

FOREST TAX LAWS

This paper discusses Wisconsin's three special forest tax law programs – the Forest Crop Law (FCL), the Woodland Tax Law (WTL), and the Managed Forest Law (MFL). The Department of Revenue's (DOR) role in administering these programs is limited. The Department of Natural Resources (DNR) is primarily responsible for administering these programs.

Background

Wisconsin was once a major timber producer. However, by the 1920s, much of the state's forest land had been cut-over or damaged by fire. Because these lands generated little or no income, owners were unable to pay their property taxes. Counties found they were often unable to sell this land at tax sales and ended up owning the land. As county ownership increased, taxes increasingly shifted onto remaining property owners, which created a fiscal crisis for local governments. It was thought that reducing the annual tax burden on forest land owners could prevent further land abandonment and encourage reforestation, but local governments did not want to forgo the taxes they collected on forest land. The solution was to amend the uniformity in taxation clause of the state constitution to create an exception for forest land. Voters approved the amendment in 1927.

Forest Crop Law (FCL)

State enacted the FCL in 1927. Under the FCL, an owner of a quarter-quarter section (about 40 acres) in a town or village could petition the DNR to enter the land in the program. If the DNR determined that forestry was the best use for the land and that a stand of merchantable timber could be produced within a reasonable period of time, the land was entered under the program under a contract for either 25 years or 50 years. The landowner had to practice forestry, notify the DNR of timber harvests, and permit public access to the land for hunting and recreation.

Land enrolled under the FCL is exempt from property taxes. The DNR makes an annual payment of \$0.20 per acre to the municipality where the land is located. The municipality retains 80% and remits 20% to the county. In addition, landowners are required to make the payments described below:

(1) Acreage share: This is an annual payment by the land owner to the municipality where the land is located. The municipality retains 80% and remits 20% to the county. The payments are shown below:

Date of entry or type of land	Applicable dates	Acreage Share
Prior to 1972	Permanent	\$ 0.10
After 1972	2004 to 2013	\$ 1.66
After 1972	2014 to 2023	\$ 2.52

The payment for land enrolled after 1972 is recalculated every 10 years. The rate for 2014 to 2023

equals \$0.20 (the amount charged in 1972) multiplied by the following ratio:

$$\frac{\text{Aggregate Land Value in the State in 2012} = \$132,650,021,400}{\text{Aggregate Land Value in the State in 1972} = \$10,544,826,600} = 12.5796$$

(2) Severance Tax. The severance tax is 10% of the value of the timber harvested from a parcel of FCL land. The DNR retains an amount equal to the total payments it has made to the municipality on that parcel. Any excess is paid to the municipality, which keeps 80% of the payment and remits 20% to the county.

(3) Withdrawal Tax. If land is withdrawn from the FCL either at the owner's request or upon the DNR finding the owner has violated to contract, a withdrawal tax must be paid. The tax equals the sum, for the years the contract was in effect, of the differences between the amount of real estate taxes that would have been levied on the land and the acreage shares and severance taxes actually paid on the land. Each year's difference is subject to interest at 12% per year (or 5% for pre-1977 contracts) for each year the real estate tax has been deferred. The DNR retains an amount equal to the total payments it has made to the municipality on the parcel. Any excess is paid to the municipality, which keeps 80% and remits 20% to the county.

(4) Termination Tax. When a contract expires and the land is not enrolled under the MFL program, a termination tax of 10% of the value of the standing timber is assessed. The DNR retains an amount equal to the total payments it has made to the municipality on the parcel. Any excess is paid to the municipality, which keeps 80% of the payment and remits 20% with the county.

The FCL was generally closed to new entries in 1985. A provision of the 2009/11 biennial budget permits a non-profit archery club that purchased land already enrolled under the FCL program before January 1, 2009, to request DNR to, in effect, keep the land in the program. Because some FCL contracts are for 50 years, the last FCL contracts will expire in 2035.

Woodland Tax Law (WTL)

The WTL was enacted in 1954 and applied to land in towns. Under the law, the owner of a forest land parcel of at least 10 acres that was too small to be enrolled under the FCL could petition the DNR to enroll the land under the WTL. DNR enrolled the land if it determined that the land was suitable for growing timber and that forestry was the best use for the land. Enrollment contracts were for 15 years. The contracts generally required the landowner to follow a forest management plan, but did not require the land to be open for public access. The last contracts for WTL land expired in 1999.

Land enrolled under the WTL was exempt from property taxes. The WTL required landowners to make certain payments related to the land, as described below.

(1) State payment: The DNR made no payments to municipalities for land enrolled under the WTL.

(2) Acreage share: This was an annual per acre payment by the landowner to the municipality where the land was located. On land enrolled prior to 1977, the payment was \$0.20 per acre. On land entered after 1977, the payment was \$0.40 per acre through 1983, \$1.49 per acre from 1984 to 1993, and \$1.67 per acre from 1994 to 1999. The municipality retained the entire payment.

(3) Withdrawal payment: Land could be withdrawn from the WTL at the owner's option or by order of the DNR if the owner did not comply with the contract. A withdrawal penalty, paid by the landowner, was 1% of the average value per acre of forest land in the county where the land was located in the year before withdrawal multiplied by the number of years the land was enrolled. The municipality retained the entire payment.

Provisions of the Managed Forest Law (MFL)

An owner of ten or more contiguous forest acres may apply to the DNR to enter his or her land into the MFL program. If the DNR finds that at least 80% of the parcel is producing or capable of producing at least 20 cubic feet of merchantable timber per acre per year, and that the land is not developed in a manner incompatible with the practice of forestry, the DNR issues an order entering the land under the program. The agreement is for 25 or 50 years (at the landowner's option), and can be renewed. The landowner agrees to follow a forest management plan and to permit (with limited exceptions) public access for hunting and recreation.

MFL land is exempt from property taxes. The DNR makes an annual payment of \$0.20 per MFL enrolled acre to the municipality where the land is located. The municipality retains 80% of this payment and remits 20% to the county. Landowners are also required to make certain payments, which are described below:

(1) Acreage Share. This is an annual payment by the land owner to the municipality where the land is located. The municipality retains 80% and remits 20% to the county. The payments are shown below:

	Acreage Share by Year Paid	
	2009 to 2013	2014 to 2018
Entered before April 28, 2004	\$ 0.67	\$ 0.79
Entered on or after April 28, 2004	\$ 1.67	\$ 2.14

The amounts in the above table are based on statutory formulas. For example, the \$0.79 rate equals the original rate of \$0.74 multiplied by the ratio of the average statewide tax per acre on agricultural, undeveloped, and taxable forest land for 2012 divided by the corresponding average for 1986. The \$2.14 rate equals the average equalized value per acre of taxable forest land in 2011 (\$2,157) times the net statewide tax rate for 2011/12 (19.7954 mills) times 5%.

(2) Closure Fee. This is an annual payment made by the land owner to the municipality where the land is located. The municipality remits 100% to the DNR. The payments are shown below:

	Closure Fee by Year Paid	
	2009 to 2013	2014 to 2018
Entered before April 28, 2004	\$ 0.90	\$ 1.08
Entered on or after April 28, 2004	\$ 6.67	\$ 8.54

The \$1.08 rate equals the original payment of \$1.00 multiplied by the same ratio used to adjust the acreage share payment. The \$8.54 rate equals the average equalized value per acre of taxable forest land in 2011 (\$2,157) times the net statewide tax rate for 2011/12 (19.7954 mills) times 20%. The

closure fee is in addition to the acreage share payment.

(3) Yield Tax. The yield tax equals 5% of the value of the merchantable timber cut. The tax is assessed and collected by the DNR. Except for FCL conversions, on MFL orders that took effect on or after April 28, 2004, the yield tax is waived on harvests in the first 5 years. The DNR remits 100% of any yield taxes to the municipality where the timber was harvested. The municipality keeps 80% of the payment and remits 20% to the county.

(4) Non-compliance Fee. This fee is \$250. If the DNR determines that an MFL landowner has not complied with the management plan, it notifies the municipality where the land is located, which then levies and collects the fee. The municipality keeps 80% of the fee and remits 20% to the county.

(5) Withdrawal Fee. The DNR assesses a fee of \$300 on all withdrawals from the MFL program that occur before the expiration of the MFL agreement period. DNR retains the entire fee.

(6) Withdrawal Tax. On withdrawal from the MFL program during an initial order, the land owner must pay the greater of (a) the product of the net assessed value tax rate in the year prior to withdrawal times the assessed value of the land in the year prior to withdrawal times the number of years the land was under an MFL order minus the acreage share and yield taxes paid; or (b) 5% of the stumpage value of the merchantable timber on the land. On withdrawals from the MFL program on renewed MFL orders, the calculation under (a) above is made from the year of the renewal. DNR remits 100% of any withdrawal taxes to the municipality where the land is located. The municipality keeps 80% of the payment and shares 20% with the county.

Since a decision to withdraw from the MFL is not reversible once filed with the DNR, a MFL landowner is may request the Department of Revenue to estimate the withdrawal tax. The request must be accompanied by a non-refundable fee equal to the greater of \$100 or the number of acres affected times \$5.

Enrollment levels

Property taxes are a major concern for forest landowners. Increasing demand for forest land for recreational and residential uses has led to significant increase in the market value, and hence the property taxes paid, for such land. For a forest landowner interested in pursuing forestry, enrolling the land under the MFL is an increasingly attractive way to ease the property tax burden. The number of privately owned acres enrolled under the various forest tax law programs and the average per acre property tax on taxable forest land for selected years are shown in the table below.

ACRES ENROLLED AND AVERAGE PROPERTY TAX ON FOREST LAND, 1960 - 2013

Year	Acres Enrolled				Average Net Property Tax per Acre of Taxable Forest Land
	Woodland Tax Law	Forest Crop Law	Managed Forest Law	Total Acres Enrolled	
1960	60,431	361,211	0	421,642	\$0.52
1965	107,431	490,154	0	597,585	0.56
1970	154,185	643,514	0	797,699	0.87
1975	158,302	951,808	0	1,110,110	1.42
1980	256,349	1,287,833	0	1,544,182	3.31
1985	447,851	1,468,912	0	1,916,763	5.90
1990	472,236	1,452,194	372,102	2,296,532	6.87
1995	302,338	1,406,718	804,269	2,513,325	7.76
2000	55,507	471,727	1,971,474	2,498,708	12.90
2005	0	334,362	2,784,889	3,119,251	23.53
2006	0	295,417	2,843,447	3,138,864	24.82
2007	0	271,093	2,930,647	3,201,740	27.33
2008	0	243,278	2,983,305	3,226,583	29.04
2009	0	224,956	3,031,870	3,256,826	31.19
2010	0	208,167	3,079,985	3,288,152	32.61
2011	0	190,926	3,133,534	3,324,460	32.55
2012	0	174,726	3,195,894	3,370,620	32.84
2013	0	155,471	3,236,030	3,391,501	33.75

Sources:

Acreage: 1960-1985: Wisconsin Department of Natural Resources, Forestry Tax Unit. 1990-2013: State totals from Statements of Assessment filed with the DOR

Tax per Acre: Calculated by the DOR for land in the forest class.