Connecticut's Land Use Value Assessment Law

PUBLIC ACT 490

A Practical Guide and Overview for Landowners, Assessors and Government Officials

A Publication of
Connecticut Farm
Bureau Association, Inc.

ACKNOWLEDGEMENTS

This guide was produced by Connecticut Farm Bureau Association in cooperation with the Windham Region Council of Governments and the Connecticut Department of Agriculture.

Connecticut Farm Bureau Association would like to express its appreciation to the advisory committee members for their support and assistance: Jana Butts, AICP, Senior Planner, Windham Region Council of Governments; Ronald Olsen, Marketing/Inspection Representative, Connecticut Department of Agriculture; Joseph Dippel, Farmland Preservation Director, Connecticut Department of Agriculture; Christopher Martin, Director/State Forester, Connecticut Department of Environmental Protection Division of Forestry; Carolyn Nadeau, CCMA II Assessor Watertown/Bethlehem, Connecticut Association of Assessing Officers; David Pinney, Somers First Selectman, Connecticut Council of Small Governments; Joyce Okonuk, Lebanon First Selectman, Connecticut Conference of Municipalities; Benjamin Bowell, New England Field Representative, American Farmland Trust; George Malia, Senior Branch Appraiser, Farm Credit East; and Thomas Henry MAI, Managing Partner, T.W. Henry Real Estate Appraisals.

The Association would also like to thank: Jane Marsh, Attorney at Law, Marsh and Bourgy, LLC.; Elisabeth Moore, Conservation Director, Connecticut Farmland Trust; Jiff Martin, Connecticut State Director, American Farmland Trust; Lance Shannon, Property Agent 2, Connecticut Department of Agriculture; Philip Chester, Lebanon Town Planner; Christopher Watts, President, Precision Marketing; Amanda Freund, Director of Membership Recruitment and Retention, Connecticut Farm Bureau Association; Margaret Chatey, Marketing Communications Specialist, Connecticut Farm Bureau Association; Tracey McDougall, Connecticut Farm Bureau Association; and Morgan Fields, Intern. The publication was designed by Denise Metter Forrest.

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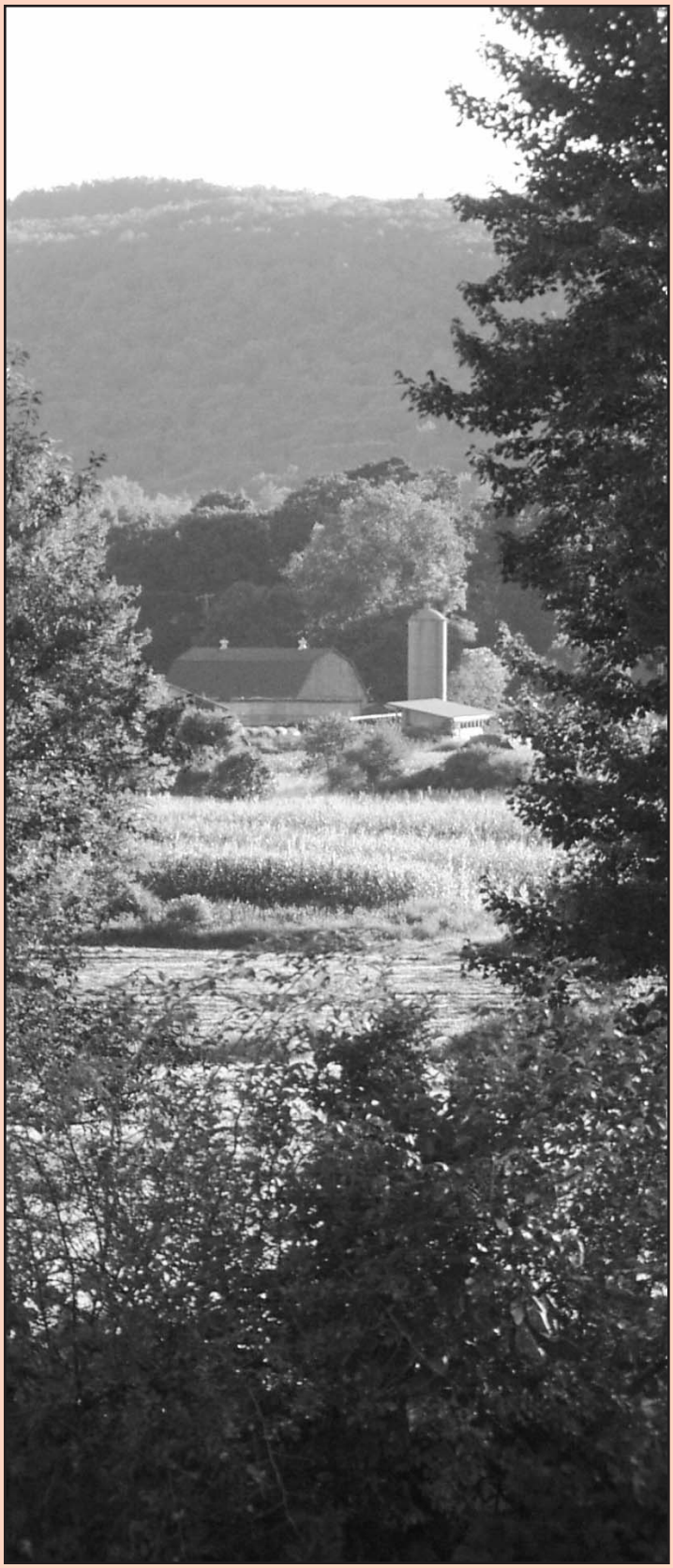

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FORWARD

In 1963, the Connecticut General Assembly enacted **Public Act 63-490, an act concerning the taxation and preservation of farm, forest or open space, commonly referred to as "PA 490."** This act has become one of the most important laws to help preserve an agricultural, forest, and natural resource land base in Connecticut.

For more than 25 years, Connecticut Farm Bureau Association has published and distributed a ***PA 490 Guide***. This publication is intended to be a practical guide and to provide an overview of PA 490 for landowners, assessors, government officials, and others wanting to understand how this law is applied.

Connecticut Farm Bureau Association is a non-profit membership organization dedicated to farming and the future of Connecticut farms. Connecticut Farm Bureau serves its members by advocating for agriculture, and educating the public and elected officials on issues that keep farm families productive: economic viability, land use, labor, taxation and the protection of farmland. Connecticut Farm Bureau's work of proactively representing the interest of farmers is vital to providing safe, locally grown, farm-fresh products and a high quality of life for all Connecticut residents.

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A Publication of
Connecticut Farm Bureau Association, Inc.
2010

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PURPOSE AND INTENT OF PA 490

PA 490 is the single most important land use legislation codified in the Connecticut General Statutes (CGS). The integrity of this act and the manner in which it is administered is vital to Connecticut's working lands and natural resources. Connecticut landowners are the actual caretakers and taxpayers of this land. PA 490 enables these landowners to pay tax on PA 490 land at its current use value rather than highest value. This critical component of PA 490 prevents the forced conversion of farm, forest and open space lands to more intensive uses as a result of property taxation that is incompatible with current land uses.

The purpose and intent of PA 490 has been affirmed by several court cases including:

- ***Johnson v. Board of Tax Review of Town of Fairfield***
- ***Rustici v. Town of Stonington***
- ***Bussa v. Town of Glastonbury***
- ***Burnett v. Town of Kent.***

Whether the local assessor, the courts, or the state agree or disagree with PA 490's intent or consequences is irrelevant in settling disputes of eligibility in a court of law. The courts have also ruled that the purpose of the act is to aid conservation and not merely to aid food production alone. Regardless of one's opinion or agreement with the stated intent and purpose of PA 490, the statute must be administered in a manner consistent with the actual intent and purpose of the act. To do otherwise, would be in violation of the public policy set forth in the legislation.

Unlike many tax statutes, PA 490 includes a Declaration of Policy, which is public policy and therefore must be given considerable weight in making any decision pertaining to this public act. Full awareness of the intent and purpose of PA 490 is essential for those responsible for administration of the law and for those who want to understand it properly. **This purpose and intent is clearly spelled out in Section 12-107a of the Connecticut General Statutes, Declaration of Policy:**

(a) that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state,

(b) it is in the public interest to prevent the forced conversion of farmland, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland, forest land and open space land, and

(c) that the necessity in the public interest of the enactment of the provisions of sections 7-131c and 12-107b to 12-107e, inclusive is a matter of legislative determination.

THE CREATION OF PA 490

In the late 1950's and early 1960's, there was a great deal of pressure to convert open and undeveloped land to more intensive uses as Connecticut's population and business industry grew. As land prices soared, prohibitively high "fair market value" property assessments made it increasingly difficult for landowners to continue low-intensity uses of their land. At the same time, farmland was being rezoned for residential, commercial, and industrial development. As a result, land was being appraised and assessed at much higher values than for how the land was being used. As a result, many farmers and landowners had to sell their family lands to pay their real estate tax bills.

Pressure to develop did not stop with farmland. Sportsmen and other conservationists were alarmed at the loss of wildlife habitat as well as degradation of water quality. Forest land, watersheds, and other natural habitat areas were being purchased and developed into incompatible uses at an alarming rate.

In 1962, William H. Whyte was retained by the then Connecticut Department of Agriculture and Natural Resources to prepare a report on Connecticut's natural resources. The Whyte Report recommended that farmland be given preferential taxation treatment. An Open Space Task Force then was established by Governor John N. Dempsey, and among other recommendations, it proposed that a new preferential taxation law be enacted for farm, forest, and open space land. Connecticut was one of the first states to enact current land use assessment legislation. Today all states have programs to reduce local real estate property taxes on farmland, forestland and undeveloped open space.

In 1963, the Connecticut Legislature enacted Public Act 63-490, **an act concerning the taxation and preservation of farm, forest and open space**. Commonly referred to as "PA 490," this act has become one of the most important laws to help preserve an agricultural, forest, and natural resource land base in Connecticut. It is included in the Connecticut General Statutes as Section 12-107. The purpose of this act must be understood and implemented in accordance with the intent of CGS Section 12-107a Declaration of Policy.

PA 490 provides for four major types of land use classification: farmland, forest land, open space, and maritime heritage land. Land classified under PA 490 as farm, forest, open space, or maritime heritage is assessed based on the current "use value" of the land. "Use value" refers to what the land is actually used for rather than what it might be worth on the open market, i.e. its highest and best use.

Farmland, forest land, open space and maritime heritage land require few if any public services such as education. Use value taxation is therefore warranted for these lands that have limited impact on local government expenditures. Use value taxation also reflects the concern that market value taxation would result in forced conversion of valuable farmland, forest land, and open space into incompatible uses. This conversion can cost municipalities far more in the long run than the presumed loss of a percentage of current tax revenues.

There have been few changes to PA 490 since its enactment in 1963. In 1972, a recapture conveyance tax penalty was enacted on the removal of land from PA 490 classification. The conveyance section also defined a series of exceptions that would not be subject to the recapture. In 2005, Public Act 05-190 put forth changes to the Conveyance tax section of PA 490. In 2007, CGS Section 12-107b was amended and defined waterfront land, known as Maritime Heritage Land for commercial lobster fishermen, as being eligible for classification under PA 490, with the assessor being responsible for determining eligibility.

The act works best if it receives consistent interpretation throughout the state. There are often different opinions regarding the interpretation of PA 490 and it is the intention of this practical guide to clarify some of those issues.

EFFECTS OF PA 490 ON LOCAL TOWN BUDGETS

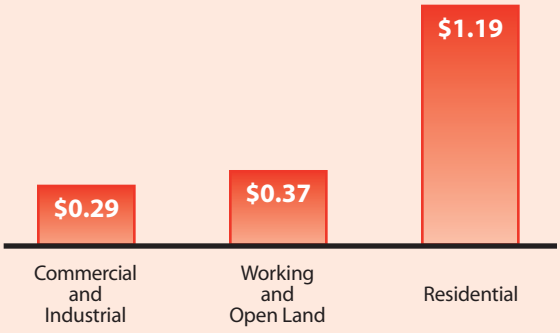
Studies done across the nation have conclusively demonstrated that property tax revenues generated by farm, forest, or open space land are far greater than the town's expenditures to service that land. This is true even when land is assessed at its current agricultural use.

In contrast, the residential sector costs a town more to service than the amount of property tax generated from that sector. Cost of Community Services (COCS) studies are a case study approach used to determine the average fiscal contribution of a variety of land uses based on municipal data. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial land uses. In every community studied, farmland and forest land owners pay more in taxes than the value of the public services they receive from local governments, while homeowners receive more services than their taxes support. Farmland and forest land generate a fiscal surplus to help towns offset the shortfall created by residential demand for public services.

In 1993, the Southern New England Forest Consortium conducted studies on several towns in Southern New England. In Connecticut, four towns (Durham, Farmington, Litchfield, and Pomfret) were studied. These towns averaged 44 cents in services for every dollar collected for the farm, forest, and open space land, while the residential sector cost $1.14 for every dollar of tax revenue. The other state's results showed a similar impact. More recent studies completed for other towns in Connecticut have drawn the same conclusion.

Information presented in this section was adapted from *Fact Sheet*, Cost of Community Services Studies, American Farmland Trust, August 2007.

National Median Cost Per Dollar of Revenue Raised to Provide Public Services to Different Land Uses



Source: *Fact Sheet*, Cost of Community Services Studies, American Farmland Trust, August 2007.

Cost of Community Services Studies, Revenue to Expenditure Ratios in Dollars

The cost of services for every dollar paid in local taxes

	Residential Including Farm Houses	Combined Commercial and Industrial	Farm/ Forest/ Open Land	Source
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geyser, 1998
Brooklyn	1 : 1.09	1 : 0.17	1 : 0.30	Green Valley Institute, 2002
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : .032	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Lebanon	1 : 1.12	1 : 0.16	1 : 0.17	Green Valley Institute, 2007
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Windham	1 : 1.15	1 : 0.24	1 : 0.19	Green Valley Institute, 2002
Median	**1 : 1.11**	**1 : 0.26**	**1 : 0.31**	

RECOMMENDED PA 490 LAND VALUES

CGS Section 12-63 Rule of Valuation states that: *The present true and actual value of land classified as farmland pursuant to Section 12-107c, as forest land pursuant to Section 12-107d, as open space pursuant to Section 12-107e or as maritime heritage land pursuant to Section 12-107g, shall be based upon its current use without regard to neighborhood land use of a more intensive nature.*

What this means is that classified land will not be assessed at the higher fair market value but at a lower land use value. This has been affirmed by the courts: *Rustici v. Town of Stonington 1977* and *Bussa v. Town of Glastonbury 1968*.

CGS Chapter 201 Section 12-2b provides that the Office of Policy and Management in consultation with the Commissioner of Agriculture shall develop a recommended schedule of land use values for PA 490 valuation. These values are required to be updated every five years. These recommended values are made available to each municipality and to the general public.

It is strongly urged that towns use these values. However, a municipality may choose not to use these recommended values. If this occurs, the values used by that town for each classified property must be supported by data and an approved methodology. Values other than those recommended by the Office of Policy and Management must be justified in the context of CGS Chapter 203 Section 12-63: Rule of valuation.

METHODOLOGY USED TO OBTAIN RECOMMENDED PA 490 FARMLAND USE VALUES

The development of the Public Act 490 2010 Land Use Values, based on the capitalization of rent, was initiated in June of 2009 by the Connecticut Farm Bureau Association in cooperation with the Connecticut Department of Agriculture, and the PA 490 Guide Advisory Committee that redesigned the Net Rental Land Use Value Survey (See Appendix C). This tool proved quite successful as the information received was more reliable, and much easier to understand and interpret than in the past 2000 and 1995 surveys. More than 1,500 surveys were distributed using mailing lists compiled by Connecticut Farm Bureau Association and the Connecticut Department of Agriculture. The survey also was distributed at various agricultural meetings and venues and through personal contact by Farm Credit East, the Connecticut Department of Agriculture, Connecticut Farm Bureau, Farm Service Agency, and the Natural Resources Conservation Service. The importance of returning the survey was emphasized, and 129 individual farmers and property owners returned surveys representing 361 individual rent values (332 were used, equaling 89%). The 2009 survey provided more usable data compared to the 2000 survey, which included 742 rents (635 were used, equaling 85%). The total number of submitters in 2000 was not counted.

An overview of the data indicates a significant increase in the dollar per acre rents for Tillable A and Tillable B farmland, particularly river valley land. There are two reasons for this increase. One, the rent information has not been collected for ten years, and two, the continued decline in the amount of quality valley farmland available with fewer, but much larger and dominant farms. Farmers are competing for this land not only through rental agreements, but as evident in the marketplace. The demand is a combination of a very strong residual tobacco industry, coupled with a strong demand for valley land for fruits and vegetables.

For the less productive Tillable C and D land, the competition is varied. There are a number of large dairy farms with over 500 cows. Only a small number of these farms submitted rental information, believed to indicate the significance of competition for rental lands. The other significant factor is the percentage increase in the amount of land that is being rented for no cash consideration. In 2000, the total percentage of rent values submitted as zero was 15% and in 2010 it was 37%. This also indicates there is more Tillable C, Tillable D and pasture land in the hands of non-farmers who want to keep their land open by allowing farmers to use their land for no fee. A few landowners were receiving non-cash consideration from

PA 490 Land Classes

Type	Description	Soils and Limitations
Tillable A	Excellent. Shade tobacco, nursery, some cropland.	Light, well-drained, sandy loams, typically flat or level, no stones
Tillable B	Very Good. Binder tobacco, vegetables, potatoes, some cropland.	Light, well-drained, sandy loams, typically level to slightly rolling, may have some stones
Tillable C	Very Good to Good. Quite level. Corn silage, hay, vegetables, potatoes, cropland.	Moderate heavier soils, level to rolling, may have stones.
Tillable D	Good to Fair. Moderate to considerable slope. Hay and rotation pasture.	Heavier soils, may be sloped and hilly, stones and seasonal wetness may be limiting factors. Christmas trees.
Orchard	Fruit orchard.	May include grapes and berries.
Pasture	Permanent pasture, unmanaged pasture, not tilled, grazing.	May be heavier soils too wet or stony to till for crops, may be wooded area. Christmas trees.
Swamp, Ledge, Scrub	Wetlands, ledge outcroppings.	Non-farmable areas that also make up the farm unit.
Woodland, Forest	Forest land associated with the farm unit.	Non-farmable areas that also make up the farm unit.

their tenant farmers, such as overseeing dwellings, maintenance of fence rows, snow plowing, or a portion of the crop. Whenever possible, non-cash considerations were converted to a cash equivalency; so these were not counted as zero rents.

The purpose of the collection of the rents is to capitalize them into a value. The capitalized value is the income divided by a specified rate to equal the value per acre of each land class for its use for agriculture-based assessment.

The capitalization rates were developed beginning with the recommended PA 490 formula, which is from the Federal Land Bank, now the long-term mortgage lending arm of the Farm Credit Service. The five-year rolling average is 6.49%. This rate is divided by 95% to reflect the value of the stock purchase required by the member owners of the Farm Credit Service, then added to the statewide effective tax rate of 2.3%. This results in a capitalization rate of 8.44%.

A second set of rates was developed by a mortgage equity band of investment. Mortgage equity band of investment includes the Farm Credit rolling average of 6.5%, a 75% loan-to-value ratio, and a 15% return on equity with a ten-year holding period, plus the 2.3% effective tax rate. This results in a rate of 11.5%. This is the method used in Massachusetts.

The buildup method of rate determination includes the mortgage rate and a risk rate. A buildup rate can be used taking the mortgage rate and adding it to a risk rate. Five year AAA Bonds range from 2.9% to 3.6%. European International Bank is at the bottom of that range at 2.92% and Johnson and Johnson at the top at 3.58%. This creates a range of 9.12% to 10.08%. The capitalization rate becomes 11.42 % to 12.38% when the effective tax rate of 2.3% is added.

The alternative risk factor for the buildup rate on the buildup methods of investment is to use the Ten-year Treasury Bill, which is currently at 3.73%. When added to the mortgage rate of 6.5% and the effective tax rate of 2.3%, the capitalization rate becomes 12.53%.

All of the rates considered provide a basis for a range of capitalization rate for rents from 8.44% to 12.5%. The lower rates represent lower risk, which is not necessarily associated with land. The higher rate represents more risk, which is more associated with land as it is a less-liquid commodity, and larger parcels take longer to sell and have fewer buyers because of their size and overall price.

PA 490 2010 Summary Grid — Land Values per Acre

State Wide	# RENTS	Mean	12.50%	2010	2005	2000	1995	1990	1982	1977	1972
Tillable A	18	$291	$2,328	$2,400	$1,220	$1,210	$1,210	$1,180	$910	$750	$500
Tillable B	31	$192	$1,536	$1,600	$720	$700	$400	$560	$490	$325	$250
Tillable C	102	$46	$368	$400	$445	$400	$270	$530	$410	$150	$125
Tillable D	143	$26	$208	$225	$335	$320	$270	$310	$220	$150	$0
Orchard E	11	$84	$672	$750	$1,100	$1,000	$810	$1,010	$640	$325	$200
Pasture F	21	$10	$80	$90	$165	$240	$150	$170	$130	$100	$50
Swamp, Ledge Scrub G	6	$5	$40	$40	$40	$40	$40	$0	$20	$10	$10
Woodland/Forest Land				$130	$190	$160					
River Valley											
Tillable A	16	$327	$2,616	$2,800	$1,665	$1,450	$1,210	$1,180	$920	$1,000	
Tillable B	26	$224	$1,792	$2,000	$1,110	$1,000	$420	$580	$640	$475	
Tillable C	23	$137	$1,096	$1,100	$665	$630	$400	$530	$450	$275	
Tillable D	6	$70	$560	$600	$445	$490	$400	$380	$275	$275	
Orchard E	4	$177	$1,416	$750	$1,300	$1,200	$1,170	$1,180	$640	$325	
Pasture F	7	$6	$48	$90	$220	$300	$180	$170	$140	$100	
Swamp, Ledge Scrub G	3	$0	$0	$40	$40	$40	$40	$0	$20	$10	
Woodland/Forest Land				$130	$190	$160					

The PA 490 2010 Summary Grid, above, shows the mean or average of each land class organized statewide and by river valley rent per acre by land class. The average of each individual rent category is capitalized by the range of suggested capitalization rates and a value per acre that has been determined based on these rates, most of which fall within the range created by the 11.5% and 12.5% capitalization rates. The overall history of the rates shows that there has been no significant change in the per acre land value from 1990 to 2005. For Tillable A land the statewide average land value was $1,180 and in 2005 was $1,220. The 2010 Statewide Tillable A value will be $2,400, a significant increase. This is not without precedence. In the 1970's, the rates had not been dramatically changed since the initiation of the program in 1963 and the Tillable A rates from 1972 to 1982 were increased from $500 per acre to $910, and then ultimately to $1,180 in 1990. This reflects the change in the increase in demand for better quality land. These trends can also be found to be consistent and have fewer dramatic changes with some drop in values on the Tillable Class C and D because this land is in less demand, as evidenced by a much higher percentage of it being rented for no consideration.

The final PA 490 value per acre by land class recommendations were made based on the capitalization rate range of 11.5% to 12.5%. In addition, a comparison between each land class was made to maintain consistency with a comparison of the previous seven recommendations going back to 1972. The grid above displays the recommendations.

METHOD USED TO OBTAIN PA 490 FOREST LAND VALUES

Historically, the state Department of Environmental Protection, Division of Forestry has calculated the "use value" of forest land for purposes of CGS Section 12-107. The same value is also generally used as the "woodland" value in a farm unit.

Statistics are from the publication *Forest Statistics for Connecticut 1985 and 1998* published by the United States

Department of Agriculture Forest Service. As an example, the following tables were used to calculate the Use Value for Forest Land for October 1, 2000:

Table 1 – Land area by land class, Connecticut, 1985 and 1998.

Table 23 – Number of growing stock trees, 5.0+ inches diameter breast height (d.b.h.) on timberland by species and diameter class, Connecticut, 1998.

Table 37 – Net volume of sawtimber trees on timberland by species and diameter class, Connecticut, 1998.

Table 40 – Average annual net growth and average annual removals of growing-stock volume on timberland by species, Connecticut, 1984-1997 (cubic feet).

Table 44 – Average annual net growth and average annual removals of sawtimber volume on timberland by ownership class and species group, Connecticut, 1984-1997 (Board feet).

In addition, the following definitions from the Forest Service publication must be mentioned:

Sapling/seedling stand: A stand-size class of forest land that is stocked with at least ten percent of minimum full stocking with live trees with half or more of such stocking in saplings or seedlings or both.

Poletimber stand: A stand-size class of forest land that is stocked with at least ten percent of minimum full stocking with live trees with half or more of such stocking in poletimber or sawtimber trees or both, and in which the stocking of poletimber exceeds that of sawtimber.

Sawtimber stand: A stand-size class of forest land that is stocked with at least ten percent of minimum full stocking with all live trees with half or more of such stocking in poletimber or sawtimber trees or both, and in which the stocking of sawtimber is at least equal to that of poletimber.

Based upon these definitions, it is apparent that sawtimber volume may occur throughout both the sawtimber and poletimber stands and maybe even sapling/seedling stands. Therefore, for the purpose of calculating the use value of forest land of a "typical" acre, the entire timberland acreage is used as the base.

The following steps are utilized in determining the use value of forest land:

1. Determine growth per acre.
2. Determine relative frequencies of individual species.
3. Determine the relative frequencies of the hardwood and softwood groups.

It should be noted that stumpage values since 2000 have declined and that the recommended value is heavily influenced by the capitalization rate applied to all PA 490 land uses. The 2010 forest/woodland value is influenced by reduced stumpage value and increased cap rate.

Notice of Assessment Increase and Methodology

CGS Section 12-55(c): Each notice of assessment increase sent pursuant to this section shall include: (1) The valuation prior to and after such increase; and (2) information describing the manner in which an appeal may be filed with the board of assessment appeals. If a notice of assessment increase affects the value of personal property and the assessor or board of assessors used a methodology to determine such value that differs from the methodology previously used, such notice shall include a statement concerning such change in methodology, which shall indicate the current methodology and the one that the assessor or assessors used for the valuation prior to such increase. Each such notice shall be mailed not earlier than the assessment date and not later than the tenth calendar day immediately following the date on which the assessor or board of assessors signs and attests to the grand list. If any such assessment increase notice is sent later than the time period prescribed in this subsection, such increase shall become effective on the next succeeding grand list.

4. Determine the statewide median stumpage prices for the species noted in number 2 above. The stumpage prices are reported in the Southern New England Stumpage Price Survey Results produced as a joint effort by Cooperative Extension (University of Connecticut and University of Massachusetts) and the state forestry agencies in Connecticut and Massachusetts. The average prices should reflect the most recent five-year period for which results are available, e.g. second quarter, 1995 through second quarter, 2000. Fuelwood and pulpwood figures are also calculated.
5. Determine the weighted contribution to the average price per thousand board feet (MBF) for all species and sum all hardwoods for a hardwood total and all softwoods for a softwood total. The relative frequency used should be the one determined for trees 11.0" d.b.h. and larger due to the fact that sawtimber values are being calculated.
6. Determine the use value per acre for hardwood and softwood sawtimber and fuelwood (hardwood) and pulpwood (softwood).
7. Divide the total value above by an appropriate capitalization rate.

This method was applied to obtain the 2010 PA 490 land values for forest and woodland using updated stumpage data and a cap rate of 12.5% to arrive at $130 for 2010.

FARMLAND CLASSIFICATION

ABOUT CONNECTICUT AGRICULTURE

Connecticut agriculture continues to evolve as it has since the land use assessment program embodied in PA 490 was enacted in 1963. Family farms, considered the cornerstone of "traditional agriculture", have evolved into smaller and more diversified farms. Some farms, mainly dairy, have become larger and typically use a great deal of rented and leased land, while others have become smaller and more specialized. Today, farms in Connecticut are diverse and include: organic operations, orchards, vegetables, tobacco, vineyards, Christmas trees, nurseries, greenhouses, maple syrup, horses, shellfish, goat and cow cheeses, fruit and berry juices, wine, wool, grass-fed beef, manure flower pots, micro-greens, poultry, eggs and honey among others. According to the 2007 Census of Agriculture, Connecticut has 405,616 acres of land in farms (including cropland, woodland, and shellfish grounds) and 1,227,000 acres of commercially-viable forest land. The average farm size is 83 acres, the third smallest in the U.S. More than half of Connecticut's 4,916 farms are less than 50 acres. The average age of a farm operator is 55 years. However this ratio is beginning to change, and many new farmers are entering the marketplace to help meet this demand for locally grown products. This has meant a change in the diversity of farms, what they produce, and an increase in direct marketing retail sales. Farms in the state ranked first in New England in terms of market value at $1,360 per acre.

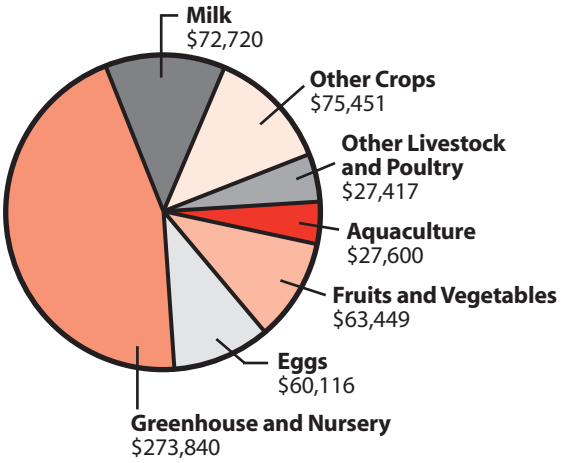
Using remote sensing technology to detect land use changes between 1985 and 2006, recent research by the University of Connecticut has identified changes in the state's agricultural land use. By 2006, the state had lost 39,522 acres of the agricultural fields present in 1985—a 14.5% decrease.

— *University of Connecticut, Center for Land Use Education and Research, Agricultural Fields and Soils in Connecticut, 2010*

Connecticut farms provided an estimated $511 million in cash receipts in 2007 and also provided $442 million annually in environmental benefits such as maintaining habitats and buffers, filtering water, and reducing flooding.

What does this all mean in the context of PA 490? It means that preserving farmland, woodland, and open space is of utmost importance in this century. Agricultural soils are the backbone of the agricultural sector. The re-emergence of the local food movement means that there is a need to maintain a land base in order to meet the consumer demand for locally grown farm and forest products. Unfortunately, the loss of farmland to non-agricultural use is a constant threat. Between 1985-2006 Connecticut lost on average 1883 acres annually.[1] If the land base continues to transfer to other uses at the present rate, Connecticut farmers and forest owners will not be able to meet the ever-growing demand for locally grown agricultural products.

Connecticut Cash Receipts – 2008
By Commodity in Thousands of Dollars



Connecticut Total = $600.6 Million

Other Livestock and Poultry does not include milk, eggs and aquaculture.

Fruits and Vegetables = sweet corn and other vegetables; apples, peaches, berries, and other fruit.

Other Crops = hay, tobacco, maple syrup, and all other crops.

Source: United States Department of Agriculture

[1] *Connecticut's Changing Landscape, Version 2*, University of Connecticut, Center for Land Use Education and Research, 2006.

This is why the PA 490 classification is so important. It protects land against higher-level property taxes that could otherwise induce landowners to sell their land. This is what the intent and purpose of the act attempt to control. The PA 490 program is Connecticut's principal means to ensuring the availability of farmland for production.

THE ROLE OF ASSESSOR, LANDOWNER AND STATE AGENCIES IN FARMLAND CLASSIFICATION

Role of Assessor: CGS Section 12-107(c) states that the local assessor is charged with determining what will or will not qualify as PA 490 farmland. This determination should be done in a fair and equitable manner within the statutory requirements giving due consideration to the intent and purpose of the law. The assessor should be certain that an application is completed in full and signed and dated by the landowner(s).

It is advisable for assessors to communicate with other public officials within their town when undertaking any taxation issues such as questionnaires, changes in format, review of previous assessor's work, etc. Due to the potential increase in inquiries from taxpayers, all town officials should be informed especially during times of revaluation.

Role of the Farmland Owner: The primary role of the farmland owner is to keep the land in agricultural use in order to maintain the PA 490 classification. Applications for new PA 490 farmland should be completed and filed within the required filing periods set forth in CGS Section 12-107c(a). Form M-29 should be completed in full and signed and dated by the landowner(s). It may be helpful to provide supporting documentation such as aerial photos or maps of the farming operation and to clarify any questions the assessor may have regarding information on the application. Farmers should be general enough in their description of their farming operation to include all activities in which they are engaged, recognizing their initial statement needs to remain accurate for as many years in the future as possible. Applications that are not filed within the prescribed time frame or are incomplete will not be accepted for PA 490 farmland classification. The landowner should request a copy of the fully-signed and dated application from the assessor at the time of filing. **It is very important that landowners keep signed and dated copies of any documents that are submitted to the assessor.** The signed and dated application is critical should a classification ever be questioned or an issue of the conveyance recapture tax arise. **Landowners should not rely on the town to keep records for them.**

It is critical that owners of PA 490 farmland respond in a timely manner to any mail from the assessor's office regarding their farming operation. Open communication between landowners and the assessor is essential to maintaining the farmland classification and for avoiding problems in the future.

Role of the State Agencies: The state has several roles. CGS Section 12-107c(b) of the statutes says that the application for classification of land as farmland shall be made upon a form prescribed by the Commissioner of Agriculture (Form M-29), which is available from the assessor's office.

CGS Section 12-2b of the state statutes states: *The Secretary of the Office of Policy and Management shall: (1) In consultation with the Connecticut Department of Agriculture develop schedules of unit prices for property classified under CGS Sections 12-107a to 12-107e inclusive, update such schedules by October 1, 1990, and every five years thereafter, and make such data, studies and schedules available to municipalities and the public.* These are the Recommended Use Values shown in Appendix D. They are sent to all assessors in the state.

CGS Section 22-4c(4) addresses the powers of Commissioner of Agriculture: *provide an advisory opinion, upon request of any municipality, state agency, tax assessor or any landowner as to what constitutes agriculture or farming pursuant to subsection (q) of section 1-1, or regarding classification of farmland or open space land pursuant to sections 12-107b to 12-107f, inclusive.*

Although the local assessor actually approves the classification, the state Department of Agriculture may be involved in determination of status. Other sources of information or assistance are available from the Connecticut Farm Bureau Association, the University of Connecticut College of Agriculture and Resources, and local United States Department of Agriculture offices.

DETERMINATION OF PA 490 FARMLAND

The first thing that landowners making an application for PA 490 farmland classification should understand is that the town assessor has the authority to determine what may or may not qualify for such designation in accordance with state statutes and the intent of the act. The determination that land is PA 490 farmland or agriculture is not always obvious. Today, it is not unusual for a farm to be rather small in size, or for a farmer to be in the business on a part-time basis with outside supporting sources of income. Often non-farmer owned parcels are leased to farmers, and larger tracts of farmland often have absentee landowners. Many farms are fragmented into numerous parcels, and often existing farms are not utilized as they historically have been due to numerous factors.

The question that is frequently asked, and one that should be addressed and resolved early in the application process is, "What is farming?" Because agriculture in Connecticut is such a diverse and changing industry, it is important to refer to the state definition of agriculture, Connecticut General Statute 1-1q, in determining whether land qualifies as farmland:

Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations: the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoophouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels, and other molluscan shellfish, on leased, franchised and public underwater farmlands. Nothing herein shall restrict the power of a local zoning authority under Chapter 124.

In 2005, PA 05-160 "An Act Concerning the Definition of Agricultural Operations" was passed. This legislation allows the Connecticut Department of Agriculture to provide an advisory opinion as to what constitutes agriculture or farming, pursuant to subsection (q) of §1-1 and regarding the classification of land as farmland or open space pursuant to §12-107b to §12-107f, inclusive. The Department of Agriculture may provide such an advisory opinion at the request of a municipality, state agency, assessor or landowner.

THE FARM UNIT

CGS 12-107b defines the term "farmland" as *any tract or tracts of land, including woodland and wasteland, constituting a farm unit.* A farm unit is not defined, although the general interpretation is something functioning as a whole farming operation. CGS Section 12-107c provide that the local assessor shall determine farmland for PA 490 purposes. The PA 490 statute does not define agriculture, however, agriculture as defined in CGS Section 1-1(q) is synonymous with farmland. This definition has been challenged in the courts and the courts have sided with the definition when used for PA 490.

- *Holloway Bros., Inc. v Town of Avon (1965)*
- *Johnson v. Board of Tax Review of the Town of Fairfield (1970)*

Although woodland and wasteland could easily be considered as non-productive to the farm operation, the inclusion of these lands recognized that the vast majority of Connecticut farms contain wetlands, hedgerows, outcrops, stony pastures, and woodlands as part of the landholding. Woodland and wetlands contribute to environmental quality. The intent of the legislation would not have been served by taxing natural and unused areas within the farm at a higher tax rate.

FACTORS TO CONSIDER IN PA 490 FARMLAND CLASSIFICATION

Often it may be necessary for an assessor to perform on site visits. The assessor is directed to make the determination if land is farmland by taking several items into account as stated in CGS Section 12-107c:

In determining whether such land is farmland, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

Agriculture has changed a great deal over the past forty plus years since PA 490 was enacted. While the basic tenets of the act remain unchanged, fortunately the definition of agriculture is more fluid and has been amended from time to time to reflect the changing face of Connecticut agriculture.

These factors should be taken into consideration when determining farmland status, but no single factor should be used as either confirmation or rejection for an application. Assessors should look at all these factors and others as a whole in determining PA 490 farmland classification and with consideration for the intent and purpose of PA 490.

Factors to Consider in PA 490 Farmland Classification

Acreage	• There is no minimum acreage requirement under PA 490 for farmland or agriculture. • The total acreage for any given farm will vary greatly. Size alone cannot be used as an indicator of the value or viability of a particular farming operation. • In accordance with case law, the zoned lot size is deducted from the farmland acreage only if there is a residence on the property. • If there is no residence on the property then a building lot should not be deducted from the farmland acreage unless requested by the property owner.
Portion of Land in Actual Farming Use	• Many farms use their entire land base in their actual agricultural production, some lands more actively than others. • Some commodities do not require large parcels of land. • Part-time farming operations , which are a growing segment of Connecticut agriculture, should be given the same consideration as larger, full-time farms. • Many farms may have associated activities that may or may not constitute part of the farm unit. • The key question that each assessor must consider is whether the total tract or a portion thereof was actually put to an agricultural use on the assessment date and whether agriculture/farming is the major use of the land in question is as opposed to being secondary or incidental to other uses such as residential. • Land being allowed to lie fallow is an acceptable agricultural practice in conjunction with an overall plan for the management of the farming operation. • It is recommended that the state definition of agriculture, CGS Section 1-1q, be consulted when looking at less obvious agricultural commodities and uses.
Productivity of the Land	• Productivity is a relative term and it can be a deceptive and problematic criteria. • Some forms of agriculture, such as Christmas trees and vineyards, can take several years to become marketable. • Farmland may be put into "less productive" use for reasons of soil nutrient replenishment, crop rotation, soil conservation purposes, labor and/or capitol investment requirements, market conditions or various other reasons that might result in a less productive use of the land. It is important for the farmland owner to have some type of plan in mind for the land that may lay fallow for periods of time as part of their overall plan for the management of the farm. • Farmland that was once under the PA 490 farmland classification can not be declassified by an assessor simply because the productivity has diminished. The age or health of the owner may decrease farm productivity; however this does not eliminate the farm from PA 490. (*Scheer v Town of Berlin 1968)* • PA 490 classification cannot be granted for the mere "intent" to farm. There must be evidence of bona fide agribusiness and farming activity. However, remember that new farmers starting a business may put forth expenses for the first several years without showing any profit. Before actual production takes place they may install infrastructure such as fencing, irrigation, storage, and purchase equipment, etc. to set up their production.
Gross Income	• There is no specific income requirement to be considered under PA 490, however there are various income requirements for other farming tax exemptions such as $15,000 in either income or expenses for the farm machinery exemption or $2,500 in income for the Farmers Tax Exemption Certificate. The assessor may consider these as factors in the final determination of status, but they should not be the only determining factor. • Hobby farming or farming solely for personal use is not the intent of PA 490. • There may be services rendered in lieu of payment in order to keep the land in production and in some cases, there may be no income payments received in exchange for keeping the land in production. • Income generated by farms will vary greatly, due to the size and the commodity produced. • Income from the land itself, not the owner's income from other sources, is the determination of relevance in regard to PA 490 farmland classification. • The assessor may ask an applicant for proof of applicant's agricultural endeavors such as financials, a business plan for the operation, or lease agreements. This is acceptable and may be beneficial for both parties in determining PA 490 farmland classification. Farmers and landowners should anticipate the possibility of this request and keep accurate records. • The assessor may ask for copies of required licenses, and proof that they have submitted a Personal Property declaration if they are from a different town.
Equipment Used on Farm	• The type of equipment varies greatly from farm to farm and is really a function of farm type, size and management. • Some farms own and operate all of their equipment while others contract out services. • The nature and value of equipment owned or used is not as important as the manner in which the land is farmed.
Contiguous and Non-Contiguous Tracts	• Contiguous means sharing a boundary or edge. • In Connecticut today, a farm is not always one contiguous parcel. • Connecticut farms are routinely comprised of parcels of varying sizes and non-contiguous in nature. • Large farming operations often lease or rent additional farmland. • There is no requirement that all parts of a farm unit must be contiguous. • Farmland, under the same ownership, may be non-contiguous and still be considered part of the farm unit.

Other Factors to Consider in PA 490 Farmland Classification

Leased Land	• Land being farmed is often not owned by the individuals farming the land. The land is being leased or rented to them by the landowner. • Lease agreements may be formal written agreements with financials associated with them or informal agreements such as use of the land in exchange for the maintenance of it by the farmer. Either scenario merits PA 490 farmland classification. • If land is leased for farming purposes, then the land merits the PA 490 farmland classification. • Always keep in mind that PA 490 classification is based on the actual use of the land and the lessee farmer must sign the application. • Leased land is included on the M-29 Form for PA 490 farmland classification. • Leased PA 490 farmland that includes non-agricultural land such as woodland, swamp and scrub, should be given the same consideration as non-leased PA 490 farmland, with consideration given to the overall purpose and intent of PA 490.
Horse Operations	• Horse owners and providers of equine services abound in Connecticut. • If the landowner has a horse only for pleasure, and not for some business related activity, the land use may not be valued as farmland. • If a landowner is involved with an equine business, then they are a farmer. • As long as a service is provided or a breeding with intent to sell operation occurs, the business component is fulfilled. • The land that is necessary to provide these services merits the PA 490 farmland classification, even if the land is only used for exercise paddocks for the horse.
Woodland and the Farm Unit	• Section 12-107b (1) of the CGS states: The term "farmland" means any tract or tracts of land, including, woodland and wasteland, constituting a farm unit. • Form M-29 provides for acreage to be categorized as: Woodland in the Farm Unit and Wasteland-Swamp/Ledge/Scrub • There is substantial historical context showing that woodland is a valuable part of a farm unit. • In many cases the woodland is used for grazing as pasture, for water sources, for the expansion of farmland as needed, and as a source of cordwood and timber production as part of the farming operation. • The woodland may include access roads that are essential access to production fields. • The woodland and wasteland often provide a necessary buffer zone for the agricultural land in terms of soil protection from erosion and water runoff as well as protection for wetlands, watercourses and wildlife habitat. • Woodland and wasteland may also provide a natural vegetative buffer between the farming operation and abutting non-agricultural land uses. • Usually swamp, wasteland or wetlands are part of the farm unit. (*Gozdz v. Tolland Board of Tax Review)* • Non-contiguous wooded parcels should be considered part of the farm unit, if the farmer can prove that these parcels are incidental to the farming operation. • There is a separate forest land classification in PA 490 which requires 25 acres or more, however forestry is also mentioned in the 1-1q definition of agriculture and farming. This means that the harvesting of timber and managing of a woodlot is agriculture, even a small woodlot. Today, there are many small-acreage farms that include tracts of forest land in the farm unit.

HOW AND WHEN TO APPLY

Persons wanting to classify land under the PA 490 farmland classification must do so by application to the assessor in the town in which the land is located. The application must be made on form M-29 "Application to the Assessor For Classification of Land as Farmland" (Appendix B), which is prescribed by the Commissioner of the Department of Agriculture. The form is available from the municipality's assessor's office.

The M-29 application must be made between September 1st and October 31st. During the year of re-evaluation in the town, the application may be made from September 1st until December 30th.

In completing form M-29, the landowner should be prepared to supply the number of acres in each land category as shown in the PA 490 Land Classes table in Section 4 of this Guide and in Appendix D. The recommended values per land class will then be applied to the associated acreages to derive at a total assessment. For example a 25-acre farm may have ten acres in Tillable C; ten acres in pasture and five acres in woodland.

Supporting Information to Accompany PA 490 Farmland Application

Supporting documentation provided with a PA 490 Farmland Application is advisable to aid both the landowner and the assessor in determining a classification. Documentation may include assessor's maps, aerial photos and soils maps, photographs of the land, income tax records, leases (written and verbal), a farm business plan, bills and invoices of farm business expenses, and/or a Farmers Tax Exemption Certificate. These documents are not required under PA 490, but will aid in determining qualification for classification.

Annual application and renewal for PA 490 farmland classification is not required unless there is a change of use or the land is sold or transferred. However, an assessor may request additional information after the initial filing in order to clarify the property's current use status. If it is a revision of an existing application, then this should be identified and attached to the original M-29. A new application should not be submitted. Both the landowner and the assessor should sign and date the requested revision.

Many towns will ask to update all of their files periodically; often in conjunction with revaluation. This is merely a request to verify that the land is still being actively farmed either by the owner/farmer or by a lessee farmer. This will not affect the ten-year conveyance tax ownership requirement and a new application should not be required. An assessor can assure fairness and equity in the process by reasonable review.

It is strategically wise for farmers to describe their operation by broad categories rather than limited ones. This avoids the need for constant updating when a farm cycles through various farming activities over time as market conditions demand.

FOREST LAND CLASSIFICATION

THE FOREST RESOURCE

As of June 2009, Connecticut reported 1,859,000 acres of forest land of which 1,545,000 acres were in non-industrial private ownership. This represents almost 70% of Connecticut's land base and 80% of forest land ownership. Forest-based employment accounts for 11,391 jobs. A steady supply of timber and forest products harvested from these forest lands supports a viable forest products industry in Connecticut and contributes $500 million to Connecticut's annual economy. Loss of forest ecosystem integrity due to fragmentation, parcelization and urbanization is one of the key issues affecting forestry today.[2] Connecticut's forests contribute positively to air quality, clean water, recreation and wildlife habitat. PA 490 forest land classification plays a critical role in maintaining large parcels of forest land by allowing owners to be taxed at the current use rate for forest land rather than the highest value, thereby making the tax rate affordable.

THE ROLE OF ASSESSOR, FORESTER, LANDOWNER AND STATE AGENCIES IN FOREST LAND CLASSIFICATION

Role of Assessor: The role of the assessor is to fairly and equitably assess the value of the forest landowner's land within the requirements of the law. When the assessor receives the completed application for classification of the land as forest land, accompanied by the Qualified Forester's Report, the assessor will review the supplied materials. If the assessor determines that the use of the land meets the standards for forest land under PA 490, then the assessor can classify the land as forest land and include it as such in the grand list.

If the assessor disagrees with the forester's findings with respect to either the number of acres of forest or the location of the forest within the land, the assessor may appeal to the State Forester, including a copy of the report, and ask for a review of the forester's findings. The State Forester will advise the forester and the owner of the appeal and render his advice within 60 days of receiving the appeal.

When the assessor determines that a change to non-forest use has occurred on the land, he or she may terminate the classification or require the owner to modify the application for classification of any remaining lands that may qualify. The owner may again be required to employ a forester to prepare a report on the land proposed for classification. If the total acreage of the remaining tracts totals less than 25 acres, the entire classification must be terminated. It should be noted that timber harvesting and other forest management activities are permitted forest uses. If an assessor has any question regarding the change of use, the assessor may consult the State Forester.

Annual Reporting of PA 490 Land by Assessors

Pursuant to CGS Section 107d(k): During the month of June each year the assessor of a municipality within which land classified as forest land is situated shall report to the State Forester, in a format prescribed by the State Forester, the total number of owners of land classified as farmland, forest land or open space land as of the most recent grand list and a listing of the parcels of land so classified showing the acreage of each parcel, the total acreage of all such parcels, the number of acres of each parcel classified as farmland, forest land or open space land, and the total acreage for all such parcels.

— Form DEP-F-490 Appendix B

Role of the Forester: In order to "qualify" to evaluate land proposed for PA 490 forest land classification and prepare a report for the owner, a forester must be certified to practice in Connecticut as per CGS Section 23-65h, have satisfactorily completed the training in applying the standards and policies of PA 490 provided by the State Forester, and comply with those standards and policies.

[2] Northeastern Area S&PF, USDA Forest Service Connecticut Forest Resource Fact Sheet, June 2, 2009.

The forester will familiarize himself or herself with the land, collect the required data, and complete the "Qualified Forester's Report" provided by the State Forester's office along with the required mapping. Copies of the completed report are required to be filed with the forest landowner and the assessor in the subject town.

Role of the Landowner: It is the landowner's responsibility to maintain their forest land under the standards set forth under PA 490. Any change of use of the classified land to some other use other than forest land would require reclassification and perhaps termination of the classification. It is important that the landowner submit a completed and signed M-39 application to the assessor on or before the required filing dates. Landowners should request a copy of the signed and dated application that is filed with the assessor and keep that copy for their records along with the Qualified Forester's Report. Forest management, the harvesting of trees for timber or firewood, and the maintenance of woods roads are all acceptable permitted forest uses and would not impact the forest land classification under PA 490. Once land has been classified as PA 490 forest land, the landowner does not need to renew the application unless there is a change of use or change in title that requires a reclassification, in which case an updated Qualified Forester's Report, and a new M-39 application must be filed.

Role of the State Agency: The State Forester has established and maintains the standards and policies by which forest land is evaluated by private professional foresters. The State Forester is to offer training and examination at least once per year to any forester seeking to be qualified to complete the Qualified Forester's Report under PA 490. The State Forester also acts on any appeal brought forth by a landowner or assessor regarding a forester's findings.

Definition of "Tract"

"Tract" means a continuous or unbroken expanse of land under single ownership and bearing adequate tree cover generally distributed throughout the area. Only the following features shall be regarded as the bounds of a tract; acreage under a different ownership or acreage that does not meet the standards for forest land classification in CGS Section 12-107d-3 of the Regulations of Connecticut State Agencies. Lines of demarcation drawn on maps, including but not limited to, municipal boundaries, assessor's lot lines and lines on subdivision maps are not to be regarded as a boundary of a forest tract.

— Sec. 12-107d-1 (22) Connecticut Department of Environmental Protection Regulations Concerning Classification of Forest Land

DETERMINATION OF PA 490 FOREST LAND

CGS Section 12-107b(2) defines "forest land" as:

...any tract or tracts of land aggregating twenty five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d and consisting of:

(a) one tract of land of twenty-five or more contiguous acres, which acres may be in contiguous municipalities,

(b) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres, or

(c) any tract of land which is contiguous to a tract owned by the same owner and has been classified as forest land pursuant to this section

During the 2004 legislative session, the General Assembly substantially revised the role of the State Forester in the administration of PA 490 forest land. The definition for what constitutes "forest land" did not change, but the administrative roles shifted. The State Forester no longer issues a "Certificate of Designation of Land as Forest Land." Instead, the property owner is required to employ a private forester, trained and qualified by the State Forester, to examine the land and prepare a "Qualified Forester's Report" on the land. That report must accompany form M- 39 "Application to Assessor for Classification of Land as Forest Land."

EXAMINING LAND FOR CLASSIFICATION AS PA 490 FOREST LAND

Once hired by the forest landowner, the forester will visit the land, developing both a forest stand map and sufficient inventory data to reliably describe tree species

composition, forest stand size, and stand density for each forest stand. The forester should note both the owner's goals for the land, as well as a wide variety of factors that influence the ability of the land to serve the landowner's interests. The forester will also determine the number of acres that meet the standards for classification of PA 490 forest land. The forester then completes the "Qualified Forester's Report" form provided by the State Forester along with the required maps.

The report and a copy of all data and information used to develop the report is given to the forest landowner and a copy is sent to the assessor of each municipality where the subject land is located. The assessor may require information in addition to that contained in the Qualified Foresters Report. Should the owner and/or assessor disagree with the findings of the forester they have 30 days to appeal to the State Forester for review of the forester's report. The State Forester will advise the forester and the assessor of the appeal and will render his advice within 60 days of receiving the owner's appeal.

Building Lots and PA 490 Forest Land

It is customary for assessors to exclude the zoned lot size from PA 490 forest land when there is a residence on the property. Where the land has no residence a building lot should not be excluded from a PA 490 forest land classification unless the landowner requests such an exclusion. It is important to remember that PA 490 is a current use tax and should be implemented within the intent of the legislation.

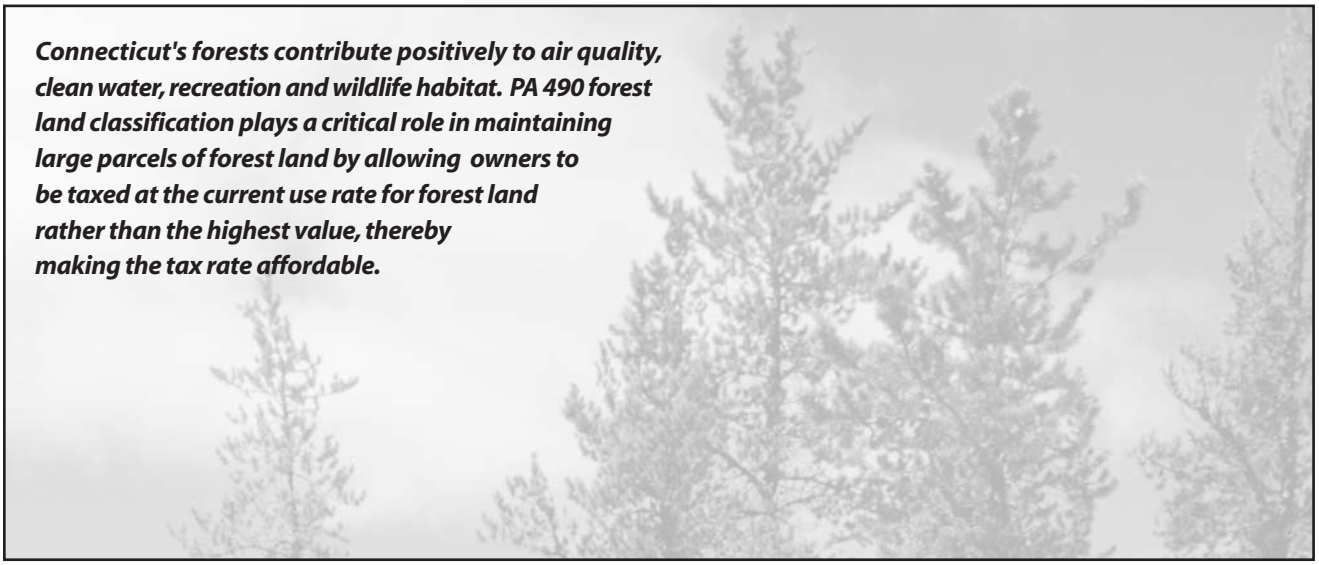
— Canterbury Farms Et Al v. Waterford Board of Tax Review

HOW AND WHEN TO APPLY

Persons wanting to classify land under the PA 490 forest land classification must do so by application to the assessor in the town in which the land is located. The application must be made on form M-39 "Application to the Assessor for Classification of Land As Forest Land", which is approved by the Commissioner of the Department of Environmental Protection. The application form, accompanied by a copy of the Qualified Forester's Report, must be filed with the assessor no later than October 1st, unless the town is in the year of revaluation, in which case the filing deadline is December 30th. The application form is available from the town assessor's office. Because the forester may have other obligations and the proper evaluation of the forest land may take some time, forest landowners are cautioned to contact a certified forester well in advance of the filing deadline.

Assessors do not maintain a listing of certified foresters, but forest landowners may obtain a list by calling the Department of Environmental Protection at (860) 424-3630, or by accessing the department's website at *www.dep.state.ct.us* and entering "Certified Forester" in the search box. The notation "490" next to a certified forester's name indicates that he or she is qualified to examine land for forest land classification purposes.

Annual application and renewal for PA 490 farmland classification is not required unless there is a change of use or ownership. However, an assessor may request additional information after the initial filing in order to clarify the property's current use status. If it is simply a revision of an existing application, then this should be identified and attached to the original M29 application. The landowner should sign and date the requested revision and the assessor should sign and date it. The landowner should retain a copy of the revised application.



OPEN SPACE CLASSIFICATION

MUNICIPAL OPEN SPACE DESIGNATION

Open space within a municipality may be protected in a number of ways. Landowners and land use boards may consider conservation easements, deed restrictions and programs funded through the state of Connecticut and various land trusts that purchase development rights from landowners. Another option to protecting undeveloped land is the PA 490 open space classification. The PA 490 open space classification does not provide permanent protection, however it is a valuable option to reducing the tax burden on open space parcels that do not meet the criteria for PA 490 farmland or PA 490 forest land classifications.

Unlike the PA 490 farmland and PA 490 forest land classifications which are mandatory on all towns statewide, PA 490 open space is a classification that is an option for a municipality to adopt. The terms "farmland and forest land" are often referred to in general terms as "open space," but within the context of PA 490 they are distinct land use value classifications that have specific statutory requirements.

Under PA 490 Sec. 12-107b (3) reads: *The term "open space land" means any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farmland, the preservation or restriction of the use of which would*

(a) Maintain and enhance the conservation of natural or scenic resources

(b) Protect natural streams or water supply

(c) Promote conservation of soils, wetlands, beaches or tidal marshes

(d) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces

(e) Enhance public recreation opportunities

(f) Preserve historic sites, or

(g) Promote orderly urban or suburban development;

Section 12-107e of the Connecticut General Statutes states that:

The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

THE ROLE OF ASSESSOR, LANDOWNER, AND MUNICIPALITY IN OPEN SPACE CLASSIFICATION

Role of Assessor: Sec. 12-107e (b) of the CGS states that: *The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if the assessor determines that there has been no such change, said assessor shall classify such land as open space land and include it as such on the grand list.*

The assessor should be certain that an application is completed in full and is signed and dated by the landowners.

Role of Landowner: New applications for PA 490 open space should be completed and filed within the required filing periods set forth in CGS Sec. 12-107e (b). All required sections of form M-30 should be completed in full. The application is required to be signed and dated by the landowner. Applications that are not filed within the prescribed timeframe or are incomplete will not be accepted for PA 490 open space classification. The landowner should request a copy of the fully signed and dated application from the assessor at the time of filing. **It is very important that landowners keep signed and dated copies of everything that is submitted to the assessor.**

This signed and dated paperwork is critical should a classification ever be questioned or the issue of the conveyance tax arises. **Landowners should not rely on the town to keep records for them**.

Role of Municipality: It is the role of the planning commission of the municipality in preparing a Plan of Conservation and Development to designate in such plans areas which it recommends for preservation as areas of open space land and for the municipality to adopt an ordinance that sets forth the criteria for open space classification pursuant to CGS Section 12-107e(a).

VALUATION OF OPEN SPACE

The value for open space lands has been and continues to be quite problematic for towns. PA 490 states:

The present true and actual value of land classified as... open space land pursuant to section 12-107e shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farmland pursuant to section 12-107c.

This has been interpreted to mean different things. One school of thought has open space value comparable to various farm values. It is the assessor's determination based on local ordinance as to what value will be assigned to the land. Again "current use" is the key principle to follow in determining value.

Examples of Open Space Land Value Assessment

Colebrook	25% of the excess land rate (currently $5,000) or $1,250 per acre.
Ellington	100% assessment: $720/acre.
Brooklyn	100% assessment: $500/acre.
Somers	Recommended use value of Tillable A: Currently $1,665 per acre.
Woodbridge	50% of the excess land value (currently $10,000) or $5,000 per acre.

It is important to note that the ten-year conveyance tax penalty period for PA 490 open space land originates with the date of classification, unlike the farmland and forest land classification which commence at the time of ownership. Section 9 Conveyance Tax, addresses this in further detail.

HOW TO ADOPT THE PA 490 OPEN SPACE CLASSIFICATION AND WHO IS ELIGIBLE

- Land must be recommended for preservation as open space in the town's Plan of Conservation and Development by the town's Planning Commission.
- Land included in areas recommended for open space may be identified by geographic location and/or map in the Plan of Conservation and Development.
- Geographic areas designated as being recommended for open space in the Plan of Conservation and Development must be approved by the legislative authority within the municipality.
- The municipality adopts an Open Space Assessment Ordinance which stipulates the qualification criteria for the open space classification in that municipality. This criteria establishes the minimum acreage as well as requiring that the land be completely unimproved and undeveloped.
- Only landowners who have property in an area that has been designated as "open space" on the town's Plan of Conservation and Development may be eligible for the PA 490 open space classification. Landowners interested in this classification should consult with their town planner, land use office or assessor with regard to the status of open space designation and the location, if applicable, of such lands.
- Landowners wishing to become eligible for the PA 490 open space classification do so by filing form M-30 "Application to the Assessor for Classification of Land as Open Space" with the assessor in the municipality in which the land is located.

HOW AND WHEN TO APPLY

Persons wanting to classify land under the PA 490 open space land classification must do so by application to the assessor in which the land is located. The application must be made on form M-30 "Application To The Assessor For Classification Of Land As Open Space Land" prescribed by the Commissioner of the Department of Agriculture. This form is available from the assessor's office. The filing period is between September 1st and October 31st, except in a year in which a revaluation of all real property is effective in the town, in which case the filing deadline is December 30th.

Examples of Open Space Criteria

Some planning commissions in order to prevent forced sale of land have adopted a policy statement as part of their plan of development which declares all undeveloped tracts in excess of a given acreage, usually one to five acres, as eligible for open space classification under PA 490. Other commissions have designated open space lands as all excess land over and above the minimum lot size required by the zoning commission, as eligible under the open space portion of the Act. Other commissions have delineated specific areas of open space.[3]

Town of Ellington — Qualification Criteria from the Ellington Open Space Assessment Ordinance:
"For the purpose of assessment, and pursuant to the provisions of Sec. 12-107e of the Connecticut General Statutes, as amended, all land in the Town of Ellington located in either the RA, AA or A zones may be designated as open space land. Upon application by the property owners parcels which qualify may be classified as such by the Assessor subject to the following provisions:

1. The designated open space shall be that undeveloped land in excess of five (5) acres.
2. Contiguous parcels of land within a zone having the same title owner (except subdivision lots of record) may be aggregated for the purpose of determining the area which is eligible for open space. Parcels which are bisected by a Town or State Road are considered to be contiguous parcels of land.
3. Effective on the date of approval as subdivision or re-subdivision, any land which had been designated as open space by the Assessor shall be removed from such designation, and a conveyance tax paid, if required under Sec. 12-504a of the Connecticut General Statutes."

Town of Brooklyn — Qualification Criteria:
All land within the town of Brooklyn may be eligible for the Open Space Classification. Where there is a residence on the property, it is any land in excess of the zoned lot size.

Town of Colebrook — Qualification Criteria:
The Open Space Classification only applies to that acreage that exceeds double the minimum lot size required by zoning.

Town of Putnam — Qualification Criteria:
A minimum of five acres to qualify. It there is a dwelling on the parcel, then there must be a minimum of seven acres to qualify.

Town of Ridgefield — Qualification Criteria:
Land in excess of twice the zoned lot size. Subdivided lots do not qualify. All residential land could qualify if criteria is met.

Town of Cromwell — Plan of Conservation and Development Open Space:
"To encourage the owners of large residential parcels to keep their excess land undeveloped, excess land of not less than four acres is hereby designated as 'open space' land. 'Excess land' is defined as the contiguous undeveloped portion of a lot, above and beyond the minimum lot area required for the zoning district which the parcel is in."

[3] University of Connecticut Nonpoint Education for Municipal Officials (NEMO).

MARITIME HERITAGE LAND CLASSIFICATION

Section 12-120f of the Connecticut General Statutes allows for the classification of certain waterfront land as maritime heritage land. When a town's assessor approves the classification, the value of the land for property tax purposes is an assessment based on its use value, rather than its fair market value.

"Maritime heritage land" means that portion of waterfront real estate owned by a commercial lobster fisherman licensed by the Connecticut Department of Environmental Protection, pursuant to Title 26 of the Connecticut General Statutes, which the fisherman uses exclusively for commercial lobstering purposes.

In the calendar year prior to submitting an application for maritime heritage land classification, an applicant must derive at least 50% of their federal adjusted gross income from commercial lobster fishing.

The Office of Policy and Management prescribes the eligible commercial lobster fisherman must file an application with the assessor of the town in which the fisherman owns waterfront land. The filing period is between September 1 and October 31, except in an assessment year in which a revaluation of all real property is effective in a town, in which case the end of the filing period is December 30. A person who fails to file this application in the proper manner and with the proper form during the filing period waives the right to claim maritime heritage land classification as of the October 1 assessment date in that year.

At the time the application for maritime heritage land classification is submitted to an assessor, the applicant must provide the assessor with the following: (1) a copy of the license that the Connecticut Department of Environmental Protection issued that allows the applicant to engage in commercial lobstering, (2) a copy of the applicant's federal income tax return for the prior calendar year, (3) proof of the income the applicant derived in that year from commercial lobstering, and (4) a map of the land on which the area used for commercial lobster fishing is shown.

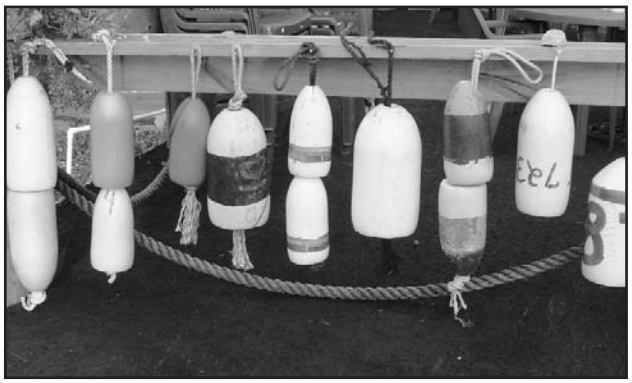
Assessors determine what constitutes satisfactory proof of income from commercial lobster fishing. Taxpayers should contact the assessor of the town in which the waterfront property is located to ascertain the type of proof the assessor requires and for information on how to obtain a map on which to show the land area used for commercial lobster fishing.

Each assessor is responsible for determining the eligibility of land for maritime heritage land classification and its use value. Land beneath a building, structure or other real property improvement that an eligible taxpayer uses solely for commercial lobstering is eligible for classification. Land beneath a building, structure or improvement that the taxpayer uses for any other purpose is ineligible. If the taxpayer owns or uses only a portion of waterfront land, classification is available only for that portion.

A taxpayer aggrieved by an assessor's determination regarding an application for maritime heritage land classification, has the right to request a hearing before the town's board of assessment appeals.

Under Connecticut state law, the payment of a tax in addition to the real estate conveyance tax may be applicable if there is a sale or transfer of title to classified maritime heritage land within ten years from the date the assessor approves the classification. This additional tax is also applicable if the use of the land changes to other than maritime heritage land, within ten years of the date of a taxpayer's acquisition of title to property for which an assessor approves the classification.

Maritime land classification ceases at the time of a property sale, transfer of property title or change in property use, even if the additional tax is not applicable. A taxpayer must file a revised classification application if any of these situations occur.



CONVEYANCE TAX

In 1971, the General Assembly initiated a penalty on the removal of land from PA 490 classification as a means of further encouraging preservation and to diminish speculation. (CGS Sec. 12-504a).

The tax is ten percent if sold, transferred or use is changed in the first year of classification and decreases one percent per year each year until the ten-year period is achieved. After ten years there is no conveyance tax. This tax is in addition to the normal real estate conveyance tax imposed under CGS Sections 12-494 to 12-504, inclusive, that a property owner must also pay.

It is important to note that the date for which the conveyance tax begins is different for the open space classification than for the forest and farmland classifications. Any land which has been classified by the record owner as **farmland** or as **forest land** pursuant to PA 490 shall be subject to a conveyance tax if said owner sells, transfers **or** changes the use of such land within a period of ten years from the time he/she acquired title to such land, **or** from the time he/she first caused such land to be classified, **whichever is earlier**. Any land that has been classified by the record owner as **open space land**, pursuant to PA 490, if sold or transferred by the record owner, within a period of ten years **from the time of classification** shall be subject to a conveyance tax.

The conveyance tax is complex. Careful planning is strongly recommended.

If Farmland or Forest Land is Sold or Transferred

If land classified as farmland or forest land is sold or transferred within the first ten years of being classified and the record owner who classified the property has owned the land for less than ten years, then an additional conveyance tax is applicable to the total sales price of such land. The additional conveyance tax shall be a declining percentage based upon either the number of years the land was classified, or the date title was acquired by the owner who classified the property, whichever is earlier, i.e. 10% in the first year of classification of ownership, 9% in the second year of classification or ownership, and so forth until 1% in the tenth year of classification or ownership. No additional conveyance shall be imposed after the tenth year of ownership.

CONVEYANCE TAX EXCEPTIONS

CGS Section 12-504c allows for specific excepted transfers that exempt a landowner from the PA 490 recapture conveyance tax and are itemized below:

Certain transfers are exempted from the conveyance tax. *(Chapter 223 Sec. 12-504c. Excepted transfers.)* These are:

(1) Transfers of land resulting from eminent domain proceedings;

(2) mortgage deeds;

(3) deeds to or by the United States of America, state of Connecticut or any political subdivision or agency thereof;

(4) straw man deeds and deeds which correct, modify, supplement or confirm a deed previously recorded;

(5) deeds between husband and wife and parent and child when no consideration is received, except that a subsequent nonexempt transfer by the grantee in such cases shall be subject to the provisions of said section 12-504a as it would be if the grantor were making such nonexempt transfer;

(6) tax deeds;

(7) deeds of foreclosure;

(8) deeds of partition;

(9) deeds made pursuant to a merger of a corporation;

(10) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the capital stock of such subsidiary;

(11) property transferred as a result of death when no consideration is received and in such transfer the date of acquisition or classification of the land for purposes of sections 12-504a to 12-504f, inclusive, whichever is earlier, shall be the date of acquisition or classification by the decedent;

(12) deeds to any corporation, trust or other entity, of land to be held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, provided such corporation, trust or other entity has received a determination from the

If Open Space Land or Maritime Heritage Land is Sold or Transferred

If land classified as open space land or maritime heritage land is sold or transferred within the first ten years of being classified, then the record owner shall pay an additional conveyance tax applicable to the total sales price of such land. The additional conveyance tax shall be a declining percentage based upon the number of years the land was classified, i.e. 10% in the first year of classification, 9% in the second year of classification and so forth until 1% in the tenth year of classification. No additional conveyance shall be imposed after the tenth year of classification.

Internal Revenue Service that contributions to it are deductible under applicable sections of the Internal Revenue Code;

(13) land subject to a covenant specifically set forth in the deed transferring title to such land, which covenant is enforceable by the town in which such land is located, to refrain from selling, transferring or developing such land in a manner inconsistent with its classification as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d or open space land pursuant to section 12-107e for a period of not less than eight years from the date of transfer, if such covenant is violated the conveyance tax set forth in this chapter shall be applicable at the rate multiplied by the market value as determined by the assessor which would have been applicable at the date the deed containing the covenant was delivered and, in addition, the town or any taxpayer therein may commence an action to enforce such covenant.

If the Use of Farm, Forest, Open Space or Maritime Heritage Land is Changed

If the use of land classified as farmland, forest land, open space land or maritime heritage land is changed to a use other than farm, forest, open space or maritime heritage land within the first ten years of ownership, then an additional conveyance tax is applicable to the total fair market value of such land as determined by the most recent revaluation. The additional conveyance tax shall be a declining percentage based upon the number of years the land was owned, i.e. 10% in the first year of ownership, 9% in the second year of ownership and so forth until 1% in the tenth year of ownership. No additional conveyance shall be imposed after the tenth year of ownership or classification.

(14) land the development rights to which have been sold to the state under chapter 442a;

(15) deeds to or from any limited liability company when the grantors or grantees are the same individuals as the principals or members of the limited liability company.

If action is taken under subsection (13) of this section by a taxpayer, such action shall commence prior to the ninth year following the date of the deed containing such covenant and the town shall be served as a necessary party.

PA 490 and Farmland Preservation

Chapter 442a in 12-504c (14) refers to the Agricultural Lands Preservation Program or Farmland Preservation Program administered by the Connecticut Department of Agriculture.

HIGHLIGHTS OF THE 2005 PA 05-190 AMENDMENTS

In 2005, the legislature passed PA 05-190, which enacted changes to the conveyance tax. The following are highlights of the 2005 PA 05-190 amendments:

- Amendment to CGS Section 12-504a: This amendment requires the filing of a revised application for the classification of land as farm, forest or open space land, whenever there is a change in the ownership of any such classified land.
- Amendment to CGS Section 12-504a allows the imposition of a conveyance tax for a transfer of land classified as farm, forest or open space land. The additional conveyance tax must be imposed for non-exempt transfers of classified farmland or forest land that occur within ten years after the date the land was classified or the date the grantor in the transaction (i.e., the previous owner) acquired the land, whichever is earlier. For classified open space land, the ten-year period begins with the date the grantor in the transaction classified the land. With respect to a non-exempt transfer, the fair market value of the land established for the most recent revaluation and the rate for the year in which such transfer occurs (as set forth in §12-504a) determines the additional conveyance tax amount.

Note: The debate in the House of Representatives with respect to the amendments to §12-504a clarified that the classification period does not reset for a transfer when the grantor and grantee in a transaction are the same parties, even when the transfer does not involve a limited liability company. While a revised application is required whenever ownership changes, a new classification period for the classified land does not necessarily result.

• Amendment to §12-504d: Prior to 2005, the law allowed for a taxpayer to appeal the imposition of an additional conveyance tax to the town's board of assessment appeals. The 2005 amendment extends the time frame for filing an appeal with said board, if the additional conveyance tax is imposed when the board of assessment appeals is not meeting in regular session (i.e. generally, boards meet during the months of March or April). In such a case, a taxpayer may file an appeal with the board of assessment appeals at its next regularly scheduled meeting. An appellant dissatisfied with the decision a board of assessment appeals renders may appeal that decision to the superior court for the judicial district in which the town or city that imposes the additional conveyance tax is located.

• Amendment to CGS Section 12-504e: This amendment clarifies that the value used in calculating the additional conveyance tax when the use of classified farm, forest or open space land changes, is the fair market value of such land established for the most recent revaluation. Also, this amendment provided the date used for purposes of determining such tax for change of use is either the date on which the use of such property is changed or the date on which the assessor becomes aware of such change in use.

• Amendment to CGS Section 12-504h: This amendment provides that the classification of land as farm, forest or open space land, pursuant to §12-107c, §12-107d or §12-107e, is *"personal to the particular owner who requests and receives such classification and shall not run with the land."* Also, the amendment provides that classification ceases upon a sale, non-exempt transfer or change in use.

Note: When there is an ownership change of classified farm, forest or open space land involving the same grantor(s) and grantee(s), the provision regarding the cessation of the classification does not apply. Since the owner is the same prior to and after a sale or transfer involving the same person or entity, the beginning date of the property's classification does not change. This is consistent with this Act's legislative intent, as indicated in the debate in the House of Representatives.

Effective: These amendments are applicable to sales, transfers or changes in use of land classified as farmland, forest land or open space land that occur on or after July 1, 2005.

PROPERTY REVALUATION AND PA 490

Revaluation is the process of determining what the fair market value is for all properties in a municipality. Municipalities are required to conduct a revaluation of all real property every five years in accordance with CGS Section 12-62(b)(1). This requirement and the process it entails sometimes results in confusion and raises many questions on the part of PA 490 landowners.

The revaluation process is not a review of your PA 490 status. Most often the revaluation process is conducted by consultants hired by a town for the purpose of the revaluation. All property is treated the same during this process. Adjustments are made later by the town depending upon what special conditions apply to a given property including the reduced assessment of PA 490.

As an owner of real property, the PA 490 property owner will receive notice of the revaluation for that property. That notice will reflect the assessment (which is 70% of the fair market value) for the property and not your PA 490 value. Some assessors may enclose a second notice for owners of PA 490 land showing the assessment after applying PA 490 values; others do not. Keep in mind that state law requires owners of all real estate to be notified of the 70 percent full market value of their property regardless of its classification under PA 490. A landowner should read notices carefully. If the landowner is unclear as to whether or not the property assessment is reflective of market or PA 490 value, it is recommended that they contact the assessor in the municipality where the land is located and ask which classification it reflects.

The values for various categories and subcategories for PA 490 classifications are required to be updated every five years by the Office of Policy Management (CGS Section 12-2b), in consultation with the Department of Agriculture (PA 94-201).

Accordingly, a PA 490 property owner should expect that the assessment on their PA 490 land may change every five years. Such PA 490 adjustments may or may not coincide with a town's overall revaluation of real property.

In a year of revaluation, an assessor may send out a questionnaire to owners of land classified as PA 490 farmland in order to update town records. This is to verify that the land is still being actively farmed either by the owner/farmer or by a lease farmer. This is also a way for the assessor to assure that the farmland is categorized properly and to assure fairness and equity in the process. It is not necessary nor appropriate for a landowner to fill out a new application for PA 490 farmland, but rather to merely revise as necessary the information in the original application. It is important that the owner of PA 490 farmland respond to the assessor when this information is requested and to make copies of all submitted documents.

The PA 490 values determined by the Connecticut Office of Policy and Management and the Department of Agriculture are recommended values generated to assist towns in assigning a value to PA 490 properties. In doing this, the Department of Agriculture has broken down each category into various subcategories. For farmland there are eight subcategories and for forest land there is one. If a property owner or assessor is in doubt as to what the proper subcategory should be, a consultation with the Department of Agriculture, Connecticut Farm Bureau, the Connecticut Department of Environmental Protection Division of Forestry, the local agricultural extension offices, or the Soil and Water Conservation District will be helpful in determining the proper designation.

TERMINATION OF CLASSIFICATION OF PA 490 LAND AND NOTIFICATION REQUIREMENTS

CGS Section 12-504h addresses the termination of land classified under PA 490 farm, forest, open space or maritime heritage land:

- *Any land classified under PA 490 as farmland pursuant to section 12-107c forest land pursuant to 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall be deemed personal to the particular owner who requests and receives such classification and shall not run with the land.*
- *Any such land which has been classified by a record owner as farm, forest, open space or maritime heritage land shall remain so classified, without filing any new application, subsequent to such classification, notwithstanding the provisions of sections 12-107c, 12-107d, 12-107e and 12-107g, until either of the following occurs:*

(1) The use of such land is changed to a use other than that described in the application for the existing classification by said record owner or;

(2) Such land is sold or transferred by said record owner.

- *Upon the sale or transfer of any such property, the classification of such land as farm, forest, open space or maritime heritage land shall cease as of the date of sale or transfer.*

It is important for any property owner who purchases or is transferred PA 490 farm, forest, open space or maritime heritage land to understand that the classification does not run with the land and ceases upon sale or transfer of the land. It is the responsibility of the new owner of record to reapply to the assessor for classification of PA 490 farm, forest, open space or maritime heritage land to maintain the PA 490 classification. Without a new application, the land will be taxed at its fair market value and not as PA 490 farm, forest, open space or maritime heritage land. Since applications are accepted only in September and October, if the sale or transfer takes place after October 31st, there may be a year of taxation at the higher assessed value.

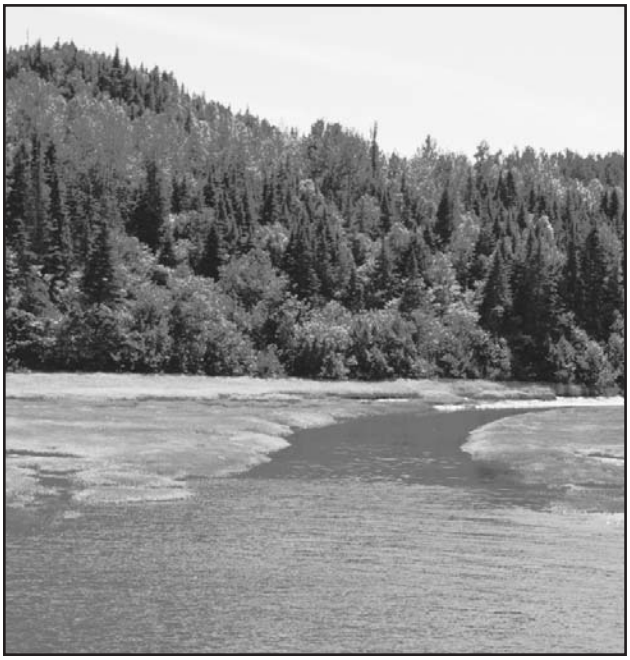
- *In the event that a change in use of any such property occurs, the provisions of Sec. 12-504e, shall apply in terms of determining the date of change and the classification of land as farm, forest, open space or maritime heritage land shall cease as of such date. (See Appendix A PA 490 General Statutes).*
- *If any of these occur, the land is declassified by the assessor and entered into the town land records. Assessment for this property will then be appraised at fair market value and not the current use value under PA 490.*

SPECIAL CONSIDERATIONS REGARDING TERMINATION OF CLASSIFICATION OF PA 490 FARMLAND

There are certain situations when the status of a farming operation may be called into question to determine whether a change of use has occurred that may require an assessor to terminate a PA 490 farmland classification. As stated earlier in this section, a PA 490 classification may only be terminated either due to a change in use other than farmland, forest land, open space or maritime heritage land or change in title. Many of these situations have been decided in the courts and Appendix E of this guide sets forth those cases.

Lack or Loss of Income: Where no income is derived from land classified as PA 490 farmland does not mean that the farmland classification should be terminated and is by no means a reason to declassify the land. PA 490 land classified as farmland may simply be maintained by a farmer for the owner of the classified land for minimal or no dollars or for some type of barter or service. Maintaining fence lines, maple syrup in exchange for the right to tap a landowner's sugar maple trees, hay in exchange for the use of the owner's classified hay land are a few instances to be considered.

Loss of Productivity: Farmland may lay fallow for a number of years due to any number of reasons. An acceptable agricultural practice, such as rotational pasture, may require that certain fields lay fallow for a period of time. Illness, accidents, death in the family, and old age of the farmer may also be instances where farmland may lay



fallow for a period of time. In all cases, the land use has not changed and should remain classified under PA 490 and the assessor should examine the overall intent and purpose of PA 490 as it pertains to land classification. It is important for the farmer to communicate with the assessor when there is a change to the farming operation and to have a plan for continuation of the farming operation in order to maintain the land in PA 490

Change or Sale of Acreage: If a landowner sells off some acreage of land that has been classified under PA 490 farmland, the acreage not sold remains under classification and should not be declassified, provided the use has not changed. In the case of PA 490 forest land or open space, the landowner's remaining land should not be declassified unless the remaining acreage falls below the minimum acreage required for those classifications. The change in acreage should be noted in the PA 490 file for that property and the existing application amended to reflect the change in acreage. A new map or sketch clearly showing classified and non-classified land or change of ownership should be filed as well. A new Qualified Foresters Report may not be required unless the classification is over ten years old. In addition, the conveyance tax clock remains the same and does not start anew.

Subdivision of PA 490 Land: There have been a number of legal challenges involving use valuation as impacted by the owner obtaining subdivision approval or a special permit for development after property is classified under PA 490. The earliest Supreme Court case to touch on the issue is *Marshall v. Town of Newington (1968)*. A farmer had sought a zone change and had his farm zoned industrial; he had already sold several parcels for industrial use. Then he sought to have the remainder of the parcels he owned classified as farmland under PA 490. The Supreme Court declared that it was irrelevant that the adjoining property was sold for high prices as industrial land. The important focus was whether the land sought to be classified was being used for farming purposes. There was an analysis of the amount of farming being conducted.

In a 1994 Superior Court case, however, *Maynard v. Town of Sterling*, the owner had his 36-acre farm approved for 18 building lots. At the time of trial, eight lots had houses built on them, and the remaining land was still being farmed with a corn crop. The lower court determined the development of eight out of 18 lots and offering the balance for immediate development was a change to the actual use of the whole farm, and the declassification was found proper. The court reasoned that the farmer's active development no longer served the public policy underlying PA 490.

In 2002, a similar fact situation was presented involving PA 490 forest land in *Carmel Hollow v. Town of Bethlehem*. A subdivision approval had been obtained and lots sold. However, the Connecticut Supreme Court found that the forest land could not be declassified by the assessor even though a number of lots had been sold because only the State Forester had the power to declassify forest land. The Court did not reach the issue of the impact of selling lots in this case.

The Supreme Court in *Griswold Airport v. Madison (2008)* found that the mere approval of a special permit for 127 condominium units on an area of an airport classified as open space did not justify declassification. The court found that the airport use had not actually changed.

This line of cases makes it clear that the change of land use approvals by themselves do not require a declassification. But once a property owner begins to use those approvals by converting parts of the property into other uses, and offering it for sale for those purposes, especially in the case of farmland, he takes a risk that he will be viewed more as a developer and the remaining land will be declassified. At least there should be enough of a viable farming operation still active and not being offered for development that it is legitimately worthy of continued classification standing alone. Where there are minimum acreage requirements for open space, and definitely for forest land, declassification is proper if the minimum acreage is not maintained in that use.

NOTIFICATION REQUIREMENTS FOR RECLASSIFICATION OF PA 490 LAND

Reclassification occurs when PA 490 land changes from one classification to another, but stays within the same deeded ownership i.e. from PA 490 farmland to PA 490 forest land. In many cases, the reason that the assessor is looking to have farmland reclassified is that the amount of forest land or woodland in the existing farm unit exceeds 25 acres which is the minimum acreage needed for wood-

land to be classified as PA 490 forest land. This often makes it easier for the assessor but is often an unnecessary step since the only times that land may be declassified are through a sale, a transfer or a change in land use. The only time a change of reclassification may be justified is if a substantial amount of time has gone by so that the abandoned farmland has reverted to woodland and the forest land classification more readily reflects the current use of the land, provided the parcel meets the 25 acre minimum for forest land classification. Under this scenario, reclassification of the land from PA 490 farmland to PA 490 forest land is a much more desirable option than losing the PA 490 classification all together.

If acreage of forest land or woodland was included in the original application, this determination that the forest land was part of the farm unit, should be vested with that application.

NOTIFICATION TO NEW PA 490 LANDOWNER

In 2005, Section 11 of PA 05-190 amended CGS Section 12-504f. This amendment requires town clerks, upon the filing of a deed in the land records, to notify assessors of the sale of any classified farm, forest or open space land. It should be noted that there is no similar requirement related to transfers of such land. Upon receipt of a town clerk's notice of such a sale, an assessor must inform the new owner of the tax benefits available for classified farm, forest or open space land, in accordance with the amended provisions of CGS Section 12-504f.

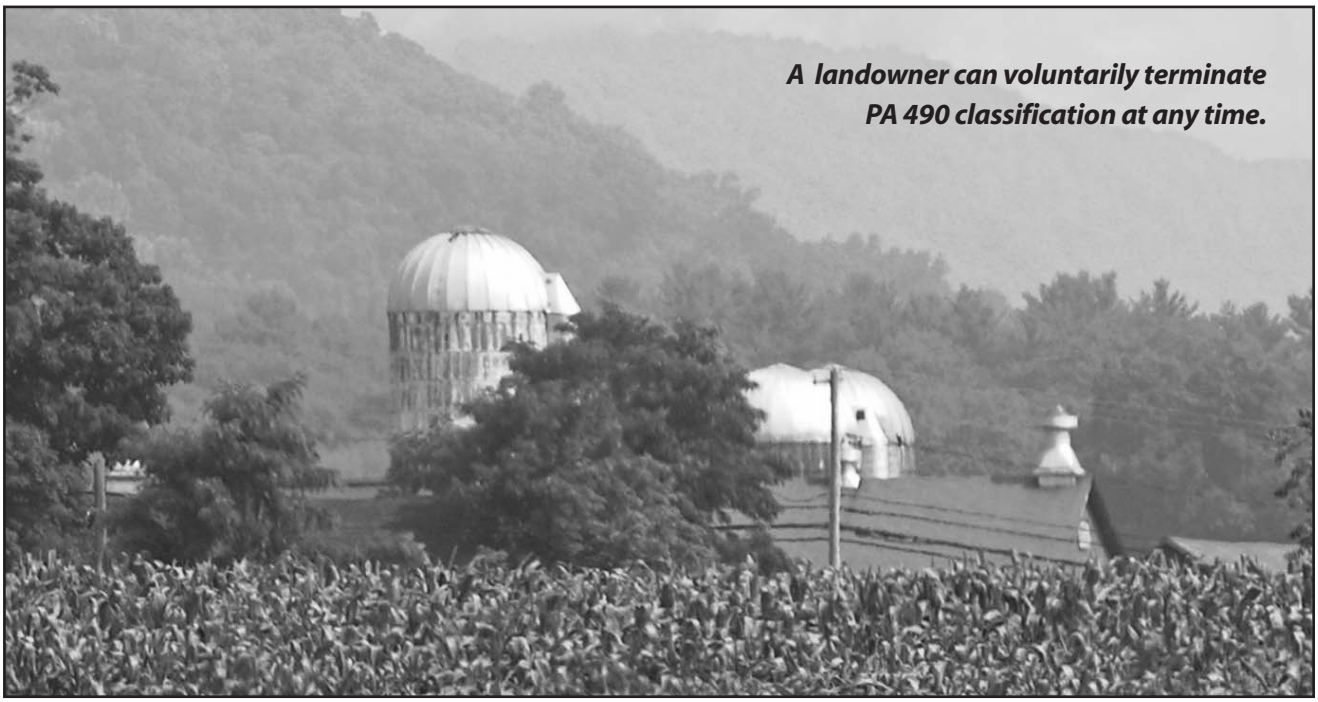
NOTIFICATION REQUIREMENTS FOR DECLASSIFICATION OF PA 490 LAND

There is no statutory requirement that the assessor notify a landowner of declassification of PA 490 land, therefore it is very important for the owner of PA 490 land to respond to the assessor when information is requested regarding a PA 490 classification. CGS Chapter 203, Section 12-55 does require notification of assessment increase.

For reclassification from PA 490 farmland to PA 490 forest land or vice versa, the conveyance clock does not restart, provided ownership remains the same. However, reclassification from PA 490 farmland or PA 490 forest land to PA 490 open space would restart the conveyance clock since the conveyance on open space is from the time of the application.

NOTIFICATION TO TOWN UPON PAYMENT OF A CONVEYANCE TAX

CGS Section 12-504b. If a conveyance tax has been paid on classified land, upon recording of the deed and payment of the required conveyance tax, such land shall be automatically declassified and the assessor will record with the town clerk a certificate stating that the land has been declassified.



APPEALS PROCESS

If a property owner is denied PA 490 classification, or they feel the PA 490 assessment is inappropriate, there are rights and remedies. The first action should be for the property owner to meet with the local assessor to determine why an application was denied or what the justification was for the assessment. Communication and negotiation at this point are very important. This may be an opportunity for the property owner to clarify information they have provided in the application, provided supporting or missing information or rectify an issue as simple as a missing signature. This is also an opportunity for the assessor to explain on what basis the application was denied or what methodology was used to determine the assessment value.

If the property owner is not able to achieve a satisfactory agreement with the assessor at this level, then the property owner has the right to appeal to the town's Board of Assessment Appeals. An appeal must be filed in writing to the Board no later than February twentieth (20th). The appeal must include a map or parcel map showing reference to the land, the signature of the property owner or duly authorized agent of the property owner, and date of signature. If the time for appealing to the Board has passed, the taxpayer may appeal at the next regularly scheduled meeting.

The aggrieved taxpayer will then be notified, no later than March first (1st), of the date, time, and place of the appeal hearing, or if the Board has elected not to conduct an appeal hearing. If an extension is granted to any assessor or board of assessors, the date by which a taxpayer shall be required to submit a written request for appeal to the board of assessment appeals shall be extended to March twentieth (20th) and said board shall conduct hearings regarding such requests during the month of April.

The Board of Assessment Appeals in each town shall meet in the month of March to hear appeals related to the assessment of property. Any such meeting shall be held on business days, which may be Saturdays, and last no later than the end of March.

If an appeal is denied by the Board of Assessment Appeals, a PA 490 landowner may appeal to the Superior Court. The landowner has 60 days from the date of denial in which to file an appeal to Superior Court. For persons who are not able to meet with the Board of Assessment Appeals, a direct appeal to the courts is allowed.

The landowner should seek a counsel with experience in PA 490 and be well advised to make sure they have all the appropriate facts prior to taking action. A consultation with other PA 490 landowners in town to see how they were treated and/or discussion with Department of Agriculture and Connecticut Farm Bureau staff are both advisable.

It is important to remember that the burden is on the property owner to prove that the assessors or Board of Assessment Appeals were in error. Failure to take a case to the board will make it very difficult to challenge the assessor's decision.

Appeal of Conveyance Tax

CGS Section12-504d allows for a taxpayer to appeal the imposition of an additional conveyance tax to a town's board of assessment appeals. Sec. 8 of PA 05-190 enacted in 2005 extends the time frame for filing an appeal with said board, if the additional conveyance tax is imposed when the Board of Assessment Appeals is not meeting in regular session (i.e. generally, during the months of March and April). In such case, a taxpayer may file an appeal with the Board appeals at its next regularly scheduled meeting. An appellant dissatisfied with the decision rendered by the Board may appeal that decision to the superior court for the judicial district in which the town or city that imposes the additional conveyance tax is located.

ZONING AND PA 490

Land classified under PA 490 is not necessarily affected by zoning, but rather by the use of the land. For example, if a tract of land is classified as farmland or forest land in a residential zone, and that zone is changed to commercial or industrial, the status of that tract should not change if the land continues to be farmed/forested. However in a new classification, the zoning may be relevant. In many towns, PA 490 open space land is directly tied to zoning regulations, permitting only acreage in excess of the minimum lot size for the zone to be classified as open space. Sometimes, depending on how localities have implemented the open space enabling statute, the town must revisit the ordinances if there is a zone change to properly account for the open space or other appropriate land use qualifications.

Some towns have minimum acreage requirements for certain types of farming, and in these cases that requirement should be met before PA 490 status should be granted to a new farming operation to avoid conflict. Some towns prohibit farming or certain types of farming operations in particular zones. A new farmer should check with the zoning department to assure their operation is permitted before they apply for PA 490 farmland. Often existing farming operations are legally nonconforming to zoning because when the use began it was permitted, and these operations can receive PA 490 designation regardless of their zoning status.

Zoned Building Lot Size and PA 490

If there is a residence on the property, it is customary for the assessor to remove the acreage of the zoned lot size from the PA 490 farmland or forest land classification, even if some of the land within the zoned lot size is being farmed or is in forest land. However, if there is no residence on a parcel being classified as PA 490 farmland or PA 490 forest land, a building lot should not be removed unless requested by the landowner. It is important to consider CGS Sec. 12-107a, which is the intent of the legislation, when considering current use tax assessment.

This was affirmed by the courts in Canterbury Farms, Et Al v. Waterford Board of Tax Review.

FREQUENTLY ASKED QUESTIONS REGARDING PA 490

Q What is Public Act 490 and Use Value Assessment?

A In 1963, the Connecticut Legislature passed PA 63-490, commonly referred to as PA 490, "An Act Concerning the Taxation and Preservation of Farm, Forest, or Open Space Land," (now Section 12-107a-f of the Connecticut General Statutes). The legislation provided for assessment of farm, forest and open space land on the basis of its value as currently used rather than its fair market value at its highest and best use. "Use value" is the value of the land when limited to the particular agricultural, forest or open space use to which it is actually put and not what it might be worth on the market if sold for some other use such as residential or commercial development. Every state in the nation has a Use Value Assessment law for its farm, forest, or open space land. Each state has different rules in regards to its particular Use Value Assessment law.

Q How much in property taxes can I save with Public Act 490 and how are values determined?

A Each situation is different; however, the savings can be significant. The Office of Policy and Management (OPM) in cooperation with the Connecticut Department of Agriculture is required to develop a recommended schedule of use values for use by towns for PA 490 land every five years. Most town assessors use the recommended values rather than develop the data necessary to establish use values for each parcel. In nearly all cases these values are significantly lower than other values such as for residential, commercial or industrial land. In exchange for the reduced tax however, the property owner makes a commitment not to change the use of the property for a period of time. Landowners should carefully acquaint themselves with the requirements imposed upon them prior to filing.

Q Does my land qualify as farmland under PA 490?

A Your assessor makes the determination if your land qualifies as farmland after you have submitted an application form. The statutes say an assessor may take into account, among other things, the acreage, the percentage of such acreage in actual use for farming or agricultural operations, the productivity of the land, the gross income derived from farming and the nature and value of the equipment used for farming. A frequently asked question is "How much farmland do I need to qualify?" The state law sets no minimum. Persons wanting to classify land under the PA 490 farmland classification must do so by application to the assessor in the town the land is located in September or October of each year. The application must be made on form M-29 Application To The Assessor for Classification of Land As Farmland. Filing information accompanies the application.

Q Does my land qualify for forest land under PA 490?

A The minimum acreage for PA 490 Forest Land is set by statute at 25 acres or more in area bearing tree growth. This may be (A) one tract of land of 25 acres or more contiguous acres, which acres may be in contiguous municipalities (it should be noted that this may be exclusive of the zoned lot size if a residence is on the parcel); (B) two or more tracts of land aggregating 25 acres or more in which no single component tract shall consist of less than 10 acres; or (C) any forested tract of land which is contiguous to a tract owned by the same owner which has already been classified as forest land. The application must be made on form M-39 Application To The Assessor For Classification Of Land As Forest Land on or before October 1st. A Qualified Forester's Report completed by a certified forester must accompany the application. The local assessor can provide a list of foresters qualified to complete the report. Filing information accompanies the application.

Q Does my land qualify for open space under PA 490?

A Not every municipality in Connecticut offers the open space classification. Some municipalities permit any land above the minimum acreage required by zoning that is not developed to be so classified. Other municipalities offer the open space category only to landowners who have property in an area that has been designated as "open space" on the municipality's plan of conservation and development. Some towns have minimum acreage requirements. Property owners interested in this classification should consult with their local assessor to see if this is available in their town, and if so, what the specific requirements are.

Q What if my assessor denies my application?

A If you anticipate that there might be questions concerning the approval of your request for farmland, forest or open space designation, you should get help in preparation of your application; the presentation of information in the application can be very important. You may benefit from the advice of an attorney. It is also suggested that you contact the Connecticut Farm Bureau, Connecticut Department of Agriculture, or the Cooperative Extension System before you submit your application. These service agencies do not offer legal advice but they may be able to provide practical suggestions that improve your prospects for approval. As a taxpayer, if your application is denied, you have the right to appeal your assessor's decision to your town's Board of Assessment Appeals and to continue from there on to Superior Court. The quality of your application and the data supplied in it can make a tremendous difference in your chances of success on appeal.

Q Do I have to apply for it every year?

A No. Once you have been granted a farm, forest, or open space land classification under Public Act 490, the classification can only be removed by the assessor if the use of the land changes to a use inconsistent with its classification or the land ownership changes. Nevertheless, your town may periodically ask you for an update of the usage of your Public Act 490 land, especially if a new assessor is hired. Often you may be asked to complete another application form. In many cases a new application may not be appropriate and it may lead to some confusion that should be resolved before you proceed. Once the ownership of the land changes (for whatever reason), the farm, forest, or open space land classification can be terminated, and the new owner(s) must reapply. Families should seek legal advice prior to transferring land for estate planning reasons to avoid unexpected consequences. Also, the exemptions set forth in CGS Section 12-504c should be consulted and complied with, if possible.

Q How do I obtain the application form that tax assessors use to determine if my land can be classified as farm, forest or open space under Public Act 490?

A Applications are available from your local assessor's office and Connecticut Farm Bureau Association. Visit the Connecticut Association of Assessing Officers' website at *www.caao.com* to download an application.

Q Is Public Act 490 fair to my town and other property taxpayers?

A When the legislature passed Public Act 490 in 1963, it included (and continues to include to this day) the wording that "it is in the public interest to encourage the preservation of farm, forest, and open space land." The legislature made a public finding, unique in the tax laws, that the PA 490 program contributes net value to our state's citizens. In addition, even with the lower property taxes collected, the towns do not sacrifice property tax revenues because of Public Act 490. Studies done across the nation, and closer to home by the American Farmland Trust, have conclusively proven that property tax revenues generated by farm, forest, or open space land, are far greater than the expenditures by the town to service that land. On the other hand, the residential sector costs a town more to service then the amount of property tax generated from that sector. Thus, the preservation of farm, forest, and open space land through this method can actually help control and maintain reasonable rates of property taxation for all of a town's taxpayers.

Q What records should I keep?

A It is very important that you keep accurate records of your PA 490 land. These records should include a copy of your original application with dates and signatures along with any supporting documents such as maps, reports, correspondence and field cards. It is also recommended that you check with the assessor periodically after the application has been accepted to make sure the updated information on your field card is accurate.

Q What is the most important item to understand about applying for PA 490 classification?

A If you have owned the land less than ten years and it is classified as PA 490 land, there is a conveyance tax that will apply if the land is sold, transferred or land use has changed. You will have to pay this tax to the town. The recapture tax can be higher than the amount of property tax saved.

Q What is the Conveyance Tax and how does it work?

A Once you place your property under PA 490 farmland, forest land or open space classification with your town, that property must remain so classified for 10 years or you will incur a penalty called the Conveyance Tax. The clock starts ticking for the conveyance from the time of ownership or time of classification, whichever comes earliest for farmland and forest land and from the time of classification for open space. The tax imposed for a sale, a transfer or a change in the land use and the tax will be 10% of sale price if sold within first year of classification, 9% if sold within 2nd year of classification, etc., down to 1% if sold within 10th year of ownership. No tax will be imposed following the end of the tenth year after the initial date of classification. This tax is in addition to the normal real estate conveyance tax (per Connecticut state statutes) that you must pay. The rate of the tax is applied to the sale price of the land in the case of a sale, or the fair market value of the land determined by the assessor in the case of a land use change or a non-exempt transfer for little or no consideration. The owner/seller is responsible for paying the conveyance tax. There are exemptions or excepted transfers to this listed under CGS Section 12-504c but if there are any questions, you should retain a land use lawyer.

Q Is there a definition of farming and agriculture accepted by everyone for use in PA 490 classification?

A Item 1-1q of the Connecticut General Statutes gives a definition of agriculture which is very diverse but which is accepted. However, the PA 490 classification is not to be granted to a "gentleman farmer" who may raise a few chickens, have a garden or a couple of horses strictly for his own use. In the broader context, this classification is meant for those farms that are practicing production agriculture, and each case merits its own inspection.

Q If I have acreage classified under PA 490 and decide to take some land out for some other use, does my classification get taken away on the rest of the land?

A No, but the original application should be revised to show the change. However, if land is taken out of the forest land classification and the remaining acreage falls below 25 acres, the entire parcel would be declassified because it no longer makes the 25 acre minimum to qualify for PA 490 forest land.

Q Does a new owner of land that was under PA 490 classification by a former owner have to reapply for classification if he or she wants to continue the classification?

A Yes, classification ceases when there is a sale, transfer, or a change in land use. In addition if land classified under PA 490 is sold, the assessor is required by law to notify the new owner of the benefits of PA 490.

Q The question I have regarding PA 490 is not clearly answered in the statute, where would I find the answer?

A There is more than 40 years of case law on PA 490. You would look to see if your situation or issue has been determined by the courts.

APPENDIX A: SELECTED CONNECTICUT GENERAL STATUTES (CGS)

RELATED STATUTES AND PA 490: CGS SECTIONS 12-107 AND CGS 12-504

CGS Sec. 1-1(q) — Definition of Agriculture

(q) Except as otherwise specifically defined, the words "agriculture" and "farming" shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoop houses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farmlands. Nothing herein shall restrict the power of a local zoning authority under chapter 124.

CGS Chapter 201 Sec. 12-2b. — Duties of Secretary of Office of Policy and Management re: municipal assessment

The Secretary of the Office of Policy and Management shall: (1) In consultation with the Commissioner of Agriculture, develop schedules of unit prices for property classified under sections 12-107a to 12-107e, inclusive, update such schedules by October 1, 1990, and every five years thereafter, and make such data, studies and schedules available to municipalities and the public; (2) develop regulations setting forth standards and tests for: Certifying revaluation companies and their employees, which regulations shall ensure that a revaluation company is competent in appraising and valuing property, certifying revaluation companies and their employees, requiring that a certified employee supervise all valuations performed by a revaluation company for municipalities, maintaining lists of certified revaluation companies and upon request, advising municipalities in drafting contracts with revaluation companies, and conducting investigation and withdrawing the certification of any revaluation company or employee found not to be conforming to such regulations. The regulations shall provide for the imposition of a fee payable to a testing service designated by the secretary to administer certification examinations; and (3) by himself, or by an agent whom he may appoint, inquire if all property taxes which are due and collectible by each town or city not consolidated with a town, are in fact collected and paid to the treasurer thereof in the manner prescribed by law, and if accounts and records of the tax collectors and treasurers of such entities are adequate and properly kept. The secretary may hold meetings, conferences or schools for assessors, tax collectors or municipal finance officers.

CGS Sec. 12-63 — Rule of valuation

(a) The present true and actual value of land classified as farmland pursuant to section 12-107c, as forest land pursuant to section 12-107d, as open space land pursuant to section 12-107e, or as maritime heritage land pursuant to section 12-107g shall be based upon its current use without regard to neighborhood land use of a more intensive nature, provided in no event shall the present true and actual value of open space land be less than it would be if such open space land comprised a part of a tract or tracts of land classified as farmland pursuant to section 12-107c. The present true and actual value of all other property shall be deemed by all assessors and boards of assessment appeals to be the fair market value thereof and not its value at a forced or auction sale.

CGS Chapter 203 Sec. 12-107a. — Declaration of policy

It is hereby declared (a) that it is in the public interest to encourage the preservation of farmland, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (b) that it is in the public interest to prevent the forced conversion of farmland, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farmland, forest land and open space land, and (c) that the necessity in the public interest of the enactment of the provisions of sections 7-131c and 12-107b to 12-107e, as amended by this act, and section 12-504f, as amended by this act, is a matter of legislative determination.

Chapter 203 Sec. 12-107b. — Definitions

When used in sections 12-107a to 12-107e, inclusive, and 12-107g:

(1) The term "farmland" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;

(2) The term "forest land" means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth that conforms to the forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of section 12-107d, and consisting of (A) one tract of land of twenty-five or more contiguous acres, which acres may be in

contiguous municipalities, (B) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres, or (C) any tract of land which is contiguous to a tract owned by the same owner and has been classified as forest land pursuant to this section;

(3) The term "open space land" means any area of land, including forest land, land designated as wetland under section 22a-30 and not excluding farmland, the preservation or restriction of the use of which would (A) maintain and enhance the conservation of natural or scenic resources, (B) protect natural streams or water supply, (C) promote conservation of soils, wetlands, beaches or tidal marshes, (D) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (E) enhance public recreation opportunities, (F) preserve historic sites, or (G) promote orderly urban or suburban development;

(4) The word "municipality" means any town, consolidated town and city, or consolidated town and borough;

(5) The term "planning commission" means a planning commission created pursuant to section 8-19;

(6) The term "plan of conservation and development" means a plan of development, including any amendment thereto, prepared or adopted pursuant to section 8-23;

(7) The term "certified forester" means a practitioner certified as a forester pursuant to section 23-65h; and

(8) The term "maritime heritage land" means that portion of waterfront real property owned by a commercial lobster fisherman licensed pursuant to title 26, when such portion of such property is used by such fisherman for commercial lobstering purposes, provided in the tax year of the owner ending immediately prior to any assessment date with respect to which application is submitted pursuant to section 12-107g, not less than fifty per cent of the adjusted gross income of such fisherman, as determined for purposes of the federal income tax, is derived from commercial lobster fishing, subject to proof satisfactory to the assessor in the town in which such application is submitted. "Maritime heritage land" does not include buildings not used exclusively by such fisherman for commercial lobstering purposes.

CGS Chapter 203 Sec. 12-107c. — Classification of land as farmland

(a) An owner of land may apply for its classification as farmland on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is farmland and, if such assessor determines that it is farmland, he or she shall classify and include it as such on the grand list. In determining whether such land is farmland, such assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

(b) An application for classification of land as farmland shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as farmland within the time limit prescribed in subsection (a) and in the manner and form prescribed in subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as farmland shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Chapter 203 Sec. 12-107d. — Classification of land as forest land

Regulations re: evaluation of land as forest land. Implementation of standards and procedures. Certification requirements. Fees. Notice of termination of forest land classification. Application for classification as forest land. Appeal. Report to State Forester.

(a) Not later than June 1, 2006, the Commissioner of Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, regarding standards for forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land. Standards and procedures regarding forest stocking, distribution and conditions and procedures for evaluation by a certified forester of land proposed for classification as forest land shall be implemented by the State Forester while the commissioner is in the process of establishing such regulations, provided notice of intent to adopt the regulations is published not later than twenty days after the date of implementation. The standards and procedures implemented by the State Forester shall be valid until June 1, 2006, or until regulations are adopted, whichever date is earlier.

(b) A certified forester may evaluate land proposed for classification as forest land and attest to the qualifications of such land for classification as forest land, provided such certified forester has satisfactorily completed training by and obtained a certificate from the State Forester or his or her designee related to policies and standards for evaluating land proposed for classification as forest land and, in the opinion of the State Forester, the certified forester acts in conformance with such policies and standards.

(c) An owner of land seeking classification of such land as forest land shall employ a certified forester to examine the land to determine if it conforms to forest stocking, distribution and condition standards established by the State Forester pursuant to subsection (a) of this section. If the certified forester determines that such land conforms to such standards, such forester shall issue a report to the owner of the land pursuant to subsection (g) of this section and retain one copy of the report.

(d) Fees charged by a certified forester for services to examine land and determine if said land conforms to the standards of forest stocking, distribution and condition established by the State Forester shall not be contingent upon or otherwise influenced by the classification of the land as forest land or the failure of such land to qualify for said classification.

(e) Upon termination of classification as forest land, the assessor of the municipality in which the land is located shall issue a notice of cancellation and provide a copy of such notice to the owner of the land and to the office of the assessor of any other municipality in which the owner's land is classified as forest land.

(f) An owner of land may apply for its classification as forest land on any grand list of a municipality by filing a written application for such classification accompanied by a copy of the certified forester's report described in subsection (g) of this section with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date and, if the assessor determines that the use of such land as forest land has not changed as of a date at or prior to the assessment date such assessor shall classify such land as forest land and include it as such on the grand list, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date in such year.

(g) A report issued by a certified forester pursuant to subsection (c) of this section shall be on a form prescribed by the State Forester and shall set forth a description of the land, a description of the forest growth upon the land, a description of forest management activities recommended to be undertaken to maintain the land in a state of proper forest condition and such other information as the State Forester may require as measures of forest stocking, distribution and condition and shall include the name, address and certificate number of the certified forester and a signed, sworn statement that the certified forester has determined that the land proposed for classification conforms to the standards of forest stocking, distribution and condition established by the State Forester. An application to an assessor for classification of land as forest land shall be made upon a form prescribed by such assessor and approved by the Commissioner of Environmental Protection and shall set forth a description of the land and the date of the issuance of the certified forester's report and a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504e, inclusive. The certified forester's report shall be attached to and made a part of such application. No later than October first, such application shall be submitted to the assessor.

(h) Failure to file an application for classification of land as forest land within the time limit prescribed in subsection (f) of this section and in the manner and form prescribed in subsection (g) of this section shall be considered a waiver of the right to such classification on such assessment list.

(i) The municipality within which land proposed for classification as forest land is situated or the owner of such land may appeal to the State Forester for a review of the findings of the certified forester as issued in the certified forester's report. Such appeal shall be filed with the State Forester not later than thirty business days after the issuance of the report and shall be brought by petition in writing. The State Forester shall review the report of the certified forester and any information the certified forester relied upon in developing his or her findings and may gather additional information at his or her discretion. The State Forester shall render the results of his or her review of the certified forester's report not later than sixty calendar days after the appeal was filed.

(j) An owner of land aggrieved by the denial of any application to the assessor of a municipality for classification of land as forest land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

(k) During the month of June each year the assessor of a municipality within which land classified as forest land is situated shall report to the State Forester, in a format prescribed by the State Forester, the total number of owners of land classified as farmland, forest land or open space land as of the most recent grand list and a listing of the parcels of land so classified showing the acreage of each parcel, the total acreage of all such parcels, the number of acres of each parcel classified as farmland, forest land or open space land, and the total acreage for all such parcels.

CGS Chapter 203 Sec. 12-107e. — Classification of land as open space land

(a) The planning commission of any municipality in preparing a plan of conservation and development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation or payments in lieu thereof if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification.

(b) An owner of land included in any area designated as open space land upon any plan as finally adopted may apply for its classification as open space land on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether there has been any change in the area designated as an area of open space land upon the plan of development which adversely affects its essential character as an area of open space land and, if the assessor determines that there has been no such change, said assessor shall classify such land as open space land and include it as such on the grand list. An application for classification of land as open space land shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of section 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as open space land within the time limit prescribed in subsection (b) of this section and in the manner and form prescribed in said subsection (b) shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial by an assessor of any application for the classification of land as open space land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Sec. 12-107f. Open space land

(a) Declaration of policy encouraging preservation by tax-exempt organizations. It is hereby found and declared that it is in the public interest to encourage organizations which are tax-exempt for federal income tax purposes to hold open space land in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general.

(b) Improvements exempt from state and municipal assessments or taxes. Payment of assessment or taxes by municipality. Any such open space land held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general, and not held or used for development for any residential, industrial or commercial purpose, by any organization to which a determination letter has been issued by the Internal Revenue Service that contributions to it are deductible under the applicable sections of the Internal Revenue Code as amended, shall not be subject to state or municipal assessments or taxes for either capital or maintenance costs for improvements or betterments capable of serving the land so held, such as water lines, sidewalks, streets and sewers. The amount of such assessments or taxes which would have been charged to such organization shall be paid out of the General Fund of such municipality and shall be financed out of regular municipal taxes.

(c) Exemption application and time limit. Determination by authority. Any owner of land who has received such a determination letter from the Internal Revenue Service may apply for exemption from any state or municipal assessment for improvements or betterments to the authority making such assessment not later than ninety days after such assessment. Said authority shall determine whether the open space land is held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general, and not held or used for development for any residential, industrial or commercial purpose.

(d) Form of application. An application for exemption from state or municipal assessments for improvements or betterments shall be made upon a form prescribed by the Commissioner of Agriculture and shall set forth the current status of the determination of deductibility under the applicable sections of the Internal Revenue Code, a description of the land, a general description of the current use of such land, and such other information as said authority may require to aid in determining whether such land qualifies for such exemption.

(e) Waiver by failure to file. Failure to file an application for exemption within the time limit prescribed in subsection (c) and in the manner and form prescribed in subsection (d) shall be considered a waiver of the right to such exemption with respect to the current such assessment.

(f) Appeal from denial of application for exemption. Any owner of land aggrieved by the denial of any application for exemption shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by actions of assessors or boards of assessment appeals.

CGS Sec. 12-107g. — Classification of land as marine heritage land

(a) An owner of land may apply for its classification as maritime heritage land, as defined in section 12-107b, on any grand list of a municipality by filing a written application for such classification with the assessor thereof not earlier than thirty days before or later than thirty days after the assessment date, provided in a year in which a revaluation of all real property in accordance with section 12-62 becomes effective such application may be filed not later than ninety days after such assessment date. The assessor shall determine whether such land is maritime heritage land and, if such assessor determines that it is maritime heritage land, he or she shall classify and include it as such on the grand list.

(b) An application for classification of land as maritime heritage land shall be made upon a form prescribed by the Secretary of the Office of Policy and Management and shall set forth a description of the land, a general description of the use to which it is being put, a statement of the potential liability for tax under the provisions of sections 12-504a to 12-504f, inclusive, and such other information as the assessor may require to aid the assessor in determining whether such land qualifies for such classification.

(c) Failure to file an application for classification of land as maritime heritage land within the time limit prescribed in subsection (a) of this section and in the manner and form prescribed in subsection (b) of this section shall be considered a waiver of the right to such classification on such assessment list.

(d) Any person aggrieved by the denial of any application for the classification of land as maritime heritage land shall have the same rights and remedies for appeal and relief as are provided in the general statutes for taxpayers claiming to be aggrieved by the doings of assessors or boards of assessment appeals.

CGS Sec. 12-504a. — Conveyance tax on sale or transfer of land classified as farm, forest, open space or maritime heritage land

(a) If at any time there is a change of ownership for any property that is classified as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, a revised application shall be filed with the assessor pursuant to said section 12-107c, 12-107d, 12-107e or section 12-107g.

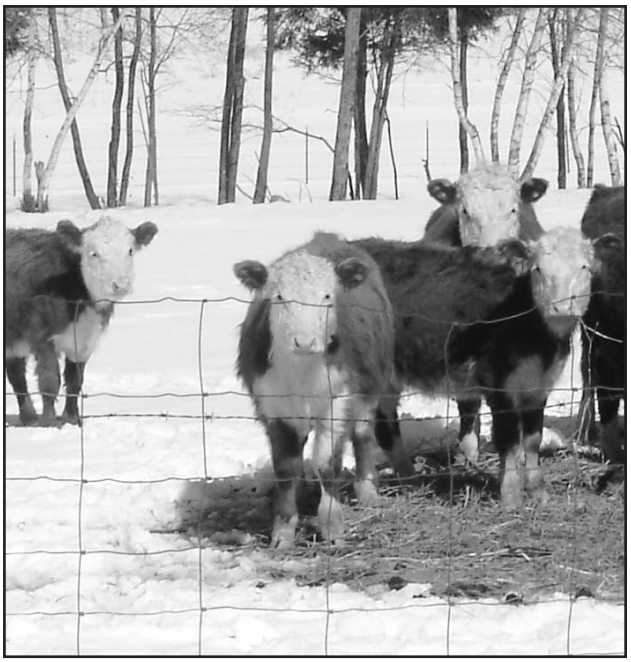
(b) Any land which has been classified by the record owner thereof as open space land pursuant to section 12-107e or as maritime heritage land pursuant to section 12-107g, if sold or transferred by him within a period of ten years from the time he first caused such land to be so classified, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year following the date of such classification; (2) nine per cent if sold within the second year following the date of such classification; (3) eight per cent if sold within the third year following the date of such classification; (4) seven per cent if sold within the fourth year following the date of such classification; (5) six per cent if sold within the fifth year following the date of such classification; (6) five per cent if sold within the sixth year following the date of such classification; (7) four per cent if sold within the seventh year following the date of such classification; (8) three per cent if sold within the eighth year following the date of such classification; (9) two per cent if sold within the ninth year following the date of such classification; and (10) one per cent if sold within the tenth year following the date of such classification. No conveyance tax shall be imposed on such record owner by the provisions of sections 12-504a to 12-504f, inclusive, following the end of the tenth year after the date of such classification by the record owner or person acquiring title to such land or causing such land to be so classified.

(c) Any land which has been classified by the record owner thereof as farmland pursuant to section 12-107c or as forest land pursuant to section 12-107d, if sold or transferred by him within a

period of ten years from the time he acquired title to such land or from the time he first caused such land to be so classified, whichever is earlier, shall be subject to a conveyance tax applicable to the total sales price of such land, which tax shall be in addition to the tax imposed under sections 12-494 to 12-504, inclusive. Said conveyance tax shall be at the following rate: (1) Ten per cent of said total sales price if sold within the first year of ownership by such record owner; (2) nine per cent if sold within the second year of ownership by such record owner; (3) eight per cent if sold within the third year of ownership by such record owner; (4) seven per cent if sold within the fourth year of ownership by such record owner; (5) six per cent if sold within the fifth year of ownership by such record owner; (6) five per cent if sold within the sixth year of ownership by such record owner; (7) four per cent if sold within the seventh year of ownership by such record owner; (8) three per cent if sold within the eighth year of ownership by such record owner; (9) two per cent if sold within the ninth year of ownership by such record owner; and (10) one percent if sold within the tenth year of ownership by such record owner. No conveyance tax shall be imposed by the provisions of sections 12-504a to 12-504f, inclusive, following the end of the tenth year of ownership by the record owner or person acquiring title to such land or causing such land to be so classified.

CGS Chapter 223 Sec. 12-504b. — Payment of tax; land declassified; assessment change

Said conveyance tax shall be due and payable by the particular grantor who caused such classification to be made to the town clerk of the town in which the property is entered upon the tax list at the time of the recording of his deed or other instrument of conveyance. Such conveyance tax and the revenues produced thereby shall become part of the general revenue of such municipality. No deed or other instrument of conveyance which is subject to tax under sections 12-504a to 12-504f, inclusive, shall be recorded by any town clerk unless the tax imposed by said sections has been paid. Upon the recording of such deed and the payment of the required conveyance tax such land shall be automatically declassified and the assessor shall forthwith record with the town clerk a certificate setting forth that such land has been declassified. Thereafter, such land shall be assessed at its fair market value as determined by the assessor under the provisions of section 12-63 for all other property, until such time as a record owner may reclassify such land.



CGS Sec. 12-504c. — Excepted transfers

The provisions of section 12-504a shall not be applicable to the following: (1) Transfers of land resulting from eminent domain proceedings; (2) mortgage deeds; (3) deeds to or by the United States of America, state of Connecticut or any political subdivision or agency thereof; (4) strawman deeds and deeds which correct, modify, supplement or confirm a deed previously recorded; (5) deeds between husband and wife and parent and child when no consideration is received, except that a subsequent nonexempt transfer by the grantee in such cases shall be subject to the provisions of said section 12-504a as it would be if the grantor were making such nonexempt transfer; (6) tax deeds; (7) deeds of foreclosure; (8) deeds of partition; (9) deeds made pursuant to a merger of a corporation; (10) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the capital stock of such subsidiary; (11) property transferred as a result of death when no consideration is received and in such transfer the date of acquisition or classification of the land for purposes of sections 12-504a to 12-504f, inclusive, or section 12-107g, whichever is earlier, shall be the date of acquisition or classification by the decedent; (12) deeds to any corporation, trust or other entity, of land to be held in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, provided such corporation, trust or other entity has received a determination from the Internal Revenue Service that contributions to it are deductible under applicable sections of the Internal Revenue Code; (13) land subject to a covenant specifically set forth in the deed transferring title to such land, which covenant is enforceable by the town in which such land is located, to refrain from selling, transferring or developing such land in a manner inconsistent with its classification as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, for a period of not less than eight years from the date of transfer, if such covenant is violated the conveyance tax set forth in this chapter shall be applicable at the rate multiplied by the market value as determined by the assessor which would have been applicable at the date the deed containing the covenant was delivered and, in addition, the town or any taxpayer therein may commence an action to enforce such covenant; (14) land the development rights to which have been sold to the state under chapter 422a; and (15) deeds to or from any limited liability company when the grantors or grantees are the same individuals as the principals or members of the limited liability company. If action is taken under subdivision (13) of this section by a taxpayer, such action shall commence prior to the ninth year following the date of the deed containing such covenant and the town shall be served as a necessary party.

CGS Chapter 223 Sec. 12-504d. — Appeals

Any person aggrieved by the imposition of a tax under the provisions of sections 12-504a to 12-504f, inclusive, may appeal therefrom as provided in sections 12-111, 12-112 and 12-118. If the time for appealing to the board of assessment appeals has passed, the taxpayer may appeal at the next regularly scheduled meeting.

CGS Sec. 12-504e. — Conveyance tax applicable on change of use or classification of land

Any land which has been classified by the owner as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, if changed by him, within a period of ten years of his acquisition of title, to use other than farmland, forest land, open space land or maritime heritage land, shall be subject to said conveyance tax as if there had been an actual conveyance by him, as provided in sections 12-504a and 12-504b, at the time he makes such change in use. For the purposes of this section: (1) The value of any such property shall be the fair market value thereof as determined by the assessor in conjunction with the most recent revaluation, and (2) the date used for purposes of determining such tax shall be the date on which the use of such property is changed, or the date on which the assessor becomes aware of a change in use of such property, whichever occurs first.

CGS Sec. 12-504f. — Classification of land classified as farm, forest, open space or maritime heritage land personal to owner. Certificate of classification

The tax assessor shall file annually, not later than sixty days after the assessment date, with the town clerk a certificate for any land which has been classified as farmland pursuant to section 12-107c, as forest land pursuant to section 12-107d, as open space land pursuant to section 12-107e or as maritime heritage land pursuant to section 12-107g, which certificate shall set forth the date of the initial classification and the obligation to pay the conveyance tax imposed by this chapter. Said certificate shall be recorded in the land records of such town. Any such classification of land shall be deemed personal to the particular owner who requests such classification and shall not run with the land. The town clerk shall notify the tax assessor of the filing in the land records of the sale of any such land. Upon receipt of such notice the tax assessor shall inform the new owner of the tax benefits of classification of such land as farmland, forest land or open space land.

CGS Chapter 223 Sec. 12-504g. — Recording without payment of tax as constructive notice

The recording of any title deed, instrument or writing without the payment of the tax required by sections 12-504a, 12-504b, 12-504e to 12-504h, inclusive, shall not prevent such recording from constituting constructive notice of such deed, instrument or writing.

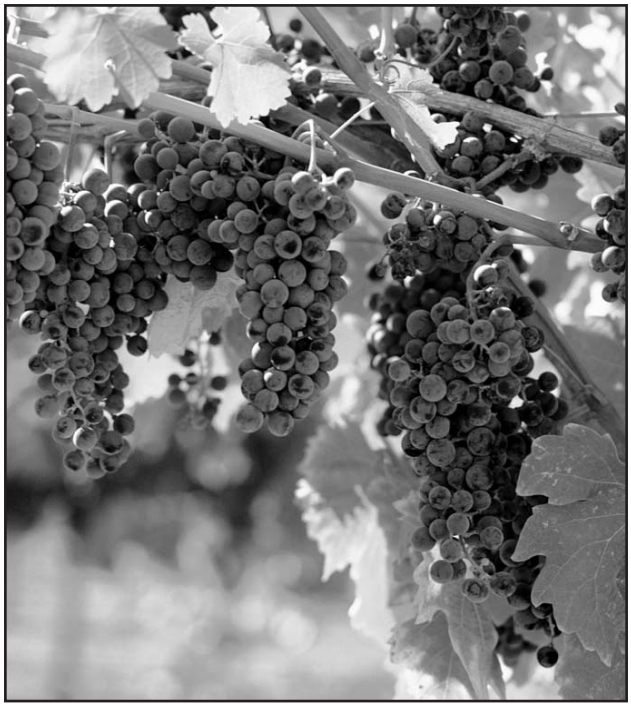
CGS Sec. 12-504h. — Termination of classification as farm, forest, open space or maritime heritage land

Any such classification of farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall be deemed personal to the particular owner who requests and receives such classification and shall not run with the land. Any such land which has been classified by a record owner shall remain so classified without the filing of any new application subsequent to such classification, notwithstanding the provisions of sections 12-107c, 12-107d, 12-107e and section 12-107g, until either of the following shall occur: (1) The use of such land is changed to a use other than that described in the application for the existing classification by said record owner, or (2) such land is sold or transferred by said record owner. Upon the sale or transfer of any such property, the classification of such land as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall cease as of the date of sale or transfer. In the event that a change in use of any such property occurs, the provisions of section 12-504e, shall apply in terms of determining the date of change and the classification of such land as farmland pursuant to section 12-107c, forest land pursuant to section 12-107d, open space land pursuant to section 12-107e or maritime heritage land pursuant to section 12-107g, shall cease as of such date.

ADVISORY OPINION BY COMMISSIONER OF AGRICULTURE: PA 05-160 JULY 2005

CGS Sec. 22-4c. — Powers of commissioner. Recording and transcription of hearings. Payment of related costs or expenses

(a) The Commissioner of Agriculture may: (1) Adopt, amend or repeal, in accordance with the provisions of chapter 54, such standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out the commissioner's functions, powers and duties; (2) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the department; (3) initiate and receive complaints as to any actual or suspected violation of any statute, regulation, permit or order administered, adopted or issued by the commissioner. The commissioner may hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions and for the enforcement of any statute, regulation, order or permit administered, adopted or issued by the commissioner; (4) provide an advisory opinion, upon request of any municipality, state agency, tax assessor or any land-owner as to what constitutes agriculture or farming pursuant to subsection (q) of section 1-1, or regarding classification of land as farmland or open space land pursuant to sections 12-107b to 12-107f, inclusive;



ASSESSMENT OF WETLAND BUFFER AREAS: PA 05-190 JULY 2005

CGS Chapter 203 Sec. 12-63g. — Assessment of buffers to inland wetlands or watercourses

Property required as a buffer pursuant to any permit issued by an inland wetlands agency under regulations adopted under section 22a-42a shall be assessed at a value equal to the value of such property if it were an inland wetland or watercourse area.

GRAND LIST, CHANGES IN VALUATION, NOTICE OF ASSESSMENT

CGS Chapter 203 Sec. 12-55. — Publication of grand list. Changes in valuation. Notice of assessment increase

(a) On or before the thirty-first day of January of each year, except as otherwise specifically provided by law, the assessors or board of assessors shall publish the grand list for their respective towns. Each such grand list shall contain the assessed values of all property in the town, reflecting the statutory exemption or exemptions to which each property or property owner is entitled, and including, where applicable, any assessment penalty added in accordance with section 12-41 or 12-57a for the assessment year commencing on the October first immediately preceding. The assessor or board of assessors shall lodge the grand list for public inspection, in the office of the assessor on or before said thirty-first day of January, or on or before the day otherwise specifically provided by law for the completion of such grand list. The town's assessor or board of assessors shall take and subscribe to the oath, pursuant to section 1-25, which shall be certified by the officer administering the same and endorsed upon or attached to such grand list. For the grand list of October 1, 2000, and each grand list thereafter, each assessor or member of a board of assessors who signs the grand list shall be certified in accordance with the provisions of section 12-40a.

(b) Prior to taking and subscribing to the oath upon the grand list, the assessor or board of assessors shall equalize the assessments of property in the town, if necessary, and make any assessment omitted by mistake or required by law. The assessor or board of assessors may increase or decrease the valuation of any property as reflected in the last-preceding grand list, or the valuation as stated in any personal property declaration or report received pursuant to this chapter. In each case of any increase in valuation of a property above the valuation of such property in the last-preceding grand list, or the valuation, if any, stated by the person filing such declaration or report, the assessor or board of assessors shall mail a written notice of assessment increase to the last-known address of the owner of the property the valuation of which has increased. All such notices shall be subject to the provisions of subsection (c) of this section. Notwithstanding the provisions of this section, a notice of increase shall not be required in any year with respect to a registered motor vehicle the valuation of which has increased. In the year of a revaluation, the notice of increase sent in accordance with subsection (f) of section 12-62 shall be in lieu of the notice required by this section.

(c) Each notice of assessment increase sent pursuant to this section shall include: (1) The valuation prior to and after such increase; and (2) information describing the manner in which an appeal may be filed with the board of assessment appeals. If a notice of assessment increase affects the value of personal property and the assessor or board of assessors used a methodology to determine such value that differs from the methodology previously used, such notice shall include a statement concerning such change in methodology, which shall indicate the current methodology and the one that the assessor or assessors used for the valuation prior to such increase. Each such notice shall be mailed not earlier than the assessment date and not later than the tenth calendar day immediately following the date on which the assessor or board of assessors signs and attests to the grand list. If any such assessment increase notice is sent later than the time period prescribed in this subsection, such increase shall become effective on the next succeeding grand list.

APPENDIX B: APPLICATIONS FOR PA 490 AND DEP ANNUAL REPORT

State of Connecticut
Form M-29, Rev. 9/02

Prescribed by the Commissioner
of the Department of Agriculture

APPLICATION TO THE ASSESSOR FOR CLASSIFICATION OF LAND AS FARM LAND

Declaration of policy: It is hereby declared that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state [and] that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land.

Please print. File a separate application for each parcel. Complete all appropriate sections, attaching additional sheets if necessary. See reverse for additional filing information and section to be completed if farm land is leased or rented.

Name of Owner(s): _____

Property Location: _____ ***(Number & Street)*** _____ ***(Town)*** _____ ***(State)*** _____ ***(Zip Code)***

Mailing Address: _____ *(Number & Street or P.O. Box)* _____ *(Town)* _____ *(State)* _____ *(Zip Code)*

Check appropriate box: ☐ New Application ☐ Ownership Change ☐ Acreage Change ☐ Use Change

Total acreage of land: # _____ *(Acres)* Portion in actual use for farming / agricultural operations: # _____ *(Acres)*

Is total acreage located wholly within this town? ☐ YES ☐ NO If NO, name of other town: _____

Total gross income derived farm operation *(Need not be majority of income)*: $ _____

Type of farming operation (e.g., dairy, vegetable, horse, etc.) _____

Equipment used in the farm operation:

Enter number of acres in each land class below and attach a sketch of your farm land to this application, showing the number of acres in each such class. Assessor will complete Items 3 and 4 if application is approved.

1	2	3	4
Land Classes	# Acres	Use Value	Use Assessment
Tillable A - Excellent (Shade Tobacco and Ball and Burlap Nursery, Crop Land):			
Tillable B - Very Good (Binder Tobacco, Vegetable, Potatoes, Crop Land):			
Tillable C - Very Good, Quite Level (Corn Silage, Hay, Vegetables, Potatoes, Crop Land):			
Tillable D - Good to Fair, Moderate to Considerable Slopes (Hay, Corn Silage, Rotation Pasture, Crop Land):			
Orchard - Well Maintained Trees for the Purposes of Bearing Fruit:			
Permanent Pasture – Grazing for Livestock, Not Tilled Land:			
Woodland – Woodland in a Farm Unit:			
Wasteland - Swamp / Ledge / Scrub:			
TOTAL ELIGIBLE ACRES:			
	TOTAL CLASSIFIED USE ASSESSMENT:		

Owner's Affidavit

I DO HEREBY DECLARE under penalty of false statement that the statements made herein by me are true according to the best of my knowledge and belief, and that I have received and reviewed §12-504a through §12-504e, inclusive of the Connecticut General Statutes concerning a potential tax liability upon a change of use or sale of this land.

DATED: _____ /S/ _____

DATED: /S/

Assessor's Verification Section

Acquisition Date: _____ Map / Block / Lot: _____ Total Acreage: _____ Acreage Classified: _____

Vol. / Page: _____ Date Recorded: _____

Application approved: ☐ YES ☐ NO Reason for denial: _____

/S/ _____ *Assessor* _____ *Date*

State of Connecticut
Form M-29, Rev. 9/02

Prescribed by the Commissioner
of the Department of Agriculture

APPLICATION TO THE ASSESSOR FOR CLASSIFICATION OF LAND AS FARM LAND

The following section must be completed only if the land described in this application is leased / rented for farming.

I, _____ residing at _____ _____ _____ _____
(Name of Renter / Lessor) *(Number & Street)* *(Town)* *(State)* *(Zip Code)*

DO HEREBY DECLARE under penalty of false statement, that I am renting / leasing for farming purposes, the land located at

_____ _____ _____
(Property Location) *(Town)* *(State)*

Pursuant to a written lease or agreement that I entered into

With

(Owner's Name) *(Number & Street)* *(Town)* *(State)* *(Zip Code)*

On the _____ day of _____, 19____, or
On the _____ day of _____, 20____, the term of which commences on
The _____ day of _____, 20____, and terminates on
The _____ day of _____, 20____, in the amount of

$ _____ per acre ☐ month ☐ or year ☐ . (Check appropriate box.)

/S/ _____ /S/ _____
Signature of Owner (Lessor) *Signature of Renter (Lessee)*

ASSESSOR: FORWARD COMPLETED COPY OF APPLICATION TO APPLICANT AND
FORWARD COPY OF RENTAL STATEMENT TO
STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE
765 ASYLUM AVENUE
HARTFORD, CONNECTICUT 06105
ATT: FRANK INTINO

FILING INFORMATION

The term "farm land" means any tract or tracts of land, including woodland and wasteland, constituting a farm unit. In determining whether land is farm land, the assessor shall take into account, among other things, the acreage of such land, the portion thereof in actual use for farming or agricultural operations, the productivity of such land, the gross income derived therefrom, the nature and value of the equipment used in connection therewith, and the extent to which the tracts comprising such land are contiguous.

An application for farm land classification must be filed on this form, as prescribed by the Commissioner of the Department of Agriculture, pursuant to §12-107c(b) of the Connecticut General Statutes. The property owner (or owners) must complete this form and file it with the assessor of the town where the farm land is situated. *If there is more than one owner, each must sign the application.* The filing period is between September 1st and October 31st, except in a year in which a revaluation of all real property is effective, in which case the filing deadline is December 30th.

Failure to file in the proper manner and form shall be considered a waiver of the right to such classification under §12-107c(c) of the Connecticut General Statutes as of the October 1st assessment date. *A separate application must be filed for each parcel of land.*

You are responsible for contacting the assessor to update your application if there is a change in use, acreage or ownership of this property after the assessor approves its classification. If there is a change of use or a sale of the classified land, the classification ceases (pursuant to §12-504h of the Connecticut General Statutes) and you may be liable for an additional conveyance tax. Please review attached copies of the statutes concerning the imposition of this tax (§12-504a through §2-504e, inclusive, of the Connecticut General Statutes).

Please be advised that the assessor may require information in addition to that contained in this application in order to make a determination regarding classification.

State of Connecticut
Form M-39, Rev. 9/06
Prescribed by the Assessor

Approved by the Commissioner of the
Department of Environmental Protection

APPLICATION TO THE ASSESSOR FOR CLASSIFICATION OF LAND AS FOREST LAND

Declaration of policy: It is hereby declared that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state [and] that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land.

A copy of a report issued by a Certified Forester must accompany this application; otherwise it cannot be accepted.
Please print. Complete all appropriate sections, using additional sheets if necessary. See reverse for additional filing information.

Name of Owner(s): _____

Property Location: _____ _____ _____ _____
(Number & Street) ***(Town)*** ***(State)*** ***(Zip Code)***

Mailing Address: _____ _____ _____ _____
(Number & Street or P.O. Box) *(Town)* *(State)* *(Zip Code)*

Total acreage of land: # _____ *(Acres)* Portion qualified as forest land by Certified Forester: # _____ *(Acres)*

Certified Forester's Name: _____ Certificate # _____ Expires: _____

Certified Forester's Address: _____ _____ _____ _____
(Number & Street or P.O. Box) *(Town)* *(State)* *(Zip Code)*

Date of Certified Forester's Report: _____ *(Enter date issued, not the date you received the report.)*

Has the use or acreage of this land changed since the date the Certified Forester's report was issued? ☐ YES ☐ NO

If YES, enter date of change and explain: _____

Do you have land classified as forest land in any other Connecticut town? ☐ YES ☐ NO

If YES, enter name of other town(s): _____

Complete Items 1 and 2, entering location and number of acres in each tract. List each such tract separately.
Assessor will complete Items 3 and 4 if application is approved.

1	2	3	4
TRACT	# ACRES	ASSESSED VALUE	EXEMPT ASSESSMENT
TOTAL ACRES:			
	TOTAL CLASSIFIED USE ASSESSMENT:		

Owner's Affidavit

I DO HEREBY DECLARE under penalty of false statement that the statements made herein by me are true according to the best of my knowledge and belief, and that I have received and reviewed §12-504a through §12-504e, inclusive of the Connecticut General Statutes concerning a potential tax liability upon a change of use or sale of this land.

DATED: _____ /S/ _____

DATED: /S/

Assessor's Verification Section

Acquisition Date: _____ Map / Block / Lot: _____ Total Acreage: _____ Acreage Classified: _____

Vol. / Page: _____ Date Recorded: _____

Application approved: ☐ YES ☐ NO Reason for denial: _____

/S/ _____ _____
Assessor *Date*

ASSESSOR: FORWARD COMPLETED COPY OF APPLICATION TO APPLICANT

OVER

State of Connecticut
Form M-30, Rev. 9/02

Prescribed by the Commissioner
of the Department of Agriculture

APPLICATION TO THE ASSESSOR FOR CLASSIFICATION OF LAND AS OPEN SPACE

Declaration of policy: It is hereby declared that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, to conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state [and] that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive uses as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation as such farm land, forest land and open space land.

Please print. Complete all appropriate sections, attaching additional sheets if necessary.
See reverse for additional filing information.

Name of Owner(s): _____

Property Location: _____ _____ _____ _____
(Number & Street) ***(Town)*** ***(State)*** ***(Zip Code)***

Mailing Address: _____ _____ _____ _____
(Number & Street or P.O. Box) *(Town)* *(State)* *(Zip Code)*

Check appropriate box: ☐ New Application ☐ Ownership Change ☐ Acreage Change ☐ Use Change

Total acreage of land: # _____ *(Acres)* Portion in actual use for open space purposes: # _____ *(Acres)*

Description of land: _____

Complete Items 1 and 2, entering general description of land's use and show number of acres for each such use.
Assessor will complete Items 3 and 4 if application is approved.

1	2	3	4
CURRENT USE	# ACRES	USE VALUE	USE ASSESSMENT
TOTAL ELIGIBLE ACRES:			
	TOTAL CLASSIFIED USE ASSESSMENT:		

Is this property located in area designated as open space on the municipal plan of development? ☐ YES ☐ NO

Has there been any change in the property's use since the municipal plan of development was adopted? ☐ YES ☐ NO

If YES, describe the change: _____

Owner's Affidavit

I DO HEREBY DECLARE under penalty of false statement that the statements made herein by me are true according to the best of my knowledge and belief, and that I have received and reviewed §12-504a through §12-504e, inclusive of the Connecticut General Statutes concerning a potential tax liability upon a change of use or sale of this land.

DATED: _____ /S/ _____

DATED: /S/

Assessor's Verification Section

Acquisition Date: _____ Map / Block / Lot: _____ Total Acreage: _____ Acreage Classified: _____

Vol. / Page: _____ Date Recorded: _____

Application approved: ☐ YES ☐ NO Reason for denial: _____

/S/ _____ _____
Assessor *Date*

ASSESSOR: FORWARD COMPLETED COPY OF APPLICATION TO APPLICANT

OVER

State of Connecticut
Form M-30A, Rev. 9/02

Prescribed by the Commissioner
of the Department of Agriculture

APPLICATION TO THE ASSESSOR FOR EXEMPTION OF OPEN SPACE LAND OWNED BY A TAX EXEMPT ORGANIZATION

Declaration of policy encouraging preservation by tax-exempt organizations: It is hereby found and declared that it is in the public interest to encourage organizations which are tax-exempt for federal income tax purposes to hold open space land in perpetuity for educational, scientific, aesthetic or other equivalent passive uses, for the benefit of the public in general.

Please print. Complete all appropriate sections, attaching additional sheets if necessary.
See reverse for additional filing information.

Name of Organization: _____

Property Location: _____ _____ _____ _____
(Number & Street) ***(Town)*** ***(State)*** ***(Zip Code)***

Mailing Address: _____ _____ _____ _____
(Number & Street or P.O. Box) *(Town)* *(State)* *(Zip Code)*

Does the organization have a determination letter issued by the Internal Revenue Service stating that contributions to the organization are deductible? ☐ YES ☐ NO

If YES, attach copy of letter to this application.

Is the land being held in perpetuity for educational, scientific, esthetic or other equivalent passive uses? ☐ YES ☐ NO

Is the land being held for the benefit of the public in general? ☐ YES ☐ NO

Total acreage of land: # _____ *(Acres)* Portion in actual use for open space purposes: # _____ *(Acres)*

Description of land: _____

Complete Items 1 and 2, entering general description of land's use and show number of acres for each such use.
Assessor will complete Items 3 and 4 if application is approved.

1	2	3	4
DESCRIPTION OF CURRENT USE TRACT / PARCEL	# ACRES	ASSESSED VALUE	EXEMPT ASSESSMENT
TOTAL ELIGIBLE ACRES:			
	TOTAL EXEMPT ASSESSMENT:		

Owner's Affidavit

I DO HEREBY DECLARE under penalty of false statement that the statements made herein by me are true according to the best of my knowledge and belief, and that I am authorized to file this property tax exemption application for the above-named organization.

DATED: _____ /S/ _____
Authorized Agent or Officer

_____
Title

Assessor's Verification Section

Acquisition Date: _____ Map / Block / Lot: _____ Total Acreage: _____ Acreage Exempt: _____

Vol. / Page: _____ Date Recorded: _____

Application approved: ☐ YES ☐ NO Reason for denial: _____

/S/ _____ _____
Assessor *Date*

ASSESSOR: FORWARD COMPLETED COPY OF APPLICATION TO APPLICANT

OVER

State ofConnecticut
Form M-66,Rev 9/08

Prescribed by the Secretary of the Office of Policy and Management

APPLICATION TO THE ASSESSOR FOR CLASSIFICATION OF LAND AS MARITIME HERITAGE LAND

Pursuant to §12-107b of the Connecticut General Statutes (CGS), maritime heritage land is that portion of waterfront real property that a commercial lobster fisherman (licensed by the Connecticut Department of Environmental Protection) owns and uses exclusively for commercial lobstering purposes, provided not less than fifty per cent of the fisherman's federal adjusted gross income is derived from commercial lobster fishing, subject to proof satisfactory to the assessor.

Applicant's Section

Read the information on the reverse side of this application before completing this application. Make and attach additional copies, if necessary. Date and sign the application and file it with the assessor of the town in which you own land eligible for classification. At the time you file, you must provide the assessor with a copy of the license that allows you to engage in commercial lobstering, a copy of your federal income tax return, proof (satisfactory to the assessor) of the income you derived from commercial lobstering and a map as described below. You will receive a copy of this application after the assessor determines your eligibility.

Applicant Name:: Telephone:

Mailing Address:
(Number & Street or PO Box, Town, State and Zip Code)

Business Name: FEIN / SSN:

☐ Corporation ☐ Limited Liability Comp ☐ Other (desribe) _____

Has the Connecticut Department of Environmental Protection issued you a license to engage in commercial lobstering? ☐ Yes ☐ No

License Number: _____ *Indicate license type and attach a copy to this application.*

☐ Commercial Fishing ☐ Commercial Lobster Pot ☐ Other (desribe) _____

Percent of adjusted gross income from your 2006 federal income tax return that you derived from commercial lobster fishing: _____ %

Property Address:
(Number, Street & Town)

Owner Name(s):

Your ownership percentage: _____ % *Enter the percentage of the property that you own (or that you and your spouse own jointly).*

Percent of adjusted gross income from your 2006 federal income tax return that you derived from commercial lobster fishing: _____ %

If revising a previous application, enter reason: _____

Describe each use of the property location for which you are requesting maritime heritage land classification. Enter the number of square feet and percent of total land area related to each use. Attach a map on which you show the land area used for commercial lobster fishing.

USE	SQ. FT.	%
Total:		100 %

Important Information concerning your potential for an additional conveyance tax liability appears on the reverse side of this application.

I do hereby declare under penalty of false statement that the information in this application is true and accurate, to the best of my knowledge and belief. I understand that I am potentially liable for an additional conveyance tax if I sell or transfer title to this property within ten years after the effective date of its classification as maritime heritage land, or if I change the use of this land to other than maritime heritage land within ten years of the date of my acquisition of title to this property.

Signature of each owner of the property required /S/ _____ Date: _____
/S/ _____ Date: _____

Assessor's Section

Date Deed Recorded:	Vol. / Page:	Map / Block / Lot:
Grand List Account:	Total Land Area:	Percent Applicant Owns: %

Application approved ☐ YES ☐ NO If Yes, classification is effective for the October 1, _____ Grand List

If No, reason for denial:

Classified land area:	Use value:	Use assessment:	
Other land area:	Value:	Assessment:	
		Total land assessment:	

/S/ _____ _____
Assessor *Date*

State of Connecticut
Department of Environmental Protection
DIVISION OF FORESTRY

Form DEP-F-490: ANNUAL REPORT TO STATE FORESTER

MUNICIPALITY: _____

MAILING ADDRESS: _____

CITY, STATE & ZIP: _____

TOTAL ACREAGE OF FARM LAND CLASSIFIED AS PA-490: _____ACRES

TOTAL ACREAGE OF FOREST LAND CLASSIFIED AS PA-490: _____ACRES

TOTAL ACREAGE OF OPEN SPACE LAND CLASSIFIED AS PA-490: _____ACRES

_____ _____ _____
Assessor Signature CCMA # Date:

Please Return to: dep.forestry@ct.gov or Connecticut Department of Environmental Protection/Division of Forestry/79 Elm Street/Hartford, CT 06106 Phone: (860) 424-3630/Fax: (860) 424-4070/

(This report is due annually by June 30) THIS COVER SHEET IS PAGE 1 OF _____ PAGES.

Form DEP-F-490 REVISED May 1, 2010

APPENDIX C: NET RENTAL LAND USE VALUE SURVEY FOR THE CALENDAR YEAR 2009

PLEASE DIRECT ANY QUESTIONS TO:
Joan Nichols at (860) 768-1105
joann@cfba org or
Ron Olsen at (860) 713-2550
ronald.olsen@ct.gov

PLEASE COMPLETE FORM AND RETURN BY **OCTOBER 1, 2009** TO:
CONNECTICUT FARM BUREAU ASSOCIATION
775 Bloomfield Avenue Windsor, CT 06095

Please see attached instructions before completing survey

NET RENTAL LAND USE VALUE SURVEY FOR THE CALENDAR YEAR 2009

PLEASE INDICATE PERSON COMPLETING THIS SURVEY: NAME (FIRST) (M.I.) (LAST)	RENTOR/LAND+OWNER ☐ RENTEE/LANDUSER ☐ (Put an X in the appropriate box) ADDRESS (Number and Street)	CITY	STATE	ZIP CODE

E-MAIL: TELEPHONE:

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
NAME, ADDRESS, AND PHONE NUMBER OF LANDOWNER	Connecticut Town (where land is located) USE ONE LINE PER TOWN	Land Class Code (see instructions) LIST ONE LAND CLASS PER LINE	Number of Acres In Class	Type of Crop	Total Rent Per year	Other Owner Items Included in Total Rent, IF ANY (see instructions) DESCRIBE AND GIVE DOLLAR VALUE	Services Provided to Landowner, IF ANY (see instructions) DESCRIBE AND GIVE DOLLAR VALUE
Name/Address Phone:							
Name/Address Phone:							
Name/Address John Doe SAMPLE 15 Happy Acres Franklin, CT Phone: 000 000-0000	Lebanon	3	50	silage	$400	0	$100 plows driveway

APPENDIX D: 2010 PA 490 LAND USE VALUES

2010 RECOMMENDED LAND USE VALUES

Effective October 1, 2010

CATEGORY	STATEWIDE	RIVER VALLEY
Tillable A	$2,400	$2,800
Tillable B	$1,600	$2,000
Tillable C	$400	$1,100
Tillable D	$225	$600
Orchard E	$750	$750
Pasture F	$90	$90
Swamp, Ledge Scrub G	$40	$40
Woodland/Forest Land	$130	$130

CONNECTICUT LAND CLASSIFICATIONS

Tillable A — Excellent. Light, well drained, sandy loams, typically flat or level, no stones. Shade tobacco, nursery, some cropland.

Tillable B — Very Good. Light, well drained, sandy loams, typically level to slightly rolling, may have some stones. Binder tobacco, vegetables, potatoes, some cropland.

Tillable C — Very Good to Good. Quite level. Moderate heavier soils, level to rolling, may have stones. Corn silage, hay, vegetables, potatoes, cropland.

Tillable D — Good to Fair. Heavier soils, maybe sloped and hilly, stones and seasonal wetness may be limiting factors. Moderate to considerable slope. Hay, corn silage, rotation pasture, cropland.

Orchard — Fruit orchard. May include grapes and berries.

Pasture — Permanent pasture, unmanaged pasture, not tilled, grazing. May be heavier soils too wet or stony to till for crops, may be wooded area, Christmas trees.

Swamp/Ledge/Scrub Lands — Wetlands, ledge outcroppings. Non-farmable areas that also make up the farm unit.

Woodland, Forest — Forest land associated with the farm unit. Non-farmable areas that also make up the farm unit.

APPENDIX E: SUPPLEMENTAL COURT CASES RELATED TO PA 490

SUMMARY OF IMPORTANT 490 COURT CASES

Case titles in **BOLD CAPS** indicate SUPREME COURT CASES; others are lower court cases, which have less precedential value.

DEFINITION OF FARMLAND

A broad analysis of the legislative intent in defining farmland:

JOHNSON v. BOARD OF TAX REVIEW TOWN OF FAIRFIELD, November 23, 1970 160 Conn. 71

The Supreme Court articulated that the provisions of PA 490 are "as much conservation statutes as they are tax relief measures." "The purpose of the tax relief is to aid the conservation effort, and not merely to aid food production itself." The Court specified that the definition of farming in Section 1-1 applies. The case also supplies a definition of "farm unit" as referring to a geographical area used for the farming purpose. In the specific case, land used for a nursery was found to qualify.

HARRY MARSHALL v. TOWN OF NEWINGTON, January 30, 1968 156 Conn. 107

The Supreme Court states that the underlying industrial zoning of a property and the fact that the owner requested such zoning status has no bearing on whether the land qualifies for farmland classification under PA 490.

OPEN SPACE CLASSIFICATION

ROLLING HILLS COUNTRY CLUB, INC v. TOWN OF WILTON, May 20, 1975 168 Conn. 466

A golf course sought to be classified as open space and was refused. The Supreme Court found that the Wilton Planning Commission had sufficiently designated the golf course as recreational open space and that, even though the land is not "in its pristine, natural state' nor "undeveloped," that neither was a requirement for the open space classification. Nor is it required that the land be available for public use.

BIRCHWOOD COUNTRY CLUB, INC v. TOWN OF WESTPORT, July 10, 1979 178 Conn. 295

The Supreme Court noted that it is possible for the Planning Commission to both add and subtract land it designates as eligible for open space classification from its Open Space plan, which would affect the PA 490 assessment of the particular property. It did not require certain formalities in the manner of reducing acreage eligible. Note that the requirement for approval of the open space plan by the legislative body was added after this case.

ASPETUCK COUNTRY CLUB, INC v. TOWN OF WESTON, August 4, 2009 292 Conn. 817

The Supreme Court reaffirms that not only must the Planning Commission designate the property in its Open Space Plan as eligible for PA 490 but the legislative body of the town must also clearly approve the Plan's use "for property tax purposes."

DETERMINATION OF USE VALUE

The most thorough discussion of the method for determination of use value of farmland as opposed to fair market value can be found in:

Frank Bussa v. Town of Glastonbury, August 12, 1968 28 Conn. Supp. 97, which discusses the policies of PA 490 and the methodology of use value assessment. This case may provide valuable insight in any case where a local assessor might decide to determine use value my means other than adopting the recommended values from OPM.

RUSTICI v. TOWN OF STONINGTON, November 22, 1977 174 Conn. 10

The Supreme Court found that the assessor was not limited to reference farm land values in the determination of open space value, since Section 12-63 permits open space to be valued for more than farmland. Also the capitalization of rentals method for valuation was found to be inappropriate to represent the use value of a golf course. The landowner had the burden to prove the method used was unjust.

Stanley Gozdz v. Board of Tax Review, Town of Tolland, November 16, 1976 Docket No. 4634.

In Gozdz, the plaintiff farmer and forestland owner lost because he was arguing about the method of determining use value. The holding is that an assessor can use "any method which would not utilize factors that may subject the land to a value reflecting a higher or better use than its actual use." The Superior Court in this case approved use of the capitalization of income method for both farm land and forest land.

While technically, the following case is not interpretive of PA 490, it is still of interest in matters of valuation of a farm:

NELSON CECARELLI v. TOWN OF NORTH BRANFORD, January 18, 2005 272 Conn. 485

The Supreme Court upheld the lower court's decision that the assessed value of land under a residence that is included in a tract upon which the development rights have been sold and alienability has been thus restricted, is affected by the restrictions and should be given a lower value accordingly. Note that the Supreme Court merely affirmed the reasoning of the lower court judge, which can be referenced at 49 Conn. Supp. 125.

DECLASSIFICATION AND PAYMENT OF CONVEYANCE TAX

- **Interpretations of 12-504a-f regarding when conveyance tax may be owed:**

TIMBER TRAILS ASSOCIATION v. TOWNS OF NEW FAIRFIELD AND SHERMAN, July 13, 1993 226 Conn. 407

Forest land was transferred from a corporation into the individual name of its sole shareholder for no consideration. The actual use of the property did not change. The Supreme Court held that such a

transfer did not result in the declassification of the property or in the imposition of the PA 490 recapture tax because it was not a sale for a price.

Hyman Birnbaum v. Town of Madison, January 9, 1996 Docket No. 379635

An owner of land classified as forest land had transferred the land for no consideration to a revocable trust of which he was the grantor, one of the trustees and the beneficiary. In this unreported Superior Court case, the court held that such a transfer would not be a sale giving rise to the obligation to pay the PA 490 recapture conveyance tax.

- **Interpretation of when 10 year holding period starts again:**

Ramsay v. Town of Southington, August 13, 1996 CV96-0473690S

The Superior Court ruled that the exemption of Section 12-504c with respect to transfers upon death does not start a new 10-year holding period for the beneficiary, require a new farmland application or generate an automatic declassification.

STEPNEY POND ESTATE LTD. v. TOWN OF MONROE, June 4, 2002 260 Conn 406

Forest land was classified under 490 in 1971. Such land transferred in succession from a husband to his wife when he died in 1983. The wife died in 1986, and then in 1990, the wife's Executors transferred the same land for no consideration to a corporation created by her two children who were the beneficiaries of the wife's estate. The Supreme Court held that none of the transfers either declassified the land, started a new holding period or generated the PA 490 recapture tax. The decision is based upon the exemption in 12-504c(11) and the particular "tacking" provision which allows dating the classification back to the decedent's date of acquisition.

The Supreme Court clarified that automatic declassification happens only when a "triggering event," meaning a sale or a change of use, occurs during a period when the PA 490 recapture conveyance tax would otherwise be due.

There is language in the case suggesting that the legislature should revisit the statutes to clarify for all the exemptions in 12-504c as to which ones reset the ten-year holding period.

Note: *Diane M. Lathrop v. Board of Tax Review Town of Lyme,* June 13, 1989 18 Conn. App. 608, a case involving open space, appears to have been overruled by Stepney above.

DECLASSIFICATION ON SUBDIVISION OR APPLICATION FOR OTHER LAND USE APPROVAL

- **Interpretation of 12-504h Change of use:**

The importance of the actual use of the classified property not changing is crucial.

Willis Maynard V. Town of Sterling, October 27, 1994 12 Conn. L. Rptr 559

The Superior Court determined that a landowner of classified farmland who obtains a 15 lot subdivision, files the subdivision plan and then commences construction upon or sells eight of those lots, holding the remainder out for immediate sale and construction, by openly marketing the lots, has changed the use, even though the unsold lots are still being used to grow corn. However, the mere approval of the subdivision does not necessarily equal a change of use under PA 490.

Carmel Hollow Associates, LP v Town of Bethlehem, October 9, 2002 CV00-0082591S

The Superior Court held that under the statutory scheme of the time, only the State Forester could declassify forest land, even if the land had been subdivided and lots were being sold. Note that the statutes now provide that a private certified forester determines whether land is eligible for forest land certification, a decision which can be appealed by the assessor or the land owner to the State Forester.

GRISWOLD AIRPORT, INC. v TOWN OF MADISON, December 23, 2008 289 Conn. 723

Land used as an airport had been classified as open space under PA 490. A contract purchaser obtained special exception approval from the Town to build 127 condominiums on the property. The town then declassified the property, even though the actual use as an airport had not changed. The landowner argued that the approvals were not final. The Supreme Court held that what mattered is whether the actual use of the open space had changed as of the declassification date, not whether approvals had been obtained for potential future uses. In an appeal under 12-119 the plaintiff had only to prove that the assessment was illegal, and this appeal is therefore appropriate to claims of improper declassification.

FAILURE TO FILE 490 APPLICATION ON TIME

- **Interpretation of 12-107d (forest land) regarding initial filing:**

MARY W. RENZ v. TOWN OF MONROE, March 22, 1972 162 Conn. 559

The State Forester completed the certification that certain land was designated as forest land after October 1st but prior to October 31st. The Supreme Court held that such certification had to be completed on or before October 1st to apply to that grand list year.

- **Interpretation of 12-107e (open space) regarding initial filing:**

George McColgan v. Town of Woodstock, April 3, 1998 Docket CV97-0056641S

Buyers purchased property in September that had been classified as open space while owned by the previous owner. The new owners did not file to reclassify the land until after October 31st of the same year. The Superior Court held that the sale automatically declassified the land and that the new owners had to file for reclassification by October 31st. Since they had not, they were obliged to pay taxes based upon the full fair market value of the property.

TIME TO FILE APPEAL

- **Interpretation of 12-107c(d) regarding appeal from denial by assessor of farmland classification:**

Samuel Paletsky v. Town of Morris, August 18, 1992
7 Conn. L. Rptr 735

If an owner of land is refused classification as farmland and appeals to the town Board of Tax Review, which also denies classification, he has an appeal to the Superior Court under Section 12-188 which must be commenced (served) within two months of the date the Board of Tax review made its decision.

Note: See also Griswold Airport above as to the correct type of appeal for improper declassification.

ASSESSMENT

Canterbury Farms, Et al. v. Waterford Board of Tax Review, May 9, 1979 Docket No. 029183

The Superior Court adopted the statewide values for farmland generated using farm lease data as a more correct basis for use value than the method adopted by the Waterford Assessor, who, finding no farm lease data available in Waterford, had sought opinions of value from local certified appraisers, newspaper articles, property owners and his own experience. The court accepted that farmland was similar enough throughout the state, except in River-Valley towns, to validate statewide analysis. Methods which involve the least number of estimates are preferable. The court also found that unless there was a structure currently in use as a house on a parcel of land classified as farm or forest land, no "house lot" should be assessed.

LISTING ADDITIONAL COURT CASES RELATED TO PA 490*

- **Assessment**

Burnett v. Town of Kent, Board of Tax Review	No. 1 35 25
Camp Et Al v. Town of Kent	No. 1 35 26
Canterbury Farms Et Al v. Waterford Board of Tax Review	No. 029183
DuPont, III v. Board of Tax Review, Town of Fairfield	No. 9 63 69
Goffi v. Board of Tax Review, West Haven	No. 31 76 47
Hambleton Et Al v. Town of East Windsor	No. 94229
Hill Et Al v. Town of Redding	No. 89644
Indian Spring Land Company v. Condemnation Commission, Town of Greenwich	No. 1 74 44
MacDonald v. Town of Sharon	No. CV-81-0033717s
Mazur v. Town of Colchester	No. 51 93 80
Mueller II Et Al v. Salisbury Board of Tax Review Et Al	No. 0056760
Newton Et Al, Exec. v. Town Kent Board of Tax Review	No. 1 35 28
O'Brien, Trustee v. Board of Tax Review Town of Groton	169 Conn 129
Parmelee v. Board of Tax Review Town of Middlefield	No. 4215
Ralston Purina Company Et Al v. Board of Tax Review of the Town of Franklin	203 Conn 425
Waldron Et Al v. Town of South Windsor	No. 92700
Wilsea vs. Town of Kent	No. 1 35 27
Hyman B. Birnbaum Et Al. v. Town Of Madison	1996 Conn. LEXIS 54
George M. McColgan Et Al. v. Town of Woodstock	1998 Conn.881

- **Change of Title**

Timber Trails Associates v. Town of New Fairfield	226 Conn 407
Stepney Pond Estates Ltd. v. Town of Monroe	1999 Conn. 170

- **Conveyance Tax**

East Village Associates, Inc. v. Town of Monroe	173 Conn 328
Lathrop v. Board of Tax Review of the Town of Lyme	18 Conn App.608
McKinney Et Al v. Town of Coventry Et Al	176 Conn 613

- **Denial of Classification**

Bussa v. Town of Glastonbury	28 Conn. Sup 97
Gawrych Et Al. v. Town of Killingworth Board of Tax Review	No. 5477
Holloway Bros., Inc. v. Town of Avon Et Al	No. 91810
Johnson Et Al v Board of Tax Review of the Town of Fairfield	160 Conn 71
Marshall Et Al v. Town of Newington	156 Conn 107
Renz v. Town of Monroe	162 Conn 559
Scheer Et Al v. Town of Berlin	No. 96 26
Matthew Stewart Ramsay v. Town of Southington	1996 Conn. 2296
Carmel Hollow Associates LP v. Town of Bethlehem	2002 Conn. 3390

- **Open Space**

Birchwood Country Club Inc. v. Board of Tax Review of the Town of Westport	178 Conn 295
Rolling Hills Country Club Inc. v. Board of Tax Review of the Town of Wilton	168 Conn 466
Rustici Et Al v. Town of Stonington	174 Conn 10

- **Utilities vs. Municipalities**

City of Meriden v. Board of Tax Review of the Town of Berlin	161 Conn 396
The Metropolitan District v. Town of Barkhamsted	199 Conn 294
New Haven Water Company v. Town of North Branford	174 Conn 566
New Haven Water Company v. Board of Tax Review of the Town of Prospect	No. 087323
City of Norwich, Department of Public Utilities v. Town of Lebanon	200 Conn 697
City of Norwich, Department of Public Utilities v. Town of Lebanon	193 Conn 342
Torrington Water Company v. Board of Tax Review of the Town of Goshen	168 Conn 319

** List has appeared in previous Connecticut Farm Bureau Association PA 490 Guides*

APPENDIX F: REAL ESTATE TAXES AND GRAND LIST

Grand List: The Grand List is an inventory of all taxable property (and exempt property) in a town. It is how a town generates revenue to run the town. It is what the overall tax rate is based on. A town also receives federal and state grants and receipts from licenses and fees as part of its total income. The property tax rate is the rate that when multiplied by the assessed value of all taxable property, will produce the revenue needed to balance the budget. Each year's grand list is categorized into three categories: Real Estate, Motor Vehicle and Personal Property. The assessor maintains the property cards for each parcel of real estate located in a town.

Generally, if the Grand List increases, the mil rate will most likely go down because there is more revenue coming into the town coffers. If the Grand List decreases the mil rate will go up.

Assessed Value: All property is assessed at 70% of its fair market value and this value is what property owners are taxed on.

Mil Rate: The Mil Rate is how property is taxed in Connecticut. For example, a tax rate of 25 mils means that the taxpayer pays $25.00 for each $1,000 of taxable property's assessed value.

Example:
The fair market value for a home is $100,000.
The mil rate is 25 mils.
$100,000 x 70% = $70,000 assessed value
$70,000 x .025 (25 mils) = $1,750 annual property tax

Revaluation: Revaluation is supposed to be done every five years. It is the process of determining what the Fair Market Value is for all properties in a town. The taxes on this property will be based on 70% of the Fair Market Value called the assessed value.

After a revaluation, the assessed value of property may rise, however that does not mean that there will be higher taxes. Taxes are based on the mil rate and if the assessed values rise, the Grand List will rise and the mil rate may go down. This means that taxes may stay the same even though the assessed property values have increased.

How a Mil Rate is Determined: The Board of Selectman/Town Council/City Council/etc. need to determine what the new budget figure is and will include all town salaries, the school budget, any equipment and other purchases needed, etc. Then all revenues such as federal and state grants are deducted, leaving the amount that needs to be raised by taxes if there is a deficit. The mil rate is determined by this amount.

APPENDIX G: RESOURCES

CONNECTICUT FARM BUREAU ASSOCIATION

www.cfba.org
775 Bloomfield Avenue
Windsor, CT 06095
Phone: 860-768-1105
Fax: 860-768-1108
Email: info@cfba.org

CONNECTICUT DEPARTMENT OF AGRICULTURE

www.ct.gov/doag
165 Capitol Avenue
Hartford, CT 06106
Phone: 860-713-2569
Fax: 860-713-2514

CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

www.ct.gov/dep
Division of Forestry
79 Elm Street
Hartford, CT 06106
Phone: 860-424-3631
Fax: 860-424-4070

CONNECTICUT ASSOCIATION OF ASSESSING OFFICERS

www.caao.com

UNIVERSITY OF CONNECTICUT COOPERATIVE EXTENSION SYSTEM

www.extension.uconn.edu
W.B. Young Building, Room 231
1376 Storrs Road, Unit 4134
Storrs, Connecticut 06269-4134
Phone: 860-486-9228
Fax: 860-486-0264
Email: extension@uconn.edu

OFFICE OF POLICY AND MANAGEMENT

www.ct.gov/opm
450 Capitol Avenue
Hartford, CT 06106-1379
Phone: 860-418-6200
800-286-2214

Connecticut Farm Bureau Association

The Voice of Connecticut Agriculture

The Mission of the Connecticut Farm Bureau is to elevate the stature of agriculture in our state. Through education, market promotion and legislative advocacy, we strive to increase farm income and to improve the quality of life not only for Connecticut farmers, but also for their consumers.

Who we are:

Connecticut Farm Bureau is a non-profit membership organization dedicated to farming and the future of Connecticut agriculture.

What we do:

Connecticut Farm Bureau advocates and educates on issues that keep farm families producing by focusing on economic viability, land use, labor, taxation and the protection of farmland.

Why we do it:

Connecticut Farm Bureau's work is vital to providing safe, locally grown, farm-fresh products and a high quality of life for all Connecticut residents.

Why we're different:

As an independent, non-governmental general agriculture organization, Connecticut Farm Bureau is the voice of agricultural producers at all levels.

Connecticut Farm Bureau Association

The Voice of Connecticut Agriculture

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www.cfba.org