALASKA LEGISLATURE COMMITTEE FILES 1987-88 8672
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Conversion of Farmland

When land has been identified as agricultural, specific findings and procedures are necessary before the land can be designated for nonfarm residential, commercial or industrial development. This procedure is called the exceptions process.

As noted earlier, if agricultural land is already built upon or committed to nonfarm uses, it need not be zoned EFU. However, if uncommitted agricultural land is needed for nonfarm uses, a detailed justification is required. Four criteria must be considered before conversion. These criteria are:

1) need;

2) alternative locations;

3) impacts; and

4) compatibility.

Lands which are zoned EFU and later proposed for conversion to other uses require the same exceptions process findings.

According to Ron Eber at LCDC, the need criteria has been a difficult one to evaluate. However, LCDC has stated that need should not be based solely upon a continuation of growth trends or the existence of a market demand for rural nonfarm homes.

Benefits of EFU Zoning

In addition to review of subdivisions, and assuring that only compatible nonfarm uses will be allowed within the EFU Zone, two other major benefits accrue to those who farm within such zones. The first benefit is a prohibition on adoption, by the state or local governments, of laws, ordinances or restrictions affecting any farm use land within an EFU Zone which unreasonably restricts or regulates farm structures or accepted farming practices due to noise, dust, odor or other airborne materials. Also prohibited are restrictions on other conditions not extending beyond the boundaries of the EFU Zone in which they are created in such a manner as to interfere with the use of adjacent lands. However, this does not prevent state agencies and municipalities from exercising powers to protect the health, safety and welfare of its citizens. This prohibition on restrictions allows farmers to run their businesses in farm zones without being hindered by ordinances which limit the operation of equipment early in the morning or prohibit the creation of dust or odors among other things. Such limitations often restrict and discourage farm activities in areas which are becoming suburbanized.

The second major benefit is that land zoned EFU and farmed is appraised at its farm use value for property and inheritance tax

purposes. Furthermore, these lands are also exempt from certain special district and rural service assessments (i.e., sewer, water, solid waste) except for the farm dwelling and up to one acre around it. Although land outside EFU Zone may be eligible for preferential assessment, property in an EFU Zone is automatically reviewed by the assessor to determine if it is qualified for special farm use assessment, and no minimum income must be earned in three out of five preceding years in order to qualify. Furthermore, there is no requirement that farmland be used exclusively for farm use in the two years immediately preceding qualification for preferential assessment, and there is no tax penalty when land qualified for special farm use assessment is removed from the EFU Zone following an action by the governing body that was not requested or initiated by the owner of the land. These advantages are not shared by land with farm use assessment outside an EFU Zone.

Significantly, Oregon's differential assessment law links comprehensive planning and zoning with tax benefits to farmers. According to Ron Eber, the preferential tax treatment aids the farmer by helping to keep his land in production, while the zoning restrictions on nonfarm use of the land assures that the land is protected for agricultural use.

DKL:ssc

The Connecticut General Assembly

5814

OLR Selected Report 82-56

JOINT COMMITTEE ON LEGISLATIVE MANAGEMENT
OFFICE OF LEGISLATIVE RESEARCH

July 19, 1982

FROM: Office of Legislative Research
David Keith Leff, Research Attorney

RE: Forest Land Taxation

You have asked for background information on the forest land provisions of PA 490, including discussion of problems with the law.

SUMMARY

Public Act 490 is a use value assessment law which allows farm, forest, and open space land to be valued for property taxation based on its current use without regard to development potential. It was designed to help prevent loss of these lands to development. Forest land under the Act must generally be at least 25 acres, and be approved by the state forester. About 560,000 acres out of about three million in the state are classified as forest land.

Major issues surrounding PA 490 include lack of a management plan requirement for forest land, lack of coordination with state and local development, weaknesses in the conveyance tax, ownership of PA 490 land by developers, and the relatively large minimum acreage requirement.

PREDECESSOR TO PA 490

Reduced property tax assessments for forest land has existed in Connecticut for 70 years. Public Act 58 of the 1913 legislative session (now codified as C.G.S., Secs. 12-96 to 12-103) established a system whereby owners of woodland or land suitable for forest plantings could apply to the state forester for a special classification as forest land to reduce local property tax liability. The land eligible for classification must not be less than 25 acres and not exceed in value $100 per acre exclusive of timber growing on it. Land so classified and the timber are valued separately at their actual value at the time of classification and thereafter taxed at not more than ten mills. A revaluation of both land and timber separately is made by the

local assesser 50 years from the date of original classification with the revaluation subject to a tax rate of not more than ten mills for another 50 years. At the end of this period, if classification has been continuously maintained, the land and timber are to be revalued when necessary and taxed annually at the local rate.

Whenever a cutting is made on land classified under Sec. 12-96 to 12-103, except for cutting for domestic use, the material removed is subject to a yield tax. If the owner of the land fails to follow statutory requirements or if the tree growth is removed and the land used for other purposes, classification as forest land may be cancelled by the state forester. When the classification is cancelled, a penalty tax is imposed. This tax is figured by computing the difference between the value of the land and timber and its value at the time of classification and applying to this difference a tax rate of five mills per annum for the entire number of years the land was classified. The penalty tax is in addition to any yield which may be due.

According to the State Forester's Office, there is still land classified under Sec. 1.-96, but no new land is coming under that classification because the requirement that the land be valued at no more than $100 per acre can no longer be met. The last land classified under Sec. 12-96 was in Union over ten years ago. Land cannot be switched from classification under Sec. 12-96 to PA 490 without the Sec. 12-96 penalty tax being imposed. The General Assembly did provide a grace period between October 1, 1972 and October 1, 1973, during which property under Sec. 12-96 could be switched to Sec. 12-107d without penalty. This exemption is obviously not helpful in any current situation.

PUBLIC ACT 490

Purposes and Background

Public Act 490, passed in 1963 by the General Assembly, is a use value assessment law which requires valuation of farm, forest and open space land upon its current use without regard to neighborhood land uses of a more intensive nature (C.G.S., Sec. 12-63). PA 490 reduces local property taxes on these lands where market value exceeds their value as farm, forest or open space lands. The statutory purpose of the Act is to encourage the preservation of farm, forest and open space land in order to maintain the availability of farm products and to conserve the natural resources of the state (C.G.S., Sec. 12-107a). Prevention of forced conversion of these lands to more intensive uses as the result of economic pressures caused by high assessments was declared a matter of public policy. Proponents of the act hoped that by breaking the cycle of high market value - high assessments, great pressure would be removed from farm

and forest land owners. Although PA 490 could not keep land open indefinitely, proponents believed it would buy time until other preservation tools were available.

A key point is that PA 490 does not in itself preserve land in an undeveloped condition. The Act merely attempts to make it easier for owners to hold undeveloped land longer by reducing costs. The Act assumes that real estate taxes are a major factor in land use decisions regarding open space property. The Act also assumes that the public benefit of maintaining open space outweighs the tax expenditure caused by lower assessments. Thus, to criticize PA 490 for not keeping land open on the urban fringe where development pressure is greatest is to set up a straw man. It is generally accepted that PA 490 does not necessarily discourage owners from accepting lucrative development deals. However, without the law many believe even those who wish to retain their property in an undeveloped condition could not do so.

Connecticut was among the first states in the nation to enact a differential assessment law. It was one of the suggestions William H. Whyte made in a 1962 report requested by Governor John Dempsey. Mr. Whyte proposed a comprehensive plan to protect Connecticut's natural resources, and in recommending differential assessment he stressed the importance of planning, a strong tax recapture clause, as well as augmenting lower assessments with other preservation devices. In 1963, the General Assembly enacted a law which contained neither comprehensive planning nor a tax recapture clause. Not until 1972 was the real estate conveyance tax enacted.

Although it wasn't until enactment of PA 490 that land could be assessed according to its current use, many believe that local assessors historically practiced use value taxation on open lands until sharply increasing local expenditures and insufficient resources caused them to turn to market value taxation. Thus, PA 490 justified a traditional practice which was becoming more difficult to implement. As might be expected, the greatest application activity follows a mandatory ten year municipal property tax reevaluation when market value assessments reflect inflation in land values.

Forest Land Requirements

Forest land for the purposes of P.A. 490 is any tract or tracts of land aggregating 25 acres or more in an area bearing tree growth in such quantity and so spaced as to constitute, in the opinion of the state forester, a forest area, and maintained in a state of proper forest condition. Forest land may be 25 contiguous acres, tow or more tracks aggregating at least 25 acres in which no single component tract may consist of less than ten acres, or an

tract which is contiguous to another designated parcel held by the same owner.

Before forest land may be assessed at use value, the owner must apply to the state forester who makes a determination whether or not the land qualifies for forest land classification. By law, the application must contain an adequate description of the land. Once the land is designated by the state forester, the owner may apply to the local assessor for use value classification. The law specifies a timetable for applying to the assessor which, if not met, constitutes a waiver of use value assessment on the assessment list for which the application was made. The municipality and land owner may appeal decisions by the state forester to the Superior Court.

STATUS OF FOREST LAND IN CONNECTICUT

Of Connecticut's roughly three million acres, about 560,000 are classified under the forest land provisions of Public Act 490. Forest land acreage under the program is as follows in the eight counties.

County	Total Acres	PA 490 Forest Land Acres	Average Parcel Size	Largest Parcel Size
Fairfield	403,840	42,416	78	2,253
Hartford	473,600	41,807	73	3,209
Litchfield	600,320	161,164	101	6,255
Middlesex	237,400	52,710	76	1,096
New Haven	390,400	67,244	100	4,573
New London	426,880	90,201	78	3,158
Tolland	266,240	60,202	70	3,003
Windham	330,240	43,268	74	1,794

According to Stephen Broderick, an Extension Forestry Agent at the Cooperative Extension Service in Brooklyn, these statistics may not represent all eligible forest land in the state since some may be classified as farm or open space land.

The largest parcel of PA 490 forest land held in the state is individually owned. However, many large parcels are held by

water companies, with several held by charitable or education organizations including the largest parcels in Windham and Tolland Counties which are owned by Yale University. Among owners of larger parcels are realty, construction, and development companies, and private clubs. Several Fortune 500 companies also hold land under PA 490. Among them are Combustion Engineering which owns a 450 acre parcel in Windsor, and Union Carbide Corporation which owns 548 acres in Danbury.

According to Mr. Broderick, new land is being added to the PA 490 rolls every year, although figures are unavailable. This is especially true in Windham and Litchfield counties where revaluations are now making a marked difference in assessments between classified and unclassified lands. It is almost impossible to tell how many properties are removed from forest land classification each year because assessors do not have to file cancellations with the state forester. Based on his experience, Mr. Broderick guesses that there are probably six to 10 cancellations per county each year.

There is no data as to average time forest land has been receiving the benefits of PA 490. However, classification generally follows revaluation when land values have increased to the point where the fair market value of open land is reasonably higher than its use value. Thus, in urban areas land has tended to be classified earlier than in rural jurisdictions.

Any management of forest land is purely voluntary. Mr. Broderick estimates that less than 10% of such land is now managed.

Use Value Assessments

The assessor in each town determines use value assessment rates subject to appeal to local boards of tax review and ultimately the courts. In order to aid assessors with the vexing problem of what constitutes use value, a recommended set of values was developed by Dr. Irving Fellows, formerly of the University of Connecticut. For farm land these values are based upon the capitalization of net gross rentals of various broad classes of agricultural land. The value of forest land is computed on the capitalization of the value of the annual growth of timber on the land. This is done by multiplying the yearly board foot growth by the board foot value and dividing the product by the capitalization rate ($\frac{\text{Bd. ft. growth} \times \text{bd. ft. value}}{\text{Capitalization Rate}}$). The capitalization rate is a combination of interest and taxes (10.5% when last figured in 1978). Current use values for forest land, set in 1978, are $40 an acre in Litchfield and $30 an acre in the rest of the state. These recommended values are reset every few years, and a new set is now being developed.

It must be remembered that these values are only recommended. Town assessors may derive their own values.

The Conveyance Tax and Its Intent

When PA 490 was enacted in 1963, there was no penalty when an owner who reaped the benefit of lower assessments subsequently sold his land for development. In 1972, the General Assembly established a conveyance tax on the sale of land classified as farm, forest or open space land under PA 490 (PA 72-152). This law imposes a tax on land classified under PA 490 if sold by the owner within a period of ten years from the time the land was acquired or classified whichever was earlier. The tax is also applicable if the owner changes the use of the land within ten years of classification. The tax would be 10% if sold the first year and decline by 1% a year until no tax would be collected following the tenth year. Certain transfers were excepted including transfers resulting from eminent domain proceedings, mortgage deeds, tax deeds, and transfers between immediate family. In addition, if land is sold subject to a covenant, enforceable by the town, to refrain from selling or developing the land in a manner inconsistent with its classification as farm, forest, or open space land for at least eight years, the seller need not pay the tax.

The brief floor debates in the House and Senate reveal three reasons for enacting the conveyance tax. Representative Clynes, floor manager of the bill in the House, felt the tax would serve as a deserved penalty to people who enjoyed tax shelters on large tracts of land and subsequently sell it at a profit. Another House member felt that the tax would add a note of equality among town taxpayers when those who received an advantage at one time would eventually have to pay. Finally, it was mentioned in the Senate that the tax would help restore local revenues which had been eroded by 490 classified land. The intent of the act was probably most succinctly put in an article which appeared in the Connecticut Bar Journal within a year after enactment of the conveyance tax: "It appears from the limited legislative history and from expressions of the Governor on signing the Act that it was intended to attack the problem of recovering abated taxes from those landowners who have availed themselves of the privileges of Public Act 490 and later encouraged the conversion either through sale or development of the land use farm that which the Act was intended to encourage and preserve" (47 CBJ 332 (1973)).

Criticisms and Issues

Except for enactment of the conveyance tax in 1972, amendments to PA 490 have been relatively minor. But, despite the lack of major amendments, many unsettled issues have arisen in the almost 20 years since enactment. What follows is a statement of the major issues surrounding PA 490, especially the forestland provisions, which may be of interest to the Environment Committee in evaluating potential changes to the law. These issues assume refinement of existing law, and generally do not question the validity of use value taxation itself.

1. Management Plan

PA 490 does not require forest land owners to do anything with their land. As long as it meets the technical requirements of the act, land may receive a tax break. This differs from farmland classification where an assessor must determine whether or not the land qualifies based on actual farming use, productivity and gross income. Thus, unlike farmland which must be actually farmed, forest land does not have to be actively forested.

Although it may be maintained that the public benefits from the tax break given to forest landowners through retention of open land, it has been claimed that the public benefit would be much greater if such land was required to be managed, thereby increasing the productivity of privately-held forest land. It is possible that the tax benefit discourages management because higher taxes might encourage owners to harvest timber to make the land pay for itself. The requirement of a management plan and active management of differentially assessed forest land is common in other states. Massachusetts and New York are among the states with such a requirement.

2. Zoning and Town Plans of Development

Forest and farmland assessed under PA 490 need have no relation to local zoning or a town plan of development. If land meets the definition of farm or forest land under the law, an assessor has no choice but to assess it at use value. Land which is zoned industrial or commercial, or for which the town plans a major public work or other development may be assessed at use value in the same manner as land which is desired as permanent open space. Critics have contended that towns not only give up taxes for no reason in these cases, but that land which the town wishes developed may be developed less quickly because the owner's holding costs are reduced. One example is the J.C. Penney complex along I-86 in Manchester where business zoned land that the town wished to have developed to bolster its tax base was differentially assessed for years until some of it was included in the Penney development.

3. Owner's Development Plan

PA 490 does not take into account a landowners plan for his property. A landowner who requests a zone change for purposes of development, submits a plan for subdivision approval or advertises his property as valuable commercial or industrial land may still reap the benefits of lower assessments despite clear intent to develop his land.

4. State Development Plans

Land is placed under PA 490 without regard to the State Conservation and Development Plan, highway planning or any other kind of plan.

5. Conveyance Tax

The lack of a penalty was considered by many to be a major defect of PA 490 as passed in 1963. While the tax enacted in 1972 has been considered helpful, it has been criticized for being too small to discourage development because developers usually plan more than ten years in advance, and rising real estate values minimize the amount of the disincentive. The tax has also been faulted because it bears no relation to the amount of taxes forgone by the town to an individual owner or on a particular property. Furthermore, the tax may be imposed upon sale of land, even if the property remains in an appropriate use. Strengthening of the conveyance tax has been opposed on the basis that a large number of sales and conversions would be precipitated prior to the effective date of the act.

6. Ownership of PA 490 Land

PA 490 distinguishes between types of land and does not account for differences in ownership of those lands. Because land held for farm, forest or open space purposes is believed to be a public benefit, the nature of the owner is considered irrelevant. Nevertheless, there has been criticism that wealthy landowners, large corporations, and known developers hold large tracts of PA 490 land. In fact, some have charged that the Act encourages development by reducing a major cost in land speculation through low taxes which allow developers to hold land longer and reap increasing property values while permitting them to sell off gradually and receive the increased value which the parcels sold earlier will cause those sold later to have. Among large holders of forestland assessed at use value are Fortune 500 corporations and realty and construction companies.

7. Minimum Acreage

Generally, the law now requires a minimum of 25 acres of forest land in order for a parcel to be differentially assessed. Some foresters maintain that parcels of ten acres can be beneficially managed as forest especially in light of recent price rises for wood products. Although states differ on this, Massachusetts is one which requires only ten acres.

8. Evaluative Data

The lack of any reporting requirement on acreages (except in the case of forest land which requires a state certificate), taxes abated, assessment values and land converted has made evaluation of the act difficult. Among others, the Legislative Program Review and Investigations Committee has favored state agency coordination of data.

DKL:srs

The Connecticut General Assembly

OLD Selected Report 82-57

JOINT COMMITTEE ON LEGISLATIVE MANAGEMENT
OFFICE OF LEGISLATIVE RESEARCH

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July 22, 1982

FROM: Office of Legislative Research
David Keith Leff, Research Attorney

RE: Forest Land Taxation in Surrounding States

You have asked for a discussion of features of forest land tax laws in nearby states that may be relevant to potential revisions of Connecticut's law.

SUMMARY

Laws of the following states were examined: Massachusetts (Ann. Laws Mass., Chap. 61); New Jersey (N.J. Stat. Ann., Sec. 54:4-23 et. seq.), New Hampshire (N.H. Rev. Stat. Ann., Chap. 79-A), New York (N.Y. Real Prop. Tax Law, Sec. 480a); Pennsylvania (PA. Stat. Ann., Sec. 5490.10 et. seq.); Rhode Island (1980 Public Laws, Ch. 252) and Vermont (VT. Stat. Ann., Chap. 124). These statutes are contrasted with each other and with Connecticut's law in areas that may be relevant to revision of Connecticut's Act.

Forest land definitions ranged from the very broad, to those that are specific or technical. Minimum acreage requirements ranged from 50 in New York to five in New Jersey. Management of differentially assessed land is required in all but Pennsylvania and Connecticut. Unlike Connecticut, a couple of states define what constitutes a change in use of forest land. Penalty taxes include both conveyance type taxes and rollback taxes. Connecticut is unique in applying the tax when land is sold even if an appropriate use is maintained. Two states impose heavier taxes for parcels that are subdivided. Two states abandon use value as a preferential assessment method and use a uniform percentage of fair market value. Massachusetts has a unique provision which gives municipalities a first refusal purchase option before the use of differentially assessed land can be changed.

Forest Land Definition

Under PA 490, the state forester is given discretion to determine whether the quantity of tree growth and the spacing of trees is sufficient to constitute forest land. New Hampshire similarly rests a good deal of discretion with the state forester. Pennsylvania's definition is extremely broad with forest land being that stocked by forest trees of any size and capable of producing timber or other wood products.

Some statutes are more technical, like that of Massachusetts which requires such land to be:

1) at least 16.7% stocked and contain at least 7.5 square feet of basal area per acre by forest trees of any size, or

2) formerly have had such tree cover and is not currently developed for nonforest use, or

3) be a plantation containing at least 500 trees per acre.

Some statutes are specific without being technical. In New York, forest land is that which is exclusively devoted to and suitable for forest crop production through natural regeneration or through reforestation and is stocked with a stand of forest trees sufficient to produce a merchantable forest crop within 30 years of certification.

Through definition, the land eligible for forest land classification can be regulated. Not all land supporting trees need be given a tax break.

Management of Forest Land

Connecticut does not require that forest land receiving preferential assessment under PA 490 be managed or have a management plan. Of the states surveyed, all but Pennsylvania have some requirement for management.

In Massachusetts, a forest management plan is a completed form provided by the state forester and executed by the owner and the state which establishes a ten-year program of forest management including intermediate and regeneration cuttings. Any application to the local assessor for preferential assessment must be accompanied by a forest management plan. A property must be removed from forest land classification unless there is a reapplication every ten years, including an updated management plan. The state forester may remove a parcel or part of a parcel from

classification if the management plan is not followed. He may also grant applications imposing reasonable terms and conditions.

An owner of an eligible forest land tract in New York applies to the Department of Environmental Conservation which must approve a management plan for the tract in question. The plan must, by law, contain requirements and standards deemed necessary by the Department for continuing production of marketable forest crops, including stocking, cutting and access requirements. To qualify for reduced assessments, the owner must commit the tract to forest crop production for ten years under the management plan, and annually for the next succeeding ten years. Therefore, in any year, the owner decides to pull out of the program, he is still committed to nine more years of the management plan. A parcel may be disqualified if the management plan is not followed.

In Vermont, only managed forest land is eligible for preferential assessment. Managed forest land is that which is actively managed for the purpose of growing and harvesting repeated forest crops in accordance with accepted practices. There is a presumption that land is under active forest management if at least 50% is:

1) certified as a "tree farm" under the American Tree Farm System;

2) is certified by the county forester as conforming with accepted management practices;

3) has been the subject of a federal cost-sharing forest improvement program; or

4) conforms to state agency criteria.

In order to receive use value assessment, managed forest land must be subject to a recorded management plan, signed by the owner and approved by the state environmental agency, which provides for continued forest crop production for the next ten years. An annual renewal requirement similar to New York's also exists. Furthermore, in order to obtain a use value assessment in any given year, the landowner must file an annual report of conformance with the management plan signed by the owner and approved by the state environmental agency.

By definition, forest land qualifying for differential assessment in Rhode Island must be subject to a management plan. An application to the state environmental agency for designation of a parcel as forest land must include a written forest management plan prepared by a professionally qualified forester in consultation with the landowner. The plan must include recommended

management practices. Furthermore, once classification is obtained, the property owner must submit an annual certificate confirming that the land is still managed as forest land. A state forester may examine the land during the classificaiton period and may disqualify it from use value assessment if the plan is not being followed.

New Jersey's use value assessment law was originally enacted to deal with farmland, and assessors included woodland only when part of a farm unit. One of the reasons it is difficult to qualify forest tracts is that the law has an income requirement to insure land receiving a tax break is actively devoted to its stated use. However, Goerge Lorbeck of the New Jersey Division of Taxation, states that his office has advised local assessors that woodland can be included so long as there is a forest management plan for the tract which can project appropriate income over a reasonable time.

The key elements in most of these statutes is that they require a management plan prepared by a professional forester, allow revocation of the tax benefit if the plan is not followed, and require an annual statement or report that the owner is in fact following the plan. Furthermore, Massachusetts, Vermont and New York require the plan look at least ten years into the future, with Vermont and New York requiring annually that the land will be managed for the succeeding ten years.

Contractual Arrangements

With the passage of California's Williamson Act in 1965, the concept of covenants between landowners and the government to maintain land in an undeveloped state for farm or forest purposes in exchange for reduced property assessments gained widespread recognition. In the northeast, Pennsylvania has had such a law almost as long, even though it also has a use value assessment law similar to Connecticut's that was passed in 1974. Although the penalty for leaving the use value assessment program could be higher in some instances, unlike Pennsylvania's contractual program, the property need not be planned for open space use and no binding agreement need be made.

Since a strict convenanting procedure would be a marked departure from the way in which PA 490 has operated it is not discussed fully here. However, the states of Vermont and New York have utilized contract methodology in their forest land assessment laws in a manner which is relevant to Connecticut's legislation. In order to qualify for lower assessments, forest land owners in New York must commit their tract "to continued forest crop production" for the next ten years under an approved management plan. In addition, the commitment must be renewed annually for the next succeeding ten years. Failure of the owner to make an annual commitment results in termination of forest land tax

benefits, although it doesn't constitute a conversion of the property for which a penalty tax is due. However, the owner is still committed to the management plan for the next nine years and development of the property during this period would subject the owner to the penalty tax. Vermont's law is similar.

If a goal of PA 490 and similar tax programs is to maintain land in an undeveloped condition, this contract approach has several advantages. It requires those who wish to develop such land to plan years in advance from the time they decide upon development. It puts the public and local officials on notice that development is likely for the property thus buying time for alternative preservation approaches if desired. It discourages development by imposing ad valorum taxes for nine years before development can take place without penalty.

Massachusetts also has a ten year management plan requirement although the ten years is not reaffirmed yearly. Completion of the ten year plan is encouraged by a reduced penalty tax if the land is converted.

Minimum Acreage

In order to receive use value assessment under Connecticut's PA 490, a forest land tract must be at least 25 acres. Most other states also impose minimum acre requirements. Of those surveyed, New York had the highest requirement with 50 acres. Vermont, like Connecticut has a 25 acre minimum. Massachusetts, Pennsylvania and Rhode Island require at least ten acres, and New Jersey five. New Hampshire does not specify any minimum acreage by statute, but gives a state agency power to establish acreage requirements.

What Constitutes Change in Use

The change in use of PA 490 land within ten years of acquisition of title subjects the owner to the conveyance tax. However, there is no definition of change in use. In Vermont, development which constitutes a change in use includes the construction of any building, road or other structure, or any mining, excavation or landfill activity. Development also means the subdivision of a panel of land into two or more parcels, regardless of whether a change in use actually occurs, where one or more of the resulting parcels contains less than 25 acres. However, development does not include the construction, reconstruction, structural alteration, relocation or enlargement of any building, road or other structure for farming, logging or forestry purposes.

In New Hampshire, land use is considered changed, and the penalty tax payable, when actual construction begins on the site causing

physical changes in the earth, such as building a road or installation of sewer, water, electrical or other utilities to serve existing or planned residential commercial, industrial, or institutional buildings. In addition, excavation or grading of the site for present or future construction of buildings, or "any other act consistent with the construction of buildings on the site" constitutes a change in use. Excavation of gravel, minerals or topsoil also is a change in use. Similar to Vermont, roads or buildings for agricultural, recreational, watershed or forestry purposes are exempt.

The primary difference between the two laws is that New Hampshire requires actual construction, while in Vermont mere subdivision of the land may constitute a use change. The Vermont law attempts to remove the tax benefit as soon as intent to develop is objectively manifested through the owners attainment of subdivision approval.

Penalty Taxes

A common attribute of preferential assessment laws is a penalty tax which is imposed when the use of qualified land changes. Not all these laws have such provisions, and although PA 490 was enacted in 1963, the conveyance tax was not on the books until 1972. These taxes generally fall into two categories:

1) land use change taxes which are based on a percentage of the property's fair market value at the time its use was changed; and

2) roll-back taxes which attempt to recover some of the property taxes forgone during a portion of the time which the land received preferential assessment.

Connecticut has a variation on a land use change tax which is unusual in that it is triggered not only by a change in use, but by sale of the property whether or not the use is changed. The tax lasts for ten years beginning at 10% of the property's fair market value and declining to 1% until, after the tenth year, there is no tax at all. Rhode Island has a similarly declining penalty tax which attaches to changes in use. The Rhode Island tax lasts 15 years with a 10% tax in the first six years. Beginning in the seventh year, the tax declines one percent until there is no tax beyond 15 years from its time of classification. However, with respect solely to farmland on which the owner has held title and has farmed for five years prior to classification, the tax begins at 10% and declines a percentage point each year until no tax is due beyond the tenth year. No tax is

imposed for mere change of ownership provided the land remains classified. However, computation of the period the land has been classified for the purposes of the penalty tax begins anew when ownership has changed except for inheritance or interfamily transfers. Vermont and New Hampshire have a flat 10% land use change tax applied to the full fair market value of the property at the time its use is changed.

Of the states surveyed, Pennsylvania and New Jersey are strictly rollback taxes, and Massachusetts and New York have some variations. Pennsylvania's tax is equal to the difference between the taxes actually paid under preferential assessment, and the taxes which would have been paid at fair market value in the year of change of use and the six years prior plus 6% interest. However, Pennsylvania also has a penalty provision to discourage subdivision. An owner is limited to subdividing not more than two acres yearly and up to a total of ten acres or 10% whichever is lesser and pay a penalty tax only on the divided portion. Any additional subdivision would require payment of the penalty tax on the entire property unless all the parcels qualified for differential assessment individually. Subdivided parcels could be used only for farm, forest or residential use during the period the original parcel was receiving use value assessment. In New Jersey, the rollback is computed on the basis of a total of three years.

Massachusetts requires forest land to be recertified every ten years. When land is withdrawn from classification, a penalty tax is imposed equal to the amount of taxes forgone had the land been assessed at fair market value since the last certification or from the preceding five years, whichever is longer. Interest is also charged. If withdrawal occurs at the end of a certification period, credit is given for any taxes paid during that period. This law thus has a maximum rollback of ten years, and an incentive for completing a decade of forest management.

New York has two alternative penalty taxes, with the greater applicable in any given situation. The penalty may be two times the taxes which would have been levied on the preceding assessment roll. In the alternative, the taxes may be two and one-half times the amount of taxes that would have been levied on the exempt portion of the property's value for up to ten years. Six percent compounded interest is also charged. Unique to the New York law is a provision which doubles the applicable tax when applied to only a portion of an eligible tract (ie. a subdivided parcel).

First Refusal Option

A unique provision in the Massachusetts law requires that differentially assessed forest land not be sold for, or converted to,

residential, industrial or commercial use unless the municipality in which the land is located has been notified. For a period of 60 days following notification, the municipality has, in the case of an intended sale, a first refusal option, or in the case of an intended conversion not involving sale, an option to purchase the land at fair market value determined by an impartial appraisal. No sale or conversion of the land may be consumated unless either the option period expires or the landowner has been notified that the option will not be exercised.

Yield Taxes

New York and Massachusetts impose a tax called a yield tax on forest products harvested from certified forest land. In Massachusetts, the tax is 8% of stumpage value. The tax must be paid whether cutting is for personal or commercial purposes. New York's yield tax is 6% of stumpage value. However, an owner may make intermediate noncommercial cuttings prescribed by the management plan or annually cut five cords for his own use free of the tax.

Although a tax on cutting may be thought to discourage harvesting, the fact that both these states require management plans which may call for a certain amount of cutting probably minimizes any disincentive. Under differential assessment laws, forest lands are generally assessed on an equal basis. A yield tax may be an attempt at tax equity by relating the taxes imposed to soil productivity.

Method of Assessment

Under PA 490, farm, forest and open space land is assessed based upon its current use without regard to neighborhood uses of a more intensive nature. This is what is meant by use value assessment and it is used by most states which differentially assess forest land. However, it is not the only way to assess such lands. A Connecticut statute that was a precursor to PA 490 froze forest land assessments for a period of time and limited the applicable mill rate.

Massachusetts' differential assessment law bases property taxes on 5% of the fair market value of the local rate applicable to commercial property, but no less than $10 per acre. In New York, forest land assessments are exempt based on the lesser of 80% of assessed value or a formula which takes into account a state equalization rate.

DKL:srs

REPORT OF THE
HOUSE FINANCE SUBCOMMITTEE
ON LAND USE TAXATION
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA

HOUSE DOCUMENT NO. 20

COMMONWEALTH OF VIRGINIA
DIVISION OF PURCHASES AND SUPPLY
RICHMOND
1979

MEMBERS OF SUBCOMMITTEE

DAVID G. BRICKLEY, CHAIRMAN
LEWIS W. PARKER, JR.
WARREN G. STAMBAUGH
GEORGE P. BEARD, JR.

STAFF

Administrative and Clerical

Office of Clerk, House of Delegates

Legal and Research

Division of Legislative Services

Report of the

House Finance Subcommittee

On Land Use Taxation

To

The Governor and the General Assembly of Virginia

Richmond, Virginia

December, 1978

To: Honorable John N. Dalton, Governor of Virginia

and

The General Assembly of Virginia

I. INTRODUCTION AND BACKGROUND

In 1971, the Virginia General Assembly enacted legislation permitting localities to adopt a program of special assessments for agricultural, horticultural, forest and open space lands. The purpose of the program was:

To encourage the preservation and proper use of such real estate in order to assure a readily available source of agricultural, horticultural and forest products and of open spaces within the reach of concentrations of population,

To conserve natural resources in forms which will prevent erosion and to protect adequate and safe water supplies,

To preserve scenic natural beauty and open spaces,

To promote land-use planning and the orderly development of real estate for the accommodation of an expanding population, and

To promote a balanced economy and ameliorate pressures which force conversion of such real estate to more intensive uses and which are attributable in part to the assessment of such real estate at values incompatible with its use and preservation for agricultural, horticultural, forest or open space purposes.

A rapidly growing population and a reduction in the quantity and quality of real estate devoted to agricultural, horticultural, forest and open space use, and the benefits that accrue to the Commonwealth from such land have caused the Commonwealth to adopt certain programs which will hopefully tend to preserve these types of land. The land use assessment program is one such program and its goal, as previously mentioned, is to assist and to aid the preservation of such real estate. Although there are reasons that have contributed to the reduction in these lands, the rapidly escalating real property tax has been one of the major factors. The intent of the land use assessment law was to provide for the classification, and permit the assessment and taxation, of such real estate in a manner that will promote the preservation of the above type of land for the public benefit. The acceptance and usefulness of land use is demonstrated by the large number of localities which have adopted land use.

Last year, the House Finance Committee heard considerable testimony concerning possible abuses of the present law as well as problems in the administration of land use taxation. To further investigate these areas, the Chairman of the House Finance Committee appointed a subcommittee to examine Virginia's Land Use Assessment law and to determine if there are sufficient abuses of the present law to necessitate modification of its provisions. Moreover, the subcommittee was to recommend changes in other areas, which would improve the administration of the land use law.

The subcommittee has received testimony and information concerning individual landowners who have received land use tax benefits for land which was never properly devoted to agricultural, horticultural, forest, and open space or was held in the above uses in anticipation of a change in use. Most of these instances have involved individuals or owners who hold land for speculative purposes, especially in the fringes of rapidly urbanizing areas, particularly Tidewater and Northern Virginia. These speculators receive tax preferences even when the five year roll back and 6 percent interest rate is applied.

The subcommittee has also heard testimony regarding the propriety of granting land use taxes to 10 acre farmettes which qualify for land use but actually constitute a residence rather than a farming operation.

In order to corroborate the extent of abuses, the subcommittee has heard testimony from a number of members of SLEAC, including W. H. Forst, State Tax Commissioner; S. Mason Carbaugh, Secretary of Agriculture; C. M. Pennock, Department of Conservation and Economic Development; Rob R. Blackmore, Commission on Outdoor Recreation; and Dr. J. Paxton Marshall, VPI & SU. All of the individuals agreed that there were abuses in land use. However, the question remained as to what types of changes were necessary to eliminate the abuses.

To further comprehend the specific problems and concerns of individuals the subcommitee held a public hearing in Leesburg where an unusually large turnout demonstrated the need for the land use program in Virginia. The individuals who appeared addressed a number of the alternatives the subcommittee was considering.

II. POSSIBLE ALTERNATIVES

To eliminate these abuses, the subcommittee has considered a number of alternatives:

1. Increase the present 5 year roll back period to provide aa greater penalty on real estate which has changed use.

An increase in the roll back would provide greater penalties for those that change use and therefore impose a greater penalty on speculators. Although this alternative would impose a greater penalty, the subcommittee notes that this will not eliminate speculators from receiving land use taxation treatment. The subcommittee has examined the roll back periods in other states and it appears that Virginia already has one of the longer roll back periods. (There are a few states that have 10 year roll back periods for specific types of land).

2. Increase the minimum acreage which is necessary to qualify for land use.

The subcommittee has received testimony regarding the minimum acreage that should be required for application to land use. The subcommittee has also heard testimony concerning primarily residential parcels of land of 5-10 acres which are also used for growing agricultural products. Although this land qualifies for land use, the subcommittee questions whether it should. However, the subcommittee does acknowledge that there are some viable farm operations which operate on 5 acres of land, particularly poultry operations.

An additional problem with a set limit of 5 acres is that this criteria must be applied throughout the diverse localities of the Commonwealth. For example, while a 5 acre farm may be viable in Augusta, does it constitute a viable farm in Dinwiddie?

3. Require the owner, as a condition for land use taxation, to sign a contract with the local government to keep the land in a particular use for a specified time period (i.e., ten years).

The subcommittee notes that a limited number of other states have adopted this approach. The

adoption of this alternative would keep land in its intended use. The subcommittee believes that this requirement, however, would lead to unnecessary conditions on the land owner and would not solve the problem of abuse. That is, land which qualifies for land use but should not. The subcommittee believes its recommendations should move in the direction of eliminating abuses, but not complicating the provisions of land use.

4. Require that land taxed on the basis of use must produce a certain amount of income or that the owner of the land must derive a certain percentage of his income from the land.

Although this alternative appears to have merit at first glance, the subcommittee can foresee numerous problems. The income amount or percentage would by necessity be arbitrary, while at the same time a figure that may be appropriate for one area may be unrealistic in another. Moreover, a speculator who holds land for development could "rent" land to another party to grow agricultural crops, for example, and in this way meet the income requirement but still hold the land for development. The subcommittee feels this approach is impractical for Virginia at the present time.

5. Require a residency requirement for owners of land qualifying for land use.

Adoption of this type of legislation would limit land use taxation only to land that is the owner's place of residence (also owner's spouse, sibling, or parents). This approach would not only eliminate the majority of abuses but would also eliminate many other parcels of land which otherwise would qualify. The subcommittee believes that this approach is too restrictive. Moreover, the subcommittee believes that land use eligibility should be judged by the actual use of the land rather than the ownership.

6. Stiffen standards for classification of land.

The standards for classification of real estate devoted to forest use, open space use, and agricultural and horticultural use are established by the Department of Conservation and Economic Development, Commission of Outdoor Recreation, and Department of Agriculture and Consumer Services, respectively. These standards are then used to determine if the land in question falls into such qualifying use.

The subcommittee has examined, as one alternative, the strengthening of these standards, particularly the standards for forest use. The subcommittee has heard considerable testimony that the standards for forest use need to be tightened. The subcommitee applauds the Department of Conservation and Economic Development for formulating and proposing more meaningful standards for forest use land. The subcommittee strongly endorses the new standards. (Please see Appendix C for copy of old standards and new.)

7. Increase the present six percent interest rate that is applied to such roll back taxes.

The 6% interest rate is applied to all roll back taxes so that the locality does not, in fact, grant a locally subsidized loan to the owner of the land which has changed use. The subcommittee has heard considerable support for an increase in this interest rate because it is simply too low. It is substantially below the interest penalties which are applied to other taxes. Moreover, the present rate is clearly out of line with other interest rates in the money market.

The subcommittee recommends that the interest rate be increased to a more realistic figure. The subcommittee notes that present law generally provides for up to a 8% interest rate on delinquent property taxes (§ 58-847) and recommends that the interest rate applicable to roll back taxes be the same interest rate that the locality charges for other delinquent taxes. (Please see Appendix A for suggested legislation.)

8. Provide that a petition by an owner or his agent for a change in zoning would be deemed to be a change in use for purposes of land use taxation.

The subcommittee has been concerned about situations where an owner of a parcel of land, presently under land use, petitions for a change in zoning. This petition for a change in zoning appears to clearly signal the intention for a change in use. The subcommittee has heard interest and support for this type of legislation in its public hearing as well as from Secretary Carbaugh and Mr. Blackmore. The subcommittee has also heard testimony against this recommendation. After

considering both sides, the subcommittee believes that this type of legislation would only solve a portion of the problem at best. The subcommittee does not recommend the adoption of this type of legislation at the present time.

9. Provide more flexibility in the land use legislation to account for local variations.

The subcommittee has been concerned with the application of one set of standards to determine if a particular piece of land qualifies for a use tax category, given the differences among Virginia localities. The subcommittee notes that the Constitution requires the General Assembly to classify and define the classes of property. For example, at the present time for agricultural land, five acre minimum acreage requirement applies to the entire Commonwealth. It appears reasonable that this number may be correct in certain instances and incorrect in others.

The subcommittee's counsel is of the opinion that perhaps a system could be fashioned that would allow the General Assembly to define and classify the categories of land, yet allow some flexibility to reflect the diversity of farming operations throughout the Commonwealth.

One of the problems the subcommittee encountered during its study was that the definition of a working farm varies by region. Although this area of study was not within the scope of the subcommittee, the issue was considered. The subcommittee believes that there is merit in a limited amount of local flexibility and suggests that an appropriate committee study this area.

Another area that was studied, but not in the original purview of the subcommittee was the question of linking the land use tax program to the goal of preserving farm land. The subcommittee acknowledges the fact that the land use program, in and of itself, cannot preserve farm land, but is only one part of such a program. The preservation of farm land question should be addresed by the appropriate committee. This subcommittee has concentrated on tax policy questions.

III. ADMINISTRATIVE MODIFICATIONS

The subcommittee has also examined the administrative procedures of the land use assessment law. The subcommittee has been concerned with ensuring that the requirements for application be as simple as possible and not cause an undue burden on the property owner. One recommendation of the subcommittee is to modify the requirement for an application whenever the use of acreage of land previously approved changes to exclude a change in acreage which occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for land use taxation. (See Appendix B for the suggested legislation.)

The subcommittee has also examined the reapplication procedures for land use. The subcommittee suggests, to ease the administrative burden on land owners, a reapplication form be included with, or as part of, the tax ticket (notice) that is sent annually to the owner. This would eliminate the land owner having to make a separate reapplication in those localities which require an annual reapplication.

The subcommittee suggests that the attached legislation (see Appendix A and B) be introduced in the 1979 Session of the General Assembly to implement these recommendations.

Respectfully submitted,

David G. Brickley, Chairman *1

Lewis W. Parker, Jr.

Warren G. Stambaugh

George P. Beard, Jr.

*1 Please note supplemental concurring statement.

COMMONWEALTH OF VIRGINIA
HOUSE OF DELEGATES
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TWENTIETH DISTRICT
PRINCE WILLIAM, LOUDOUN
AND THE CITIES OF MANASSAS
AND MANASSAS PARK

COMMITTEE ASSIGNMENTS
FINANCE
HEALTH, WELFARE AND INSTITUTIONS
AGRICULTURE

January 12, 1979

STATEMENT OF DAVID G. BRICKLEY

I commend the Land Use Subcommittee members for their excellent work, support and long hours, and fully approve of the recommendations offered. However, I believe that certain changes should be made in the law when an owner or his agent petitions for a change in zoning. The subcommittee was divided on the question of whether a change in zoning constitutes a change in use. Presently it does not. However, as the purpose of the land use program was to preserve agricultural, horticultural, forest products and open space it must be considered that a change in zoning signals the intention to change the use of the land. If the use is changed, the question follows as to whether the land should continue to be eligible for special assessment. In light of the difference of opinion on this matter, I would suggest that as a compromise, when a change in zoning occurs on land currently under land use assessment, then the roll back period be increased to ten years rather than the present five years. This would serve to increase the penalty on real estate when the owner has every intention of developing the land. However, if the real estate was not developed until many years later, or for that matter, never developed, the property owner would also be protected.

David G. Brickley

APPENDIX A

A BILL to amend and reenact § 58-769.10 of the Code of Virginia, relating to interest rate applicable to roll-back taxes.

Be it enacted by the General Assembly of Virginia:

1. That § 58-769.10 of the Code of Virginia is amended and reenacted as follows:

§ 58-769.10. Change in use of real estate assessed under ordinance; roll-back taxes.–When real estate qualifies for assessment and taxation on the basis of use under an ordinance adopted pursuant to this article, and the use by which it qualified changes, to a nonqualifying use, it shall be subject to additional taxes, hereinafter referred to as roll-back taxes, in an amount equal to the amount, if any, by which the taxes paid or payable on the basis of the valuation, assessment and taxation under such ordinance were exceeded by the taxes that would have been paid or payable on the basis of the valuation, assessment or taxation of other real estate in the taxing locality in the year of the change and in each of the five years immediately preceding the year of the change, plus simple interest on such roll-back taxes at the ~~rate of six per centum per annum~~ *same interest rate applicable to delinquent taxes in such locality, pursuant to § 58-847 or § 58-964* . If in the tax year in which the change of use occurs, the real estate was not valued, assessed and taxed under such ordinance, the real estate shall be subject to roll-back taxes for such of the five years immediately preceding in which the real estate was valued, assessed and taxed under such ordinance.

In determining roll-back taxes chargeable on real estate which has changed in use, the treasurer shall extend the real estate tax rates for the current and next preceding five years, or such lesser number of years as the property may have been taxed on its use value, upon the difference between the value determined under § 58-769.9 (d) and the use value determined under § 58-769.9 (a) for each such year.

Liability to the roll-back taxes shall attach when a change in use occurs but not when a change in ownership of the title takes place if the new owner continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance. The owner of any real estate liable for roll-back taxes shall, within sixty days following a change in use, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs and shall be paid to the treasurer within thirty days of the assessment.

APPENDIX B

A BILL to amend and reenact § 58-769.8 of the Code of Virginia, relating to application by property owners for special use assessment.

Be it enacted by the General Assembly of Virginia:

1. That § 58-769.8 of the Code of Virginia is amended and reenacted as follows:

§ 58-769.8. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.–Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer at least sixty days preceding the tax year for which such taxation is sought; provided, however, that in any year in which a general reassessment is being made the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § 58-792.01, or sixty days preceding the tax year, whichever is later; provided, however, in any locality which has adopted a fiscal tax year under §58-851.6 but continues to assess as of January one, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year; provided further, that in Franklin County, such application shall be filed for the year nineteen hundred seventy-eight within thirty days of adoption of an ordinance hereunder. The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes , *except when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment* ; provided, however, that the governing body of any county, city or town may require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

The local assessing officer shall prepare and transmit to the clerk a list of all applications filed and approved hereunder and the clerk shall index the names in a book entitled "Land Use Tax Assessment Book" and file said application in the clerk's office. The local governing body shall beginning July one, nineteen hundred seventy-three, compensate the clerk at the rate of one dollar per application filed and indexed, notwithstanding any limitation provided in § 14.1-143 or any other section of the Code of Virginia.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § 58-769.9 (d).

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in the use for which classification is granted and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

2. That the provisions of this act shall be effective for all tax years beginning on and after January one, nineteen hundred seventy-seven.

APPENDIX C

STANDARDS FOR CLASSIFICATION OF A FOREST AREA
(LAND USE TAX ACT - Title 58, Chapter 15, Section 58-769.4 through 58-769.16)

A. STANDARDS

PRODUCTIVE FOREST LAND - is real estate devoted to forest use which has existent on it, and well distributed, commercially valuable trees of any size sufficient to compose at least 10% normal stocking of forest trees, or formerly having such tree cover, and not currently developed for non-forest use. It must be growing a forest crop or be capable of growing a forest crop of industrial wood, and such crop must be accessable for harvesting.

NON-PRODUCTIVE FOREST LAND - is land devoted to forest use but which is not capable of growing a crop of industrial wood because of inaccessibility on adverse site conditions such as steep outcrops of rock and shallow soil on steep mountain sides, excessive steepness, heavily eroded areas, coastal beach sand, tidal marsh and other conditions which prohibits the growth and harvesting of a crop of trees suitable for commercial industrial use.

TREE - is a single woody stem of a species presently or prospectively suitable for commercial industrial wood products.

STOCKING - is the number of trees 3 inches and larger in diameter breast high (d.b.h. - at a point on the tree trunk outside bark 4½ feet from ground level) required to equal a total basal area (area in square feet of a cross section of the tree at d.b.h.) of 75 square feet per acre, or where such trees are not present, there shall be present tree seedlings, or tree seedlings and trees in any combination sufficient to meet the 10% stocking set forth in the following Table.

Minimum Number of Trees or Combination Thereof to Determine 7.5 Square Feet of Tree Basal Area or 10 Percent Stocking Require to be Classified as Forest Land

D.B.H. Range	D.B.H. in 2" Classes	Basal Area Per Tree	Per Acre	Per 1/5 Acre	Per 1/10 acre
up to 2.9"	Seedlings		100	20	10
3.0 - 4.9"	4	0.1257	59	12	6
5.0 - 6.9"	6	0.1964	38	8	4
7.0 - 8.9"	8	0.3404	22	4	2
9.0 - 10.9"	10	0.5346	14	3	1
11.0 - 12.9"	12	0.7466	10	2	1
13.0 - 14.9"	14	0.0690	7	1	-
15.0"+	16+	1.4845	5	-	-

Note:

(a) Area 1/5 acre: circle, diameter 105'4", square 93'4" per side
(b) Area 1/10 acre: circle, diameter 74.6"; square 66'
(c) Number of seedlings present may qualify on a percentage basis; Example, 20 seedlings would be equivalent of 1.5 sq. feet of basal area (20% x 7.5 = 1.5)

B. PRODUCTIVE EARNING POWER

The forest land productive earning power will be determined by soil series classification and current market prices for each county. The base species will be selected according to the major forest type of greatest economic value in the county.

The annual productive earning power will be computed by discounting the per acre gross dollar value of tree growth to the time of stand establishment using a 6% compound rate of interest. The cost of establishing the stand will then be subtracted, leaving a net worth of the timber crop above and beyond the 6% compound interest allowance for the cost of establishment.

Prepared By: VIRGINIA DIVISION OF FORESTRY
June 1, 1973

APPENDIX C

STANDARDS FOR CLASSIFICATION OF A FOREST AREA
(LAND USE TAX ACT - Title 58, Chapter 15, Section 58-769.4 through 58-769.16)

A. *STANDARDS*

PRODUCTIVE FOREST LAND - is real estate devoted to forest use which has existent on it, and well distributed, commercially valuable trees of any size sufficient to compose at least 40% normal stocking of forest trees, or formerly having such tree cover, and not currently developed for non-forest use. It must be growing a commercial forest crop that is accessible for harvesting.

NON-PRODUCTIVE FOREST LAND - is land devoted to forest use but which is not capable of growing a crop of industrial wood because of inaccessibility on adverse site conditions such as steep outcrops of rock and shallow soil on steep mountain sides, excessive steepness, heavily eroded areas, coastal beach sand, tidal marsh and other conditions which prohibits the growth and harvesting of a crop of trees suitable for commercial industrial use.

TREE - is a single woody stem of a species presently or prospectively suitable for commercial industrial wood products.

STOCKING - is the number of trees 3 inches and larger in diameter breast high (d.b.h. - at a point on the tree trunk outside bark 4½ feet from ground level) required to equal a total basal area (area in square feet of a cross section of the tree at d.b.h.) of 75 square feet per acre, or where such trees are not present, there shall be present tree seedlings, or tree seedlings and trees in any combination sufficient to meet the 40% stocking set forth in the following Table.

Minimum Number of Trees or Combination Thereof to Determine 30 Square Feet of Tree Basal Area or 40 Percent Stocking Require to be Classified as Forest Land

D.B.H. Range	D.B.H. in 2" Classes	Basal Area Per Tree	Per Acre	Per 1/5 Acre	Per 1/10 Acre
up to 2.9"	Seedlings		400	80	40
3.0 - 4.9"	4	0.0873	344	69	34
5.0 - 6.9"	6	0.1964	153	31	15
7.0 - 8.9"	8	0.3491	86	17	9
9.0 - 10.9"	10	0.5454	55	11	6
11.0 - 12.9"	12	0.7854	38	8	4
13.0 - 14.9"	14	1.0690	28	6	3
15.0"+	16+	1.3963	21	4	2

NOTE: (a) Area 1/5 acre: circle, diameter 105'4"; square 93'4" per side
(b) Area 1/10 acre: circle, diameter 74'6"; square 66'
(c) Number of seedlings present may qualify on a percentage basis; Example, 100 seedlings would be equivalent of 7.5 sq. feet of basal area (25% x 30 = 7.5)

B. PRODUCTIVE EARNING POWER

The forest land productive earning power will be determined by soil series classification and current market prices for each county. The base species will be selected according to the major forest type of greatest economic value in the county.

The annual productive earning power will be computed by converting the estimated acre volume yields for a rotation to dollar yields. The cost for land management and stand establishment is then subtracted from the gross income, leaving a net worth for the timber crop. The forest use value is then calculated by dividing the net worth by a determined capitalization rate.

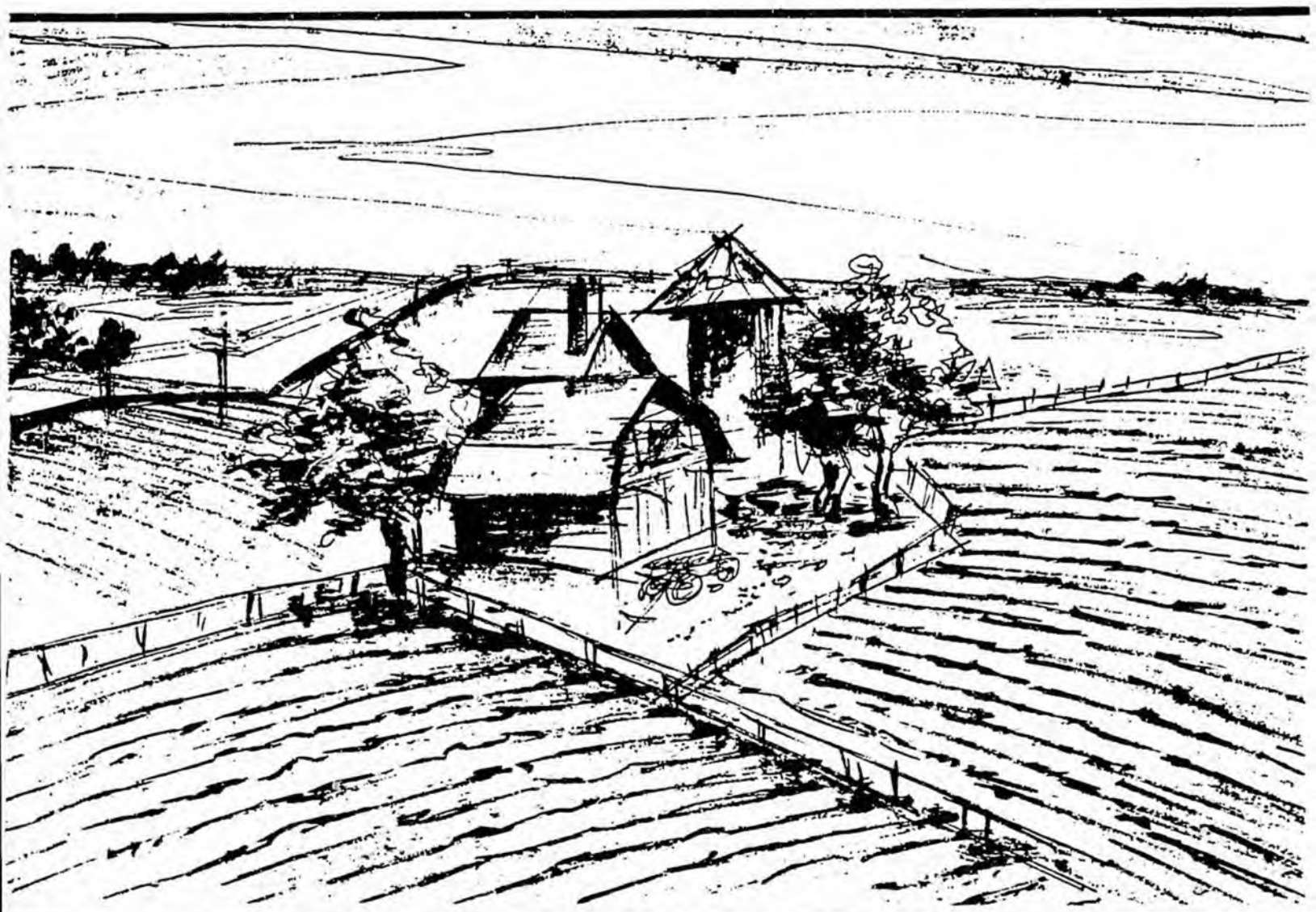
Prepared By: *VIRGINIA DIVISION OF FORESTRY*
July 1978

STUDIES IN PROPERTY TAXATION

USE-VALUE FARMLAND ASSESSMENTS

Theory, Practice, and Impact

International Association of Assessing Officers
Research & Technical Services Department



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Volume 2

Taxable Property Values and Assessment-Sales Price Ratios

1982 Census of Governments

Issued February 1984

U.S. Department of Commerce
Malcolm Baldrige, Secretary
Clarence J. Brown, Deputy Secretary

BUREAU OF THE CENSUS
C.L. Kincannon,
Deputy Director

Appendix C. Provisions for Assessment of Property for Agricultural, Open Space, and Associated Benefited Uses by States: 1981 and Subsequent Periods

State	Provision affecting assessed value applicable to explicitly benefited uses	Remarks
Alabama	Deferred taxation	Applies to class III property only (agricultural, forest, historic, and single-family, owner-occupied properties). Owner must request benefited use assessment. Deferred tax activates if conversion to nonqualifying use occurs within 2 years of property sale. Such tax is based on greater of sales price, or appraised market value as of October 1 in each of 3 years succeeding conversion date.
Alaska	Deferred taxation	Upon application, farmlands may be assessed at full and true value for farm use. Deferred tax is an amount equal to the additional tax at the current mill levy together with 8 percent interest for the preceding 7 years.
Arizona	Use value assessment only	Land used for agricultural purposes valued via the income approach (capitalized average annual net cash rental) without allowance for urban or other nonagricultural market influences. Such rental (excluding real property and sales taxes) determined through typical arm's length rental agreements for the preceding 5 years for comparable agricultural land.
Arkansas	Use value assessment only	Current use provision applies to agricultural, farm, or timber use land; application required. Effective March 28, 1981, such lands will be valued on the basis of productivity of soil.
California	Use value assessment only	Numerous provisions including: Land zoned for single-family homes or agricultural purposes on which is situated owner-occupied single-family dwelling valued no greater than value of its use as a site for such dwelling. Nonprofit golf courses of 10 or more acres valued for that use, plus any mines or minerals. Timberland valued on basis of "approximate grade values" plus value attributable to any compatible uses of land.
	Contracts and agreements	Historical property under agreement of at least 20 years valued using capitalization of income method. Open space land dedicated to various uses (e.g., agricultural, wetlands, recreation, wild life habitats, timberland preserves, historical, or cultural purposes) under an enforceable restriction valued using specified methods; restriction generally for minimum 10-year period. Cancellation of contract or rezoning of timberland preserve may result in deferred taxes or tax recoupment fee.
Colorado	Use value assessment only	Agricultural land (exclusive of building improvements) valued on basis of earning or productive capacity during reasonable period, capitalized at 11.5 percent.
Connecticut	Use value assessment only (sometimes classified as deferred taxation, because of conveyance tax cited).	Application required for classification as farm, forest, or open space land. Additional conveyance tax imposed if land sold or use changed within 10 years of (1) classification in case of open space or (2) initial acquisition or classification in case of farm and forest lands. Tax ranges, on sale or change of use, from 10 percent of sales price in first year, to 1 percent in 10th year; exemptions provided.
Delaware	Deferred taxation	Land of not less than 5 acres, used for agricultural, horticultural, or forest purposes for 2 previous years, valued on the basis of such use; $500 minimum sales and application required. Agricultural use land changed to nonagricultural uses subject to "roll-back taxes" equal to deferred taxes for up to 5 preceding years. Effective July 11, 1983, eligibility changed to 10 acres minimum and/or annual agricultural income of $10,000.
District of Columbia	Contracts and agreements	Current use assessment is available for designated historic buildings if such assessment is less than market value. Owners may enter into agreements of at least 20 years for continued maintenance in return for tax relief. Provides for recovery of back taxes with interest if conditions not fulfilled.
Florida	Use value assessment only	Upon application, land may be classified as agricultural land (including forestry) and assessed solely on the basis of its agricultural use. Contiguous urban development or a sales price three or more times an agricultural use assessed value creates presumption that land is not used primarily for bona fide agricultural purposes.
	Contracts and agreements	Owners of environmentally endangered lands, or lands used for outdoor recreational or parks purposes may convey their development rights to the county or an internal improvement trust fund in return for assessments incorporating such use and lack of development rights. Deferred taxes include tax differential plus 6 percent interest per year.
Georgia	Contracts and agreements	Effective April 8, 1983, property devoted to bona fide agricultural purposes (excluding residence value) is eligible for preferential assessment. Covenant for agricultural use must be for minimum of 10 years. Graduated penalties, plus interest, are specified for premature termination of agreement.
Hawaii	Deferred taxation	Applies to land classified and used for agriculture. If owner requests certain zoning changes, or subdivides to parcels of 5 acres or less, owner becomes liable for deferred tax on difference between taxes paid and taxes due on higher use assessed value, plus annual 10 percent penalty. Tax due within 60 days of conversion, unless owner dedicates land within 1 year of conversion.

See footnotes at end of table.

APPENDIX C—Continued

State	Provision affecting assessed value applicable to explicitly benefited uses	Remarks
Hawaii--Con.	Contracts and agreements.....	Applies to land dedicated to agricultural or ranching use in agricultural, rural, conservation, or urban districts, for a minimum of 10 or 20 years. Assessment is on basis of such use, or 50 percent thereof if land is within agricultural district. Failure to observe restrictions means tax liability for tax differential plus penalty of 10 percent per year. Other provisions relate to land dedicated to golf courses, single-family, owner-occupied residential use, and to land classified as "wasteland," all assessed on basis of such uses.
Idaho.....	Use value assessment only.....	Land devoted to agriculture per specified criteria may be classified as agricultural property; this excludes land used for pleasure or available as part of a platted subdivision. Upon application, lands having no commercial timber but suitable for reforestation assessed at $1 per acre. Owner-occupied residential property in area zoned for other uses is assessed on basis of residential use only.
Illinois.....	Use value assessment only.....	Upon application, land used for single-family residence, meeting specified conditions, and located in National Historic District or municipal landmark area assessed at 1979 valuation, effective January 1, 1981; local option to participate. Upon application, historic property with certificate of rehabilitation assessed no more than at prerenovation value for an 8-year period; local option.
	Deferred taxation.....	Upon application, real property used for farming or agricultural purposes and at least 10 acres in size, valued on basis of such use but no more than value as single-family residential real property. Two standards are available for qualification as agricultural for benefited use assessment. If use changes to something not qualifying, there is deferred tax on difference between benefited use value and conventional assessed value, for 3 preceding years, plus 5 percent interest. Upon application, land used for open space or for airports in 3 previous years is assessed on basis of such use. Same deferred tax as above when use changes.
	Special note.....	At least for 1981 assessed values, the homestead part of a farm, namely the home and its surrounding site, was not subject to benefited use assessment but was subject to the applicable county multiplier. Remaining parts of the property involved were eligible for benefited use assessment. See section 20-g and 20-e of the Illinois Revenue Act, as amended.
Indiana.....	Use value assessment only.....	Land is assessed as agricultural land as long as it is devoted to such use.
	Deferred taxation.....	Upon application, forest land of at least 10 acres with no dwelling is assessed at $1 per acre. Deferred tax provision applies to the lesser of (1) tax differential or (2) "withdrawal" assessment minus initial assessment augmented by any increase due to construction of ditch or levee. Upon application, land used as wildlife habitats of at least 15 acres with no dwelling assessed at $1 per acre; similar deferred tax provision.
Iowa.....	Use value assessment only.....	Productivity and net earning capacity constitute the valuation basis for agricultural lands, except that dwellings on agricultural realty are assessed on a market value basis, effective with 1961 assessments. Forest reservations of at least 2 acres are assessed at $14.82 per acre; fruit tree reservations of 1 to 10 acres assessed at same rate but for an 8-year period.
Kansas.....	Deferred taxation.....	Agricultural land may be assessed on the basis of actual or potential agricultural income or productivity. Recoupment of tax differential is possible if qualifying use ends.
Kentucky.....	Deferred taxation.....	Upon application, agricultural or horticultural lands (excluding residences) meeting minimum acreage and specified gross income levels in 3 of 5 preceding years, may be assessed according to the land's value for agricultural or horticultural use. Upon change in use, deferred taxes for current year and preceding 2 tax years become due.
Louisiana.....	Contracts and agreements.....	Agricultural, horticultural, marsh, or timber lands meeting specified conditions may be assessed on basis of use value. Sales price four times land use value assessment creates presumption that land no longer is used for such purposes. Buildings of historical architectural importance may be similarly valued on a use basis.
Maine.....	Deferred taxation.....	Upon application, cropland, farmland (any tract or tracts of at least 10 contiguous acres), farm woodland, open space land, orchard land, and pastureland may be valued on current use value for agricultural or open space purposes. A change to nonqualifying use activates a deferred tax, in the year of disqualification, on the difference between benefited use and conventional valuation, plus a penalty. In addition, forest products assessed on basis of potential productivity ("tree growth tax"). Deferred tax is based on which of 2 specified methods produces the greater liability (5-year period involved).
Maryland.....	Deferred taxation.....	Land actively devoted to farm or agricultural uses, and marshland are assessed on basis of such uses. Subdivided parcels under certain conditions are not disqualified from agricultural use assessment. Conversion to nonqualifying use subjects land to a development tax equal to 10 percent of the difference between the agricultural and nonagricultural use assessments. (Development tax on farmland rezoned for nonfarm uses was replaced by an agricultural transfer tax, effective July 1, 1981.) Upon application, land designated for development in accordance with governmentally approved plans is assessed as agricultural use land. If rezoned to other uses, deferred tax activates on difference between benefited use assessment and full cash value assessment, but will not exceed 10 percent of "full cash value" assessment.

See footnotes at end of table.

APPENDIX C–Continued

State	Provision affecting assessed value applicable to explicitly benefited uses	Remarks
Maryland--Con.	Contracts and agreements.....	Easements to a government or to the Nature Conservancy under agreement to preserve its natural open character are valued on basis which includes such limitations. Lands of at least 50 acres actively devoted to use as country club, subject to other specified qualifying conditions, for period not less than 10 years, are assessed on basis of such use. Deferred tax activates on difference between benefited use and full value assessment (for up to 10 years) upon sale or failure to meet conditions.
Massachusetts.....	Deferred taxation.....	Local option permits assessment of agricultural or horticultural lands based upon such use. Land must be at least 5 acres and have been in benefited use category for 2 immediately preceding years, application required. Conveyance tax is levied if land sold for other than benefitted use within 10 years; if land is disqualified from benefited use assessment, rollback taxes are levied. Under specified conditions, city or town has limited right of first refusal when such property is offered for sale. Upon application, recreational land of 5 or more acres is assessed on basis of such use up to 25 percent of its fair cash value. Similar conveyance and rollback taxes and first refusal rights are provided.
	Contracts and agreements.....	Specified provisions apply to land under conservation restrictions.
Michigan.....	Use value assessment only.....	Upon application, private forest reservations are assessed at no more than $1 per acre.
	Contracts and agreements.....	Specified farmland or open space development rights agreements are available with minimum 10-year term; law prescribes attachment of lien when agreements terminate.
Minnesota.....	Deferred taxation.....	Upon application, qualifying agricultural realty of more than 10 acres and qualifying realty devoted to recreational uses of more than 5 acres may be assessed on a use basis. Effective July 1, 1983, tillable agricultural land is assessed at lesser of market value or capitalization of free market gross rental rate at 5.6 percent. Deferred taxes, without interest, are payable for prior 3 years in case of agricultural land and for prior 7 years for recreational land.
Mississippi.....	Use value assessment only.....	Effective July 1, 1983, land used for agricultural purposes is appraised according to its current use.
Missouri.....	Use value assessment only.....	Available to agricultural or horticultural land in such use for 5 preceding years, with average annual gross sales of $2,500; application required.
	Deferred taxation.....	Upon application, forest croplands of at least 40 acres, with value not exceeding $125 per acre, are assessed at $3 per acre. Deferred tax provision includes interest penalty.
Montana.....	Use value assessment only.....	Specified conditions must be met regarding use, size, and income; application is required. Rollback tax provision was repealed as of March 31, 1981. It provided for deferred taxes for up to the 4 preceding years of use value assessment.
Nebraska.....	Deferred taxation.....	Land zoned for agricultural use and used exclusively for agricultural purposes may be assessed on basis of such use; application is required. If eligibility ends, deferred tax applies to any difference, between use and market-oriented values, for up to 5 years, plus applicable interest at 6 percent.
Nevada.....	Deferred taxation.....	Applies to agricultural or open space land meeting specified conditions; application required. Deferred tax provision (including penalty) may relate to back years, up to 84 months prior to change in use.
New Hampshire.....	Use value assessment only.....	Upon application, owner-occupied residences in industrial or commercial zones are assessed on basis of current use.
	Deferred taxation.....	Qualifying open space (farmland, forest land, wetland, recreation land, flood plain land, or wild land) may be assessed based on current use values established by current use advisory board; application is required. A land use change tax is levied at the rate of 10 percent of the full and true value of the land changed to other than open space use.
	Contracts and agreements.....	Benefited assessment may also be obtained for qualifying land if owner grants discretionary easement to city or town for minimum 10-year term. Release occurs only for cases of extreme personal hardship with penalties specified.
New Jersey.....	Use value assessment only.....	Owner-occupied residences in area previously zoned for such use but rezoned to commercial or industrial uses are assessed as residential property.
	Deferred taxation.....	Agricultural or horticultural land of 5 or more acres meeting minimum sales criteria and in such use for 2 preceding years may be assessed based on such use; application is required. Rollback provision may include up to 2 years of deferred taxes.
New Mexico.....	Use value assessment only.....	Land primarily for agricultural purposes may be assessed on basis of productive capacity; application is required.
New York.....	Use value assessment only.....	Assessment of forest and reforested lands of 15 or more acres limited to value of similar lands without substantial forest growth; application is required. Six percent tax on stumpage value is levied upon withdrawal of land from benefited use.
	Deferred taxation.....	Land of 10 or more acres in an agricultural district and generating $10,000 or more from agricultural products may be entitled to an agricultural assessment. Change to nonqualifying use activates deferred taxes for 5 preceding years.

See footnotes at end of table.

APPENDIX C—Continued

State	Provision affecting assessed value applicable to explicitly benefited uses	Remarks
North Carolina	Deferred taxation	Applies to agricultu: horticultural parcels of 10 acres or more; gross income from products grown there at average $1,000 or more annually for 3 preceding years. Qualifying forest land must be at least 20 acres in size; application is required. Deferred taxes are payable upon change in use and may relate back to 3 preceding years, plus interest.
North Dakota	Use value assessment only	Land classified as agricultural prior to annexation is retained in that classification until use changes. Value must be uniform with that of adjoining agricultural land not annexed. Effective for tax years beginning January 1, 1983, land platted and assessed as agricultural land before March 30, 1981, is valued on basis of such use (until changed), whether or not within corporate limits.
Ohio	Deferred taxation	Requirements for agricultural use assessment include: specified minimum sizes; agricultural use for 3 preceding years; and application. Deferred taxation may relate back to 4 preceding years of use assessment.
Oklahoma	See remarks	Unique situation, applies to more than agricultural land: State Constitution (article X) states that "no real property shall be assessed . . . at a value greater than . . . its fair cash value for the highest and best use for which such property was actually used, or was previously classified for use." (Emphasis added.)
Oregon	Deferred taxation	Agricultural land may be assessed on basis of use; specific provisions, requirements, and deferred taxes vary according to whether land is located in "farm use zone" or outside such zones but exclusively devoted to agricultural use. Application may be required. Deferred taxation does not apply when use changes to forest use or when unzoned farmland is subsequently included in a farm use zone. Upon application, open space is assessed on basis of benefited open space land use. Deferred tax provisions activate on a change to nonqualifying use, plus interest. Single-family residence used for such purpose for 5 preceding years in area zoned for industrial, commercial, or multifamily residential uses is assessed on basis of residential only. Disqualification results in additional tax of up to 10 times what deferred taxes would be for the immediately preceding year. Application is required.
	Contracts and agreements	For 15-year period, historic property is assessed at "true cash value" at time of application. Change in classification results in additional taxes equal to up to 15 times the amount of deferred taxes for the immediately preceding year.
Pennsylvania	Deferred taxation	Upon application, qualifying agricultural land, agricultural reserve, and/or forest reserve may be given preferential use assessments. Requirements include 10-acre minimum size for agricultural land, an anticipated annual gross income of $2,000, and 3 preceding years of benefited use. Rollback taxes may extend for up to 7 previous tax years, and include 6 percent interest.
	Contracts and agreements	Counties may covenant with owners of land in farm, forest, water supply, or open space use. Assessment reflects fair market value of land so restricted. Such agreements may be negotiated to conform with more recent provisions of preferential use assessment described above.
Rhode Island	Deferred taxation	Applies to farm, forest, or open space land; application is required. Effective May 15, 1980, change in use results in "land use change tax" ranging from 10 to 0 percent of fair market value, depending on length of classification.
South Carolina	Deferred taxation	Qualifying agricultural real property used for agricultural purposes or for growing timber is assessed at specified percentages of fair market value for such purposes; application is required. Rollback provision may include deferred taxes for current year and immediately preceding 5 years.
South Dakota	Use value assessment only	Land devoted exclusively to agricultural use for 5 preceding years and generating minimum sales of $2,500 in 3 of those years shall be classified and taxed as agricultural land without regard to its zoning classification.
Tennessee	Deferred taxation	Qualifying lands include agricultural (at least 15 acres), forest (at least 15 acres), and open space (at least 3 acres); application is required. Rollback taxes extend for up to 3 years for agricultural and forest lands and up to 5 years for open space lands. Special provision is made for assessment of lands with open space easements.
Texas	Deferred taxation	Upon application, land owned by natural persons and used for agricultural purposes for the 3 years immediately preceding may be assessed based on such use. Qualified "open space" land (including timberland and land devoted principally to agricultural use for 5 of preceding 7 years) is valued on basis of productive capacity; application is required. Rollback provision for agricultural land may relate back to 3 preceding years, plus interest; for open space land, 5 preceding years, plus 7 percent interest.
	Contracts and agreements	Lands restricted to recreation, park, open space, or airport may be assessed based upon such use; land must be at least 5 acres in size and restriction must be for a minimum of 10 years. If there is a change to nonqualifying use, a deferred tax activates on difference between benefited use assessed value and market value, for 5 years, plus interest at 7 percent annually.
Utah	Deferred taxation	Land actively devoted to agricultural use (25 acres or more in size, or if less, providing annual gross income from farm crops of $2,000 in 1 of 2, or 3 of 5 preceding years) may be assessed based upon such use if of at least 5 contiguous acres, generating requisite income from such use for required time; application is required. Waivers of acreage and income limitations are possible. Rollback taxes may extend up to 5 years of benefited use.
Vermont	Use value assessment only	Orchard lands are assessed on basis of similar land used for general agricultural purposes.

See footnotes at end of table.

State	Provision affecting assessed value applicable to explicitly benefited uses	Remarks
Vermont--Continued	Deferred taxation.....	Agricultural land and managed forest land meeting specified criteria are eligible for use value appraisal. Upon development, land use change tax is levied in the amount of 10 percent of the full fair market value of the changed land determined without regard to the use value appraisal. Land may be withdrawn from use value assessment and payment of land use change tax deferred until development occurs.
	Contracts and agreements.....	A municipal corporation may enter into contracts with owners of agricultural, forest land, industrial or commercial real and personal property for up to a 10-year period for the purpose of fixing and maintaining the valuation of such property on the grand list; contracts may also be made for fixed rates, fixed annual amounts, or fixed percentages of the annual tax. Municipality may also negotiate "tax stabilization contracts" with owners of farmland or forest land of at least 25 acres. Deferred taxes covering prior 3 years are due upon conversion to noncontractual uses.
Virginia.....	Deferred taxation.....	Any county, city, or town which has adopted a land use plan may by ordinance provide for the use value assessment of real estate used for agricultural, horticultural, forest, or open space purposes. Minimum size is 5 acres (except for forest land which must be at least 20 acres), and application is required. Real estate in agricultural or forest districts, with or without land use plan, is also eligible. Rollback tax provision includes current year and up to 5 immediately preceding years, plus interest.
Washington.....	Contracts and agreements.....	Open space land, farm and agricultural land, and timberland (excluding timber value) may qualify for current use assessment. Land classified on a current use basis must continue to be so classified for a period of 10 years. If the owner, after 8 years, requests withdrawal from current use assessment, rollback taxes for 7 years, plus interest at the statutory rate, are payable at the end of 2 additional years. If a change in use occurs before the end of the 10-year period, the aforementioned rollback taxes and interest are due, plus penalty of 20 percent of the rollback amount.
West Virginia.....	Use value assessment only.....	True and actual value of all farms used, occupied, and cultivated by their owners or bona fide tenants is value of property according to actual use. For the statewide reappraisal to be completed by March 1, 1985, farm property is to be appraised at "fair and reasonable value for farming purposes."
Wisconsin.....	See remarks.....	Constitutional amendment, approved April 2, 1974: Taxation of agricultural and undeveloped land need not be uniform with that of each other or with that of other realty. State legislature has elected to provide owners of farmland subject to agricultural use restrictions with income tax credits and refunds rather than use-based assessments.
Wyoming.....	Use value assessment only.....	Agricultural and horticultural land so employed for minimum of 2 previous years is assessed on basis of current use and capacity of land to produce agricultural products. Land must not be zoned for other uses.

Note: This table, though carefully compiled, is not intended as a substitute for any necessary reference to specified statutory requirements in any given circumstance. This is especially relevant to any situation where post-1981 provisions are sought.

Terms (based on review of applicable legal provisions):

Deferred taxation--This refers to the additional tax, activated by a change from benefited use to a nonqualifying use, on the difference between benefited use assessment and conventional assessment, for specified time periods and at interest rates specified by law.

Contracts and agreements--These are specific agreements authorized by law, providing for limitations on use over stated time periods, in exchange for benefited use value assessment. Such agreements generally include deferred taxation recovery provisions.

SITE VALUE TAXATION

STAFF BRIEF 82-17

Wisconsin Legislative Council Staff

State Capitol

July 28, 1982

Madison, Wisconsin

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

SITE VALUE TAXATION

STAFF BRIEF 82-17

Wisconsin Legislative Council Staff

State Capitol

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SITE VALUE TAXATION

INTRODUCTION

This Staff Brief was prepared as background material for the Legislative Council's Special Committee on the Interrelationship of Urban and Rural Policies. The Special Committee was created at the May 27, 1982 Legislative Council meeting, pursuant to a May 14, 1982 letter from Representative Michael G. Kirby and 1981 Assembly Joint Resolution 32, which requested a study of certain urban and rural policies.

Included in the study charge to the Committee is a directive to:

> Examine the feasibility and advisability of authorizing incorporated municipalities to levy real property taxes on the value of land only, rather than on the value of land and improvements, to determine what effect such a tax would have on the development and improvement of land within such municipalities and adjacent unincorporated territory....

[A copy of the complete charge to the Special Committee and a list of the members of the Special Committee are contained in Appendix 1.]

As background material for the Committee study, this Staff Brief presents a general discussion of the site value taxation concept. It makes no attempt to analyze the ramifications of limiting the authority for a site value tax to incorporated municipalities only nor to evaluate its past operation in other governmental jurisdictions.

Generally, site value taxation is taxation only on the value of land. All capital improvements attached to the land are exempted from taxation. Site value taxation is also commonly referred to as land value taxation; both terms will be used interchangeably in this Staff Brief. A variation of the site value tax is the "graded" (or "differential") property tax

*This Staff Brief was prepared by Janice M. Baldwin, Senior Staff Attorney, Legislative Council Staff.

PART I

CONCEPT OF SITE VALUE TAXATION

Site value taxation is a concept based on historic doctrines related to land as a source of income and wealth. As its prime champion in the 19th Century, Henry George proposed site value taxation as the single tax to replace all other forms of taxation [Progress and Poverty, 1879]. Modern tax policy theorists, however, generally view a site value tax as only one of several forms of possible taxation, particularly for local governments in the United States.

A. CONCEPT OF SITE VALUE TAXATION

The essence of the site value tax is proportional or constant rate taxation on the assessed value of only the land surface. No taxes are levied on improvements to the land. Thus, no taxes are levied on property owners when they improve the land (such as adding water and sewer facilities) or add improvements to the land (such as constructing buildings). Similarly, there is no tax incentive to allow improvements to deteriorate or to let land lie idle to avoid increased assessments and, thus, increased taxes. The tax levied on one site is the same as that applied to another similarly located site with similar characteristics.

A variation of the land value tax is the "differential" or "graded" property tax. One rate of taxation is applied to the value of the site and another lesser rate to the improvements in or on the site. Another approach, which would secure the same results, is to allow the tax rate to remain constant, but to assess land closer to its fair market value than the assessment of the improvements on the land. Regardless of the approach, under the graded or differential property tax system, $1,000 worth of land is taxed more heavily than $1,000 worth of improvements.

B. HISTORY

Site value taxation derives from the various theories which justified governmental taxation of land alone. These commenced with the French Physiocrats' assertions in the 17th Century that all wealth starts with land and that, therefore, the income above the cost of production could be available for the needs of the state. Taxation of the "surplus" income would not interfere with production. Later economists, such as Ricardo, developed an "economic rent" concept as a measure of the difference between the marginal productivity on one site compared to that on a site with a higher degree of productivity or more favorable location. The

PART II

ECONOMIC ISSUES.

Recent theoretical and pragmatic literature focuses upon the site value tax as an alternative to the traditional real property tax. It is analyzed as being one component of an array of taxes, with the sales, income and excise taxes being other possible components.

This Part discusses some economic issues associated with site value taxation, including (a) the general economic incentives provided by the tax; (b) the adequacy of land as a tax base; (c) a brief description of which taxpayers benefit or lose in the replacement of the property tax by a land value tax; and (d) its impact upon resource allocations in the community or the economy. The discussion assumes that governments will increase the tax rate on land compared to that on real property (land plus improvements) in order to maintain their fiscal capacity.

A. GENERAL ECONOMIC INCENTIVES OF A SITE VALUE TAX

As tax rates, imposed only on land, increase to compensate for the loss of taxes on improvements, two results ensue. First, the tax cost of holding vacant or underdeveloped land increases. Secondly, since landowners must bear the increased land value tax, they are encouraged to develop the site to reduce the tax burden as a percentage of the total value of the real property (land plus improvements) or else sell it to another person willing and able to improve the income potential of the property. In other words, the site tax promotes the development of land to its "highest and best use." New construction and rehabilitation of older buildings are not penalized by the site value tax as they are in the form of increased taxes under the traditional property tax system. Thus, site value taxation provides a tax incentive for more intensive use of urban land and may reduce urban sprawl pressures.

B. ADEQUACY OF LAND AS A TAX BASE

To support the current level of municipal service, revenue from a site value tax must be approximately equal to that generated by the traditional real property tax. Land value tax proponents state this is feasible because land is now frequently and substantially undervalued in most municipalities. In addition, land values may increase naturally as economic development occurs.

The projected pattern of increases and decreases in the tax incidence for various groups of taxpayers from going to a different tax is described as the "windfalls and wipeouts" problem. It occurs during the transition period when existing buildings or improvements are displaced by a new pattern of improvements after the inauguration of a land value tax. It may also happen when the "highest and best use" of a site changes in response to other factors in the economy, such as a new technology. Alleviation of the most undesirable effects may be provided by exemptions, "grandfathering" or other legislative concessions.

D. RESOURCE NEUTRALITY

For an individual landowner, the site value tax is "neutral," in the sense that the tax repercussions of any decision to improve land can be ignored because his or her tax is not influenced by any improvements. However, the site value tax may influence resource allocation in a community by virtue of its differential impact upon various investment decisions. Positively affected are the pressures to develop land to its "highest and best use" and to develop or rehabilitate central city land. Negatively affected is the holding of vacant or underdeveloped land which decreases the attractiveness of land as an investment.

Other factors, however, may be more important than taxation policy or may mitigate the primary effects of land value taxation in investment or location decisions. For example, crime, zoning, poverty, transportation and labor cost differentials between central city and rural or suburban locations may be significantly more important for an entrepreneur than tax differentials. So too, other tax incentives may be counterproductive. These include tax incremental financing, industrial revenue bonding and low tax levels associated with smaller municipalities which provide fewer services or have lower infrastructure or welfare costs.

To the extent that site value taxation does promote the highest and best use of land, it may have the untoward result of undermining a municipality's desire to preserve older or historic buildings or to provide some low density developments associated with open and green areas in an urban setting. Moreover, the very substance of the highest and best use concept may change over time and be difficult to ascertain at any given time, which makes evaluation of its achievement difficult.

With respect to the negative effect of site value taxation upon land speculation, studies indicate that the predicted result is not clear cut, particularly when expected capital gains outweigh tax differentials. In a sense, land speculation may also be an essential element of a dynamic economy: speculators take a risk in acquiring or holding land in

PART III

LEGAL ISSUES

A variety of legal issues are associated with a valid enactment of land value taxation. This Part summarizes the principal legal factors which may affect a site value tax in Wisconsin. They include the following: (a) constitutional uniformity clause; (b) legal definition of land; (c) assessment methods; (d) tax levy limitations; and (e) constitutional debt limit clause.

A. CONSTITUTIONAL UNIFORMITY CLAUSE

Article VIII, section 1 of the Wisconsin Constitution requires that the rule of taxation be uniform, except that the Legislature may empower cities, villages and towns to "collect and return taxes on real estate" by optional methods and may designate the property subject to tax. The Uniformity Clause authorizes specific exceptions to the uniformity rule for forests, minerals, agricultural and undeveloped land, livestock and inventories of manufacturers and merchants as well as taxes on incomes, privileges and occupations. Thus, the principal tax areas where the uniformity rule applies are property, sales and excise taxes.

Wisconsin courts have interpreted the constitutional Uniformity Clause to mean that all property must be taxed uniformly for all purposes. However, certain property may be totally (but not partially) exempted from taxation, because the Legislature has the authority under the Clause to designate what property is subject to a tax [Hales v. City of Kenosha, 29 Wis. 599 (1872) and Gottlieb v. City of Milwaukee, 33 Wis. 2d 408 (1967)].

In 1965, the Wisconsin Supreme Court ruled that partial exemption of improvements to real estate (certain sewer facilities) was unconstitutional as a violation of the Uniformity Clause [Ehrlich v. Racine, 26 Wis. 2d 352 (1965)]. Again, an attempt to exempt certain home improvements completely was also declared unconstitutional in 1978, because the tax credits to be awarded to landowners for those home improvements resulting in increased property tax assessments violated the Uniformity Clause, which is intended to protect citizens against unequal or unjust taxation [State ex rel. La Follette v. Torphy, 85 Wis. 2d 94 (1978)].

In response to a request for an opinion by the Assembly Chief Clerk, the Attorney General advised the Wisconsin Assembly, on March 8, 1979, that an unintroduced site value proposal having certain specific features would be unconstitutional. The elements of the site value tax proposal

B. LEGAL DEFINITION OF LAND

Common law and most statutory laws include both the geological soil and all improvements under, in or on the soil as "land." For example, for all tax purposes in Wisconsin, the terms "real property," "real estate" and "land" include:

> ...not only the land itself but all buildings and improvements thereon, and all fixtures and rights and privileges appertaining thereto [s. 70.03, Stats.].

To avoid statutory confusion as to what precisely constitutes land and what is an improvement, statutory modification and refinement of the present statutory definition of land may be desirable if a land value tax is enacted.

Another problem related to the definition of land is the nature of the land defined. Is it an unimproved site or is it a site ready for development? Reclaimed land or land with permanent improvements (such as wells, sanitary and utility systems, roads and sidewalks) may pose problems for assessors, unless the statutory definition clearly includes or excludes such factors.

C. ASSESSMENT METHODS

In some ways, assessment practices may be simplified under a site value taxation system because only comparative land values must be determined by assessors. It would no longer be necessary to ascertain the fair market value of the very broad range of present and potential improvements which a particular parcel of land does or might sustain. On the other hand, reliance upon land alone as the principal tax base for municipalities makes accurate assessments of land values more critical for revenue generating capacity and for tax equity purposes. By contrast, errors in land valuation are likely to constitute a minor element in the assessment of land plus buildings or improvements under the current property tax mechanism, particularly in urban settings. This results because usually the improvements are significantly more valuable than the raw land -- often by several orders of magnitude.

It seems to be generally conceded by commentators that valuations of property now are often influenced by the current "use" of a particular parcel, despite statutory directions to ascertain the fair market value for its highest and best use (which implicitly ignores current use). Merely changing to a site value tax may not necessarily correct that predilection. If continued, the bias will not only undercut some of the

constitutional percentages under a land value tax system, would be legally constrained from introducing a land value tax system. Further, removal of all property improvements from the tax base in some or all municipalities may significantly curtail the potential level of permissible bonding by those local governments and school districts. In some cases, the limited tax base inherent in land value taxation may impede a municipality's capacity to borrow funds for the municipal infrastructure (such as streets or water and sewer facilities), which may be necessary to attract or retain private development projects encouraged by the site value tax itself. Bondholders of existing municipal debt may seek judicial remedies to prevent the deletion of the value of improvements from the tax base underlying the municipal debt, on the basis that such deletion would impair their security. Any statutory language proposed for the Legislature's consideration may have to grandfather a sufficient value of improvements in the tax base to cover outstanding municipal debt.

A constitutional amendment to alter the allowable percentages may respond to some of the legal issues involved in debt limits in a land value tax system -- for example, the extent of a municipality's legal authority to borrow. Whether it may adequately respond to financial market requirements for sufficient collateral (taxing power) to warrant new bonding after the conversion from a property tax to a site tax value system is not clear.

PART IV

ADMINISTRATIVE ISSUES

Inauguration of site value taxation, of course, requires a change in the assessment function. Procedures will have to be developed to isolate the value of land from the total value of an improved parcel. Secondly, appropriate review procedures and the allocation of partial interests in land must be determined.

Administratively, it is very difficult for assessors to ascertain the value of unimproved land, especially for parcels where the improvement occurred long ago with the cutting of timber or drainage of water. Therefore, it is possible that assessors will seek to compute the current market value of land in its current or recent status.

This Part only sketches several of the administrative issues which may occur with a site value tax and does not attempt to discuss them in depth. These include: (a) selection of an accurate assessment method; (b) allocation of land values to multiple landowners; (c) determination of highest and best use; and (d) modification of review and appeals procedures.

A. ASSESSMENT METHODS

Four standard methods for assessing land values are: (1) market or sales comparison, (2) land residual ("capitalization"), (3) anticipated development and (4) allocation. Sufficient sales data on unimproved land in a variety of geographic locations would be required to validate the first method under a site value taxation system. The second technique capitalizes the residual income attributable to land that is not otherwise attributable to actual or hypothetical improvements. ["Capitalization" means the determination of the present worth of a future stream of income.] This requires accurate data on income likely to be generated by the property. In the third method, site value is the present worth of a parcel if it were developed, less the cost of development under the assumption that development will occur in the near future. It requires accurate data on values of fully-developed land and in the costs of development. The fourth method of assessing assumes that a particular ratio relationship exists between the value allocated to an improvement and that to the land for each parcel. The ratio varies with the age, condition, physical characteristic and economic suitability of the improvement and requires a suitable data base.

D. REVIEWS AND APPEALS

It is quite possible that going to a new system would trigger a flurry of appeals the first few years.

However, citizen familiarity with land values is generally substantially less than with total property values. Therefore, taxpayers might be less able to detect or protest assessment errors. Moreover, sales data are likely to be unavailable or scarce, which impedes the capacity of the taxpayer to challenge an assessment of land under the site value taxation system.

One possible solution is the preparation of site value maps by the assessors. These may highlight unusual assessments, within various neighborhood areas and, thus, provide a basic tool for review and appeal procedures.

PART V

PROS AND CONS OF SITE VALUE TAXATION

This Part summarizes an extensive and detailed discussion of pros and cons of site value taxation as presented in Ch. VIII, Report Relative to Site Value Taxation, Massachusetts House Report No. 6075, prepared by the Legislative Research Council, March 12, 1980.

A. ARGUMENTS IN FAVOR

1. Economic Arguments

a. The supply, quality, rehabilitation and remodeling of buildings will increase.

b. Redevelopment of blighted urban areas will accelerate.

c. A more efficient allocation of resources will occur because the transfer of ownership to the most intensive user will be facilitated.

d. Employment opportunities will increase.

e. The increased supply of housing, office, merchandise and other units will force down rents and sale prices and, thus, make possible lower prices of products.

f. Speculative land holding will decrease.

2. Equity Arguments

a. Removing the tax on improvements eliminates an unfair tax which penalizes and discourages initiative and enterprise.

b. A tax on land is a tax on unearned income, which is more suitable for heavy taxation than a tax on improvements which are the product of labor and capital.

c. A tax on land values (or the "social surplus" or "economic rent") generally cannot be shifted from the owner whereas a tax on improvements is a taxing of social costs which can be passed on in the form of higher rents.

c. The amount of valuable land held idle will decline.

d. The level of land use with a more valuable potential will rise as the profit motive operates more effectively and brings the level of land use closer to that for which it is zoned.

e. Redevelopment of urban land will be accelerated through the economic feasibility of early and timely recycling of uses of property.

B. ARGUMENTS AGAINST

1. Neutrality of Existing System

a. The site value tax is not an ad valorem or proportional tax on the entire real estate asset. Therefore, a large segment of property value will remain untaxed.

b. A site value tax constitutes a higher percentage of the value of land-intensive real estate developments compared to those with above-average ratios of improvements to land.

c. The existing property tax system is neutral with respect to investment decisions among various alternative types of real estate investments, because the owner cannot reduce his relative tax burden by choosing a particular type of use.

2. Non-neutrality of Ad Valorem Site Tax

Land can only be productive if used. Its current and potential productivity are determined by the improvements that are or will be placed upon the land. Therefore, real estate investment decisions are decisions made with regard to land development, its nature and its timing whereas ownership of land is only part of the entire process.

3. Alleged Benefit of Capital-Intensive Use of Land

Not every case of intensive site development is a laudable activity. Whether artificial stimulation of real estate capital formation by a site value tax is a desirable objective must be decided on the basis of macro-economic public policy analyses for particular situations, rather than on a blanket policy.

c. Society already recaptures a portion of socially created values by means of the federal and state capital gains taxes and through property tax based on capital value.

d. Site value taxation will enable society to share only very slightly in the profitable activities of speculators, while taking an inordinate share from other taxpayers.

9. Control of Urban Sprawl

Site value tax advocates ignore some of the nontax reasons for urban sprawl such as larger lots, better schools or a neighborhood of young families. Business operations may seek larger lots for expansion, to be closer to transportation facilities or to escape areas with growing social problems. Moreover, labor costs are a far greater determinant in business decisions to relocate than taxes are. These factors may overwhelm the effect of the site value tax on controlling urban sprawl.

10. Control of Speculation

a. The major portion of urban land is zoned for use, not for speculation.

b. Elimination of speculation in any field largely destroys risk-taking which is a vital part of human enterprise.

c. Since speculators can be taxed only on the assessed valuation of land, the speculator's purchases and subsequent sales of land could well take place during a rapidly rising market, before reassessments are effective. Thus, speculators may evade the negative pressures of a site value tax.

JMB(DJS):kja;kjh

APPENDIX 1

THE MEMBERSHIP AND STUDY CHARGE OF THE SPECIAL COMMITTEE

INTERRELATIONSHIP OF URBAN AND RURAL POLICIES, SPECIAL COMMITTEE ON

OFFICERS

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MICHAEL G. KIRBY
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FLORENCE WHALEN
Mayor
City Hall
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Oconomowoc 53066

Study Assignment: The Committee is directed to (1) identify and examine state programs and policies relating to preservation of agricultural lands and maintenance of urban centers to determine whether such programs are achieving their intended objectives and whether these objectives are in conflict or produce competition between urban and rural interests; (2) examine the feasibility and advisability of authorizing incorporated municipalities to levy real property taxes on the value of land only, rather than on the value of land and improvements, to determine what effect such a tax would have on the development and improvement of land within such municipalities and adjacent unincorporated territory; and (3) make recommendations for any needed modifications in the Constitution or various state programs, to assure maximum compatibility between competing or conflicting interests and to promote a consistent and coherent approach to the resolution of problems which are identified in the study. The Committee is directed to report to the Council by January 17, 1983.

Established at the May 27, 1982 Legislative Council meeting, pursuant to a May 14, 1982 letter from Rep. Michael G. Kirby and A.J.R. 32, introduced by Rep. Kirby and others.

11 Members: Appointed at the May 27, 1982 Legislative Council meeting: 4 Representatives; 1 Senator; and 6 Public Members.

Legislative Council Staff: Russ Whitesel, Senior Staff Attorney; Janice Baldwin, Senior Staff Attorney; Leslie Glustrom, Science Analyst and Kathy Annen, Secretarial Staff.

NATIONAL TAX JOURNAL

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NTA-TIA MEETINGS

Spring Symposium—Marriott Crystal Gateway Hotel
Arlington, VA, May 16–17, 1988

18th Public Utility Workshop—Wichita State University
Wichita, KS, 1988, July 24–28, 1988

81st Annual Conference—Des Moines Marriott Hotel
Des Moines, IA, September 25–28, 1988

(5) HB 475

ALASKA ASSOCIATION OF ASSESSING OFFICERS

Hon. Henry Springer, Representative
Chairman
House Commi tee, Community and Regional Affairs

CS FOR HOUSE BILL NO. 475

The Alaska Association of Assessing Officers would like to take this opportunity to inform you and the Committee of our position in regard to HB #475.

I have consulted with a majority of assessors throughout the State in regard to HB #475, and the unanimous consensus was an unqualified opposition to the bill. HB #475 contains so many problematic aspects that it is difficult to single out any one given point. Particular attention should be drawn to such ambiguities as: increases substantially, in the area, plans for, and undeveloped land. This particular language would make the implementation and administration of this bill a logistical and quantitative nightmare.

It is also felt that although the bill's intent and focus is of singular interest, it would have much further reaching and devastating impact to other areas of the assessment jurisdiction.

The bill is contradictory to State law req iring that property taxation and assessment be based on fair market value. This concept is designed for the distinct purpose of insuring the fair and equitable distribution of the local tax burden. HB #475 would destroy any semblance of equity.

Because of these concerns and other probable impacts, the Alaska Association of Assessing Officers is hereby on record as diametrically opposing HB #475 in it's entirety.

Sincerely,

Wayne Haerer, Jr.

Wayne Haerer, Jr. by (fc)
President
Alaska Association of Assessing Officers

(6) HB 475

Matanuska-Susitna Borough

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ASSESSMENT DEPARTMENT

APR -6 1988

APR -6 1988

April 6, 1988

TO: House Community & Regional Affairs Committee
Representative Heinrich Springer, Chairman
Committee Members - B.Cato; A.Herrmann; V.Collins; J.Zawacki

FROM: Gary A. Lewis, Borough Assessor

SUBJECT: HB475

As Assessor of a community with many rural large parcels of land, we view the exemption of property tax, based on influences of other property use, plans, or actual construction not in the public interest.

The concept presented in HB475, for a very small number of citizens, ignores important reasons for appreciation of value which are real and recognized in the market place.

Departure from the cornerstone of uniform and equitable assessment, based on market factors contained in AS29.45.110, is ominous in a state known for equity in assessment statute and practice.

This concept introduces a different standard of assessment level for classes of property. It is quite different from Farm Use Assessment where tax is partially deferred based on agricultural use and with legislative intent to maintain open space. This bill is not motivated by issues of public benefit but directed to benefit a small number of 40 acre parcel owners who can bank on increased market value resulting from adjacent development.

This bill disturbs the concept of uniformity and equity but also bases assessment on property ownership rather than market value of property. Without very strict standards defining "substantially", "plans", "major" and "time of increasing", I have professional reservation that these determinations can be made or supported. I can visualize very strong argument that a Comprehensive Land Use Plan change or proposed highway, school, resort, etc. would affect large areas and have overlapping spheres of influence which would seriously affect local governments, but, worse, increase the local effort required from those not benefitted by the major development.

For those few 40 acre plus landowners who feel threatened, opportunities exist in zoning ordinances to restrict highest and best use of property and thus affect value assessed.

cc: Wayne Haerer, President AAAO
Mike Worley - State Assessor
Scott Burgess - AML Exec. Director