

Use-Value Taxation in Virginia: A Brief Description

Monica Licher and Gordon Groover

Virginia law allows for land devoted to agriculture, horticulture, forestry or open space to be taxed based upon the use value of the land instead of the market value. This legislation provides tax relief for land owners whose land qualifies (Table 1) for one of the land classifications. The legislation has been seen as a way to preserve this land with the belief that long-term public benefits are derived from its preservation. The downside of this tax benefit is that localities are forced to give up tax revenue, which results in shifting the tax burden from agricultural and timber producers to the rest of the citizens or in reducing levels of local government services. However, use-value taxation is found in some form in all 50 states in the United States, suggesting support for the preservation of this land and for the reduction of tax burden on owners of land used in producing food, fiber, and timber.

Use-value taxation for land in agriculture, horticulture, forestry, and open space in Virginia began when the Virginia General Assembly adopted several legislative measures during the 1970's. These measures defined the land classifications and laid the framework within which this land would be taxed. The first of these laws (*Code of Virginia*, Title 58.1 §58.1-3229 through §58.1-3244), enacted in 1971, authorized use-value taxation with the stated purposes of

- * Encouraging the preservation and proper use of such real estate to assure a readily available source of agricultural, horticultural, and forest products and open spaces within the reach of concentrations of population;
- * Conserving natural resources in forms that will prevent erosion and protecting adequate and safe water supplies;
- * Preserving scenic natural beauty and open spaces;
- * Promoting proper land-use planning and the orderly development of real estate for the accommodation of an expanding population; and

* Promoting a balanced economy and ameliorating pressures that force conversion of such real estate to more intensive uses that are attributable in part to the assessment of such real estate at values incompatible with its use and preservation for agricultural, horticultural, forestal, or open space purposes.

The law passed by Virginia's General Assembly did not actually establish use-value taxation. Instead it gave jurisdictions the power to adopt use-value taxation legislation while dictating the four different land classifications eligible for use-value taxation (agriculture, horticulture, forestal, and open space). The requirements needed for land to fall under one of these four classifications are

* **Agricultural** lands must meet prescribed standards for bona fide production of crops and livestock for sale or be in approved soil conservation programs. Following public hearings, the Commissioner of Agriculture and Consumer Services defines the standards.

* **Horticultural** lands must meet prescribed standards for bona fide production of fruits, vegetables, ornamental plants, and ornamental products for sale. Following public hearings, the Commissioner of Agriculture and Consumer Services defines the standards.

* **Forest** lands are productive and nonproductive forest land. Following public hearings, the State Forester defines the standards.

* **Open space** lands, other than agricultural, horticultural, or forest lands, are used or preserved for park or recreational purposes, conservation, flood ways, wetlands, riparian buffers, historic or scenic purposes, community shaping purposes, or

Monica Licher is Project Associate and Gordon Groover is Extension Economist, Department of Agricultural and Applied Economics, Virginia Tech.

Table 1: Use-value Taxation and Agricultural and Forestal Districts in Virginia.

	Use-value Taxation	Agriculture and Forestal Districts
Ordinance and Enactment	Defined classes and adopted in 1971, effective tax year 1974	Agricultural and Forestal Districts Act, enacted in 1977
Application Requirements	Jurisdiction must adopt enabling legislation. Landowner voluntarily applies. Statutory minimum acreages: 5 acres for agriculture and horticulture use, 20 acres for forestal use, 5 acres for open space use	Landowners with at least 200 acres in one parcel or contiguous parcels.
Adding land	Application by landowner, meet other requirements set forth by local governing body.	Land may be added to the proposed district if it is contiguous to original parcel, within a mile of the district's perimeter or contiguous to parcels within a mile of the perimeter
Taxation	Use-value ranges available from the SLEAC committee, local governments have final authority.	Land qualifies for the benefit of use-value taxation subject to standards, but becomes eligible after local government officer approves and signs application.
Withdrawal of Land	Land withdrawn from a district becomes subject both to possible roll-back taxes and penalties (when there is a change to a non-qualifying use or change in acreage), determined and enforced by local governments.	Land withdrawn from a district becomes subject both to possible roll-back taxes (when there is a change to a non-qualifying use or change in acreage) and to any local laws.

for the public interest. Following public hearings, the Director of the Department of Conservation and Historic Resources defines standards for these lands.

The State Land Evaluation Advisory Council (SLEAC), established by the Code, calculates and publishes ranges of suggested values for each of the four major classifications of land. SLEAC has contracted with the Department of Agriculture and Applied Economics at Virginia Polytechnic Institute and State University to provide the estimates for agricultural and horticultural land. The Department of Forestry provides estimates for qualifying forestal land, and the Department of Conservation estimates open space use values.

The range of use values published by SLEAC provides advisory information to the local governments in establishing values for eligible land. Local government officials, by statute, have the final authority to set use-value based on their local factors and personal knowledge of land parcels.

The State Constitution details that “No such deferral or relief shall be granted within the territorial limits of any county, city, town, or regional government except by ordinance adopted

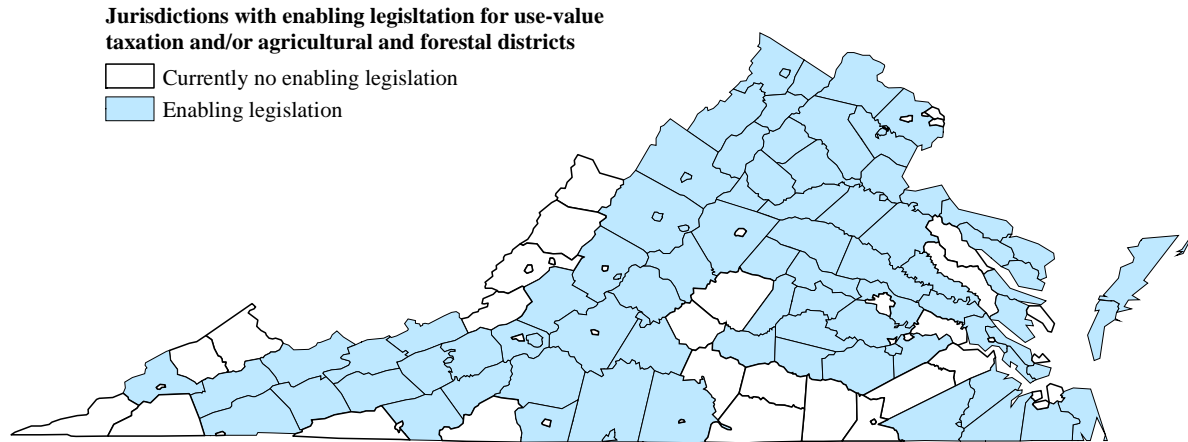
by the governing body thereof” (Article X, Section 2). Thus, many of the details for eligibility and the application process are left up to the local governing body. The lack of uniformity among jurisdiction is often cited as a frustration for participants (Groover et. al).

Agricultural and Forestal Districts

The second law the Virginia General Assembly passed, the Agricultural and Forestal Districts Act, allowed for the creation of agricultural and forestal districts and was enacted in 1977 (Code of Virginia, Title 15.1 §15.1-237 and §58.769.6) (Marshall, 1981). Agricultural and forestal districts are an alternative to account for local governments that do not have ordinances providing land owners the option of use-value taxation. This act allows landowners to voluntarily apply and establish agricultural districts, forestal districts, and agricultural and forestal districts. The act gives the local government the power to establish these districts and guidance for the application and appointment of a board to oversee the district.

The purpose of agricultural and forestal districts is similar to the purpose of use-value legislation: to lessen the tax burden for agricultural and forestal land owners. These land owners

Figure 1. Jurisdictions with enabling legislation for use-value taxation and/or agricultural and/or forestal districts as of January, 2006.



desire to reduce the pressure to convert land to more developed uses. The following steps outline the actions needed to establish an agriculture and forestal district (Raflo and Marshall).

- 1. Landowner Actions:** The land owner begins the process by gathering the required information, preparing the application, and filing the application with the governing board of the jurisdiction.
- 2. Governing Board Actions:** Upon receipt of an application, the governing board of the jurisdiction, appoints an Advisory Committee. The Advisory Committee is comprised of four landowners engaged in agricultural or forestal production, four other local landowners, the local commissioner of revenue or chief property assessment officer, and a board member. The governing board also refers the application to the Planning Commission.
- 3. Advisory Committee:** The Advisory Committee evaluates the significance of the land in light of the application.
- 4. Planning Commission:** The Planning Commission holds a public hearing, suggests modifications, and publishes any proposed changes. The Planning Commission then makes a referral to the board.
- 5. Governing Board:** If modifications were suggested, the landowners are given written notice to which they can respond. The Governing Board then approves or denies the application.

The district is created once an ordinance is enacted and conditions of the district are set. The conditions of the district can be anything that the governing board deems appropriate; again the majority of the decisions and requirements are left up to the localities. These agricultural and forestal districts function much in the same way that jurisdictions with enabling

use-value taxation function with tax benefits being similar.

Concerns of Jurisdictions Using Use-Value

One of the primary concerns with use-value taxation is that jurisdictions are finding it increasingly difficult to balance support for the local agricultural community with a use-value program and the resulting reduction in real revenues that fund government services (Groover, et al.). The conversion of intensively cropped farmland to pasture and hay production causes the same problem with a reduction in tax revenues. In jurisdictions close to urban areas, there also arises controversy about the structures on qualifying land. According to the state legislation, use-value taxation does not apply to the principal residence, to the lot on which the residence sits, nor to any other structures; those structures are taxed at the market value. Another concern expressed is that minimum land requirements should be higher to reduce exploitation of the program.

Despite the controversy of use-value taxation, approximately 90 jurisdictions (Figure 1) in the Commonwealth have adopted local ordinances allowing for eligible land to be taxed at its use value instead of market value.

Groover, Gordon E., R. T. Drumheller, B. A Pelletier, and J J. Richardson, Jr. *Results of Agricultural and Horticultural Use-Value Taxation Program Survey*. VCE Pub no. 448-257/REAP259 August 2004 can be found at <http://reap.vt.edu>. Go to publications, REAP reports.

The use value website provides current and past estimates for SLEAC and the procedures for calculating those estimates. The website is found at <http://www.usevalu.agecon.vt.edu>.

References

Code of Virginia Chapter 15 Title 58.1, Article 5, §58.1-3244
Code of Virginia, Chapter 36, Title 15.1 §15.1-237 and 58.769.6

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Raflo, Alan L. and J. P. Marshall. "A Summary of the Agricultural and Forestal Districts Act. VCE Pub No 446-281. Jan. 1991.

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