

Chapter 61 Programs

Understanding the Massachusetts
Ch. 61 Current Use Tax Programs



UMass
Extension



CONTENTS

1

Purpose of the
Chapter 61 Programs

2

Ch. 61–Forestry

6

Ch. 61A–Agriculture

10

Ch. 61B–Open Space
and Recreation

14

Comparing the
Ch. 61 Programs

16

Comparison of
Property Taxes

17

First Refusal Option

18

Frequently Asked
Questions

20

Conservation-Based
Estate Planning

21

Next Steps and
Additional Information

*A conservationist is one who is
humbly aware that with each
stroke [of the axe] he is writing his
signature on the face of the land.*

–ALDO LEOPOLD, A SAND COUNTY ALMANAC



What is the purpose of the Chapter 61 programs?

Rising property values and taxes can make owning your land expensive. The Chapter 61 programs give Massachusetts landowners like you an opportunity to reduce your property taxes in exchange for providing important public benefits like clean water, wildlife habitat, rural character, wood products, food, and outdoor recreation.

Land that is not in a Chapter 61 program is assessed under Chapter 59 for its “highest and best use,” which is considered to be its development value. When you choose to keep your land in Chapter 59, you may find yourself paying property taxes based on your land’s development potential, even though your undeveloped land uses fewer town services, such as emergency services and schools, than developed land uses. Because undeveloped land provides valuable public benefits and requires fewer costly town services, the Chapter 61 programs offer a property tax break for landowners willing to commit to keeping some or all of their land undeveloped for a specified period of time.

The Chapter 61 programs can be helpful tools for keeping your land affordable and reaching your ownership goals. These programs can also help you

as you plan for the long-term future of your land (see “Conservation-Based Estate Planning,” p. 20, for more information).

As with any decision about your land, the key to success is for you to carefully consider your options. This information about the Chapter 61 programs is intended to help you make an informed decision that is right for you and your family.

Three different Chapter 61 programs

There are three different Chapter 61 programs:

- Chapter 61–Forestry
- Chapter 61A–Agriculture
- Chapter 61B–Open Space and Recreation

All the programs aim to keep land undeveloped, and each program focuses on a different type of land use. You are allowed to change your enrollment from one Chapter 61 program to another without penalty, although to save time and effort, it is recommended that you choose the program that best fits your current and desired future land use, as well as your financial needs.

“Chapter 61 programs offer a property tax break for landowners willing to commit to keeping some or all of their land undeveloped for a specified period of time.”

Chapter 61

FORESTRY

Land use in Ch. 61

Chapter 61-Forestry (Ch. 61) applies to land growing forest products, including wood, timber, Christmas trees, and other products produced by forest vegetation. Landowners receive a property tax reduction in exchange for a commitment to keep their land undeveloped and to manage it for forest products. Ch. 61 is a good fit for landowners interested in actively managing their forestland.

Minimum acreage in Ch. 61

The Ch. 61 program requires a minimum of 10 acres in active forest management. Some or all of a landowner's eligible land may be placed in the program. The landowner needs to exclude their residence, other structures, and any land used in connection with those buildings. The structures and excluded land continue to be taxed at the full assessment. Under current regulations, the minimum house lot size under the community's zoning is excluded if there is a house on the land.

The part(s) of the landowner's property that is excluded from enrollment in the program must be clearly shown on the property map of the forest management plan and described using metes and bounds. A registered survey is not required.

Types of eligible land in Ch. 61

In addition to meeting the minimum acreage requirement, land enrolled in the Ch. 61 program must be managed under a 10-year forest management plan approved by a state service forester. Some forestland that is not being managed for forest products may also be enrolled (typically no more than 25% of the total enrolled parcel). This "accessory land" may include uses such as forested wetlands, power lines, and open/shrub land managed for wildlife habitat, so long as such uses are deemed by the state service forester to be compatible with forest production. It may not include buildings, lawn, septic fields, or driveways that cannot be used for forest management.

Forest management in Ch. 61

In Ch. 61, forest management is *required* and must follow an approved 10-year forest management plan. The Massachusetts Department of Conservation and Recreation recommends that landowners hire a licensed private forester to develop the plan. A landowner may develop his or her own plan, provided it meets all applicable standards for 10-year forest management plans. The forest management plan is reviewed and approved by a state service forester.

“ Chapter 61 is a good fit for landowners interested in actively managing their forestland. ”

There are no minimum management requirements set by the state service forester as long as some active management consistent with the program is being conducted. Instead, the type, size, and timing of management activities are decisions that should be made in consultation with your private forester.

Tax reduction for Ch. 61 land

Rather than being assessed for its development value, land enrolled in Ch. 61 is assessed for its forestry use. Forestland assessment values are set annually by the Farmland Valuation Advisory Commission, a state-appointed commission, and are based on the estimated market value of the forest products the land is capable of producing. To see an example of how taxes are calculated under Ch. 61, see Example 1, p. 5. To use the online Ch. 61/61A Forestland Calculator to calculate your taxes under Ch. 61, visit www.masswoods.net.

For a comparison of tax reductions across all Ch. 61 programs, see Table 2, p. 16.

Administration of Ch. 61

The Massachusetts Department of Conservation and Recreation (DCR) Service Forestry Program administers the Ch. 61 program in cooperation with the local assessor's offices. To contact your local state service forester or download an application, visit www.masswoods.net. Applications can also be found in your local assessor's office.

Ch. 61 costs

When landowners choose to enroll their land in a Ch. 61 program, they are responsible for the cost of

preparing a 10-year forest management plan and for the registry recording fees for lien or release forms. State and federal grant funding, or cost-share monies, may be available to assist landowners with the cost of developing their 10-year forest management plan. For more information about landowner cost-share programs, visit www.masswoods.net.

Withdrawal penalties in Ch. 61

When a landowner enrolls in the Ch. 61 program, a lien is attached to the landowner's property to ensure that undeveloped land will continue to provide public benefits. This lien stays with the property when sold or transferred to another landowner. No penalties apply as long as the land remains enrolled or eligible for enrollment in one of the three Ch. 61 programs.

However, if the enrolled land is sold for or converted to a nonchapter use *within 10 years from the date it is acquired* or the earliest date of the uninterrupted use in forest management, then the landowner is responsible for *either* rollback taxes or conveyance taxes, whichever is greater. These penalties apply only to the portion of the land that is changed to a nonchapter use. However, when the classified land is being sold or converted to a residence for the owner; the owner's spouse, parent, grandparent, child, grandchild, brother or sister, or the surviving spouse of those relatives; or an employee working full-time in the use and care of the property for its classified use, no penalty tax is assessed.

Below is an explanation of the rollback and conveyance taxes. These penalties can be confusing. If you are uncertain about how

withdrawal penalties apply to your situation, contact your local assessor's office or state service forester. To find the state service forester working in your town, visit www.masswoods.net.

ROLLBACK TAXES

The rollback tax is identical for Ch. 61 and Ch. 61B. The rollback tax is assessed if the land use changes while enrolled in Ch. 61 or within 5 years of withdrawal from the Ch. 61 program. Rollback taxes are the difference between what the property tax would have been at the full assessment, Ch. 59 taxes, and the tax paid under Ch. 61, plus 5% simple interest per year. The rollback tax is calculated for each year the landowner has been enrolled in the program, up to 5 years. After more than 5 years of enrollment, the rollback tax is calculated only for the 5 most recent years of enrollment.

CONVEYANCE TAXES

The conveyance tax is calculated the same way for Ch. 61 and Ch. 61A. The conveyance tax is designed to levy a more severe financial penalty if the land is sold for or converted to a nonchapter use within the early years of Ch. 61 enrollment. The intent of the conveyance tax is to discourage landowners from enrolling their land in the Ch. 61 program to save taxes before developing the land. If the land is sold for or converted to a nonchapter use

within 10 years from the beginning of the fiscal year when it was first acquired, this tax is due if it is greater than what the total rollback tax penalty would be. For Ch. 61, the conveyance tax is 10% of the total price of the property if the land is sold or converted within the first year of ownership (or uninterrupted use in forestry by the current owner), 9% if sold within the second year, and so on with the rate declining each year by 1% until it hits zero.

After the first 10 years of enrollment, the conveyance tax no longer applies. The conveyance tax can also be avoided if the land is purchased by a new owner who states on a notarized affidavit their intention to keep the land in a use covered by any Ch. 61 program for at least 5 years after the purchase. If the land is not continued in the use stated in the affidavit for at least 5 consecutive years, then the conveyance tax becomes due and payable by the new owner.

Some transfers are exempt from the conveyance tax, including transfers between husband and wife and parent and child when no consideration is paid for the property. Before making a transfer, the owner should determine whether it would trigger the conveyance tax. Note also that a conveyance tax does not apply to a seller who owned forestland classified under Ch. 61 in or before the fiscal year 2008.

KEY DATE TIMELINE: Chapter 61-Forestry



First refusal option in Ch. 61

All Ch. 61 programs give the town a first refusal option (sometimes referred to as the right of first refusal) that is triggered if the land use is converted to a nonchapter use (e.g., residential,

commercial, or industrial) while enrolled in the program or within one year of withdrawal from the program. Some exceptions apply. See “First Refusal Option,” p. 17, for more information.

EXAMPLE 1: Property Tax Calculation under Ch. 61 Based on FY 14 Rates

STEP 1

$$\text{Number of enrolled acres} \times \text{Per-acre valuation}^* = \text{Ch. 61 valuation}$$

STEP 2

$$\text{Ch. 61 valuation} \div 1000 = \text{Per thousand Ch. 61 valuation}$$

STEP 3

$$\text{Per thousand Ch. 61 valuation} \times \text{Town's per thousand commercial tax rate} = \text{Estimated tax bill under Ch. 61}$$

*The per-acre valuation is based on your land's location (east or west of the Connecticut River) and productivity level (as determined by use category and USDA soil rating). The valuation is adjusted annually.

EXAMPLE The example below is for 45.87 acres of land with average productivity, located east of the Connecticut River in Sterling, Massachusetts, giving a per-acre current use valuation of \$49.00.

STEP 1 45.87 enrolled acres \times \$49.00 = \$2,247.63

STEP 2 \$2,247.63 \div 1000 = 2.24763

STEP 3 2.24763 \times 16.93* = **\$38.05 is the estimated tax bill under Chapter 61**

*This is based on Sterling's commercial tax rate of \$16.93 per \$1000 valuation.

July 1

Ch. 61 taxation begins at the start of the fiscal year.

October 1–December 31

First tax bill to reflect Ch. 61 tax reduction. Tax billing date depends on the community (e.g., quarterly or semi-annual billing).

Over the next 10 years +

Landowner implements approved 10-year forest management plan.

DEADLINE: June 30

Landowner applies to state service forester for approval of next 10-year forest management plan.

DEADLINE: September 30*

Landowner renews Ch. 61 enrollment by submitting new written application with approved, new 10-year forest management plan and application certificate to local assessor's office. Once enrolled in the program, landowner is obligated to renew unless he/she decides to withdraw from the program.

*(legislative amendment pending to change to October 1)

Chapter 61A

AGRICULTURE

Land use in Ch. 61A

Chapter 61A (Ch. 61A) is for land growing agricultural or horticultural products, including fruits, vegetables, ornamental shrubs, timber, animals, and maple syrup. Ch. 61A is a good fit for landowners engaged in agriculture on their land.

Minimum acreage in Ch. 61A

The Ch. 61A program requires a minimum of 5 acres that has been in agricultural use for at least 2 years before applying. Some or all of a landowner's eligible land may be placed in the program. The landowner needs to exclude their residence, other structures, and any land occupied by a dwelling or regularly used for family living. The structures and excluded land continue to be taxed at the full assessment. Land under farm buildings, such as barns and farm sheds, is considered land in agricultural use.

Forest products are considered a type of agricultural product, so a landowner may enroll managed forestland in Ch. 61A. A 10-year forest management plan is required for this productive forestland.

An equal amount of contiguous, nonproductive land may also qualify for enrollment in the program as "accessory land." In other words, enrolled land may contain up to 50% nonagricultural

land that is not in residential, industrial, or commercial use. Accessory land may include unmanaged, or "nonproductive," forestland, which does not require a 10-year forest management plan. However, if the landowner decides to implement forest management, their forestland is automatically considered "productive" and an approved 10-year forest management plan must guide the management.

Types of eligible land in Ch. 61A

In addition to meeting the minimum acreage requirement, the landowner must demonstrate annual agricultural product sales of at least \$500 for the first 5 acres and \$5 for every additional productive agricultural acre or \$0.50 for every additional productive forestland acre. Given the longer growth time for forest products, these sales requirements are considered satisfied as long as the enrolled forestland is managed according to an approved 10-year forest management plan.

Forest management in Ch. 61A

In Ch. 61A, all enrolled productive forestland must follow an approved 10-year forest management plan. The Massachusetts Department of Conservation and Recreation recommends that landowners hire a licensed private forester to

develop the plan. A landowner may develop his or her own plan, provided it meets all applicable standards for 10-year forest management plans. The forest management plan is reviewed and approved by a state service forester.

There are no minimum management requirements set by the state service forester as long as some active management consistent with the program is being conducted. Instead, the type, size, and timing of management activities are decisions that should be made in consultation with your private forester.

In addition, if a landowner decides to implement forest management on land previously classified as nonproductive accessory land, then the land is automatically considered productive forestland and an approved 10-year forest management plan must guide the management.

Tax reduction for Ch. 61A land

Rather than being assessed at its development value, land enrolled in Ch. 61A is assessed for its agricultural use. Agricultural assessment values are set annually by the Farmland Valuation Advisory Commission, a state-appointed commission, and are based on the estimated market value of agricultural products the land is capable of producing. Productive forestland enrolled under the Ch. 61A program will have the *same* property taxes as forestland enrolled under the Ch. 61 program. To see an example of how taxes are calculated under Ch. 61A, see Example 2, p. 9. To use the online Ch. 61/61A Forestland Calculator to calculate your taxes under Ch. 61A, visit www.masswoods.net.

For a comparison of tax reductions across all Ch. 61 programs, see Table 2, p. 16.

Administration of Ch. 61A

Each community's board of assessors administers the Ch. 61A program. Find the application at your local assessor's office and at www.masswoods.net.

Ch. 61A costs

When landowners choose to enroll their land in a Ch. 61A program, they are responsible for the

registry recording fees for lien or release forms. If landowners are managing forestland under Ch. 61A, then they are also responsible for the cost of preparing a 10-year forest management plan. State and federal grant funding, or cost-share monies, may be available to assist landowners with the cost of developing their 10-year forest management plan. For more information about cost-share programs, visit www.masswoods.net

Withdrawal penalties in Ch. 61A

When a landowner enrolls in the Ch. 61A program, a lien is attached to the landowner's property to ensure that undeveloped land will continue to provide public benefits. This lien stays with the property when sold or transferred to another landowner. No penalties apply as long as the land remains enrolled or eligible for enrollment in one of the three Chapter 61 programs.

However, if the enrolled land is sold for or converted to a nonchapter use within 10 years from the date it is acquired or the earliest date of the uninterrupted use in agriculture, then the landowner is responsible for either rollback taxes or conveyance taxes, whichever is greater. These penalties apply only to the portion of the land that is changed to a nonchapter use. However, when the classified land is being sold or converted to a residence for the owner; the owner's spouse, parent, grandparent, child, grandchild, brother or sister, or the surviving spouse of those relatives; or an employee working full-time in the use and care of the property for its classified use, no penalty tax is assessed.

Below is an explanation of the rollback and conveyance taxes. These penalties can be confusing. If you are uncertain about how withdrawal penalties apply to your situation, contact your local assessor's office or state service forester.

“ Ch. 61A is a good fit for landowners engaged in agriculture on their land. ”

ROLLBACK TAXES

The rollback tax is calculated the same way for Ch. 61, Ch. 61A, and Ch. 61B, except under Ch. 61A there is a difference in who has to pay interest. The rollback tax is assessed if the land use changes while enrolled in Ch. 61A or within 5 years of withdrawal from the Ch. 61A program. Rollback taxes are the difference between what the property tax would have been at the full assessment, known as Ch. 59 taxes, and the tax paid under Ch. 61A, plus 5% simple interest per year. **However, landowners who enrolled in Ch. 61A before July 1, 2006, do not pay interest on the rollback tax.** The rollback tax is calculated for each year the landowner has been enrolled in the program, up to 5 years. After more than 5 years of enrollment, the rollback tax is calculated only for the 5 most recent years of enrollment.

If the landowner withdraws from the program, the rollback tax is still assessed if the land use changes to a nonchapter use within 5 years of withdrawal. In such cases, the rollback tax is due for each year within this 5-year look-back period for which Ch. 61A reduced taxes were paid.

There are no rollback tax penalties for withdrawing a property from Ch. 61A if the landowner keeps the land in a use eligible for any one of the Ch. 61 programs for a period of 5 years after it is withdrawn from the program.

CONVEYANCE TAXES

The conveyance tax is calculated the same way for Ch. 61A and Ch. 61. The conveyance tax is designed to levy a more severe financial penalty if the land is sold for or converted to another use within the early years of Ch. 61A enrollment. The intent of the conveyance tax is to discourage landowners from enrolling their land in the Ch. 61A program to save taxes before developing the land. If the land is sold for or converted to a nonchapter use within 10 years from the beginning of the fiscal year when it was first acquired, this tax is due if it is greater than what the total rollback tax penalty would be. For Ch. 61A, the conveyance tax is 10% of the total price of the property if the land is sold or converted within the first year of ownership (or uninterrupted use in agriculture by the current owner), 9% if sold within the second year, and so



©Shutterstock.com/Richard Pratt

on with the rate declining each year by 1% until it hits zero.

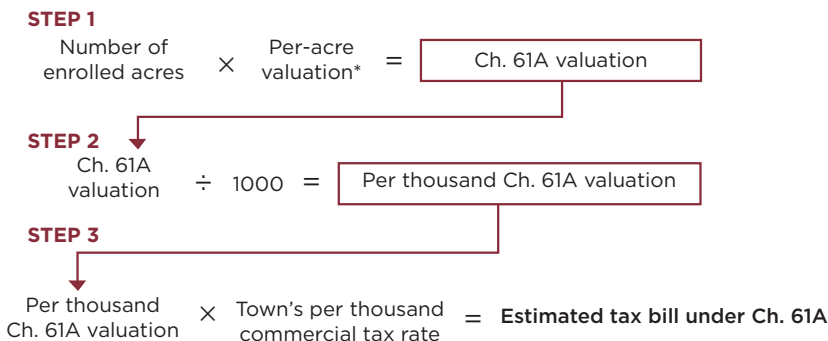
After the first 10 years of enrollment, the conveyance tax no longer applies. The conveyance tax can also be avoided if the land is purchased by a new owner who states on a notarized affidavit his/her intention to keep the land in a use covered by any Chapter 61 program for at least 5 years after the purchase. If the land is not continued in the use stated in the affidavit for at least 5 consecutive years, then the conveyance tax becomes due and payable by the new owner.

Some transfers are exempt from the conveyance tax, including transfers between husband and wife and parent and child when no consideration is paid for the property. Before making a transfer, the owner should determine whether it would trigger the conveyance tax.

First refusal option in Ch. 61A

All Ch. 61 programs give the town a first refusal option (sometimes referred to as the right of first refusal) that is triggered if the land use is converted to a nonchapter use (e.g., residential, commercial, or industrial) while enrolled in the program or within one year of withdrawal from the program. Some exceptions apply. See “First Refusal Option,” p. 17, for more information.

EXAMPLE 2: Property Tax Calculation under Ch. 61A Productive Forestland Based on FY 14 Rates



*The per-acre valuation is based on your land's location (east or west of the Connecticut River) and productivity level (as determined by use category and USDA soil rating). The valuation is adjusted annually.

EXAMPLE The example below is for 45.87 acres of land with average productivity, located east of the Connecticut River in Sterling, Massachusetts, giving a per-acre current use valuation of \$49.00.

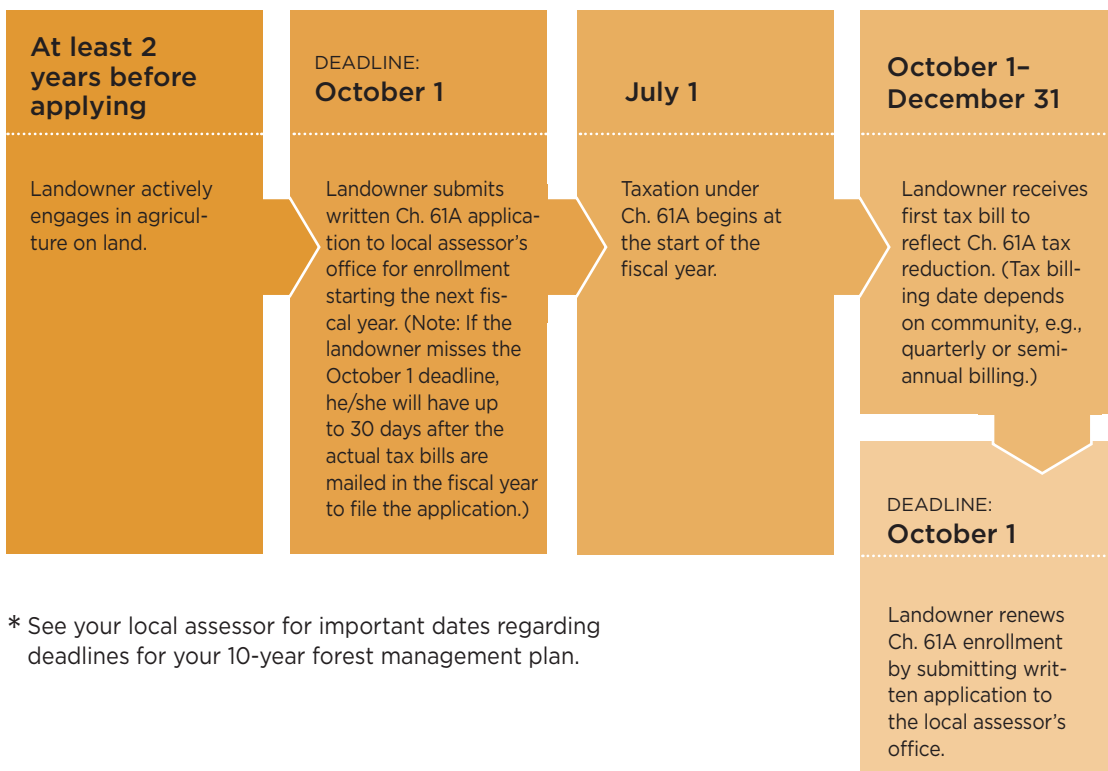
STEP 1 45.87 enrolled acres × \$49.00 = \$2,247.63

STEP 2 \$2,247.63 ÷ 1000 = 2.24763

STEP 3 2.24763 × 16.93* = **\$38.05 is the estimated tax bill under Chapter 61A**

*This is based on Sterling's commercial tax rate of \$16.93 per \$1000 valuation.

KEY DATE TIMELINE: Chapter 61A-Agriculture*



* See your local assessor for important dates regarding deadlines for your 10-year forest management plan.

Chapter 61B

OPEN SPACE AND RECREATION

Land use in Ch. 61B

Chapter 61B—Open Space and Recreation (Ch. 61B) is for land in open space and/or recreation. Because there is no requirement for land enrolled in Ch. 61B to be managed or have a 10-year forest management plan, the Ch. 61B program is a good fit for landowners who take a passive approach to their land.

Minimum acreage in Ch. 61B

The Ch. 61B program requires a minimum of 5 acres in an eligible land use. Some or all of a landowner's eligible land may be placed in the program. The landowner needs to exclude their residence, other structures, and any land used in connection with those buildings. The structures and excluded land continue to be taxed at the full assessment.

Types of eligible land in Ch. 61B

In addition to meeting the minimum acreage requirement, land enrolled in Ch. 61B must fit into one of the following two land categories:

OPEN SPACE

Land maintained in a substantially natural, wild, or open condition; land maintained in a landscaped or pasture condition; or managed forest under an approved 10-year forest management plan. Public access is not required for this category of land use.

RECREATION

Land that is available for recreational purposes—so long as they do not significantly interfere with the environmental benefits of the land—which include hiking, camping, nature study and observation, boating, golfing, noncommercial youth soccer, horseback riding, hunting, fishing, skiing, swimming, picnicking, private noncommercial flying, hang gliding, archery and target shooting, and commercial horseback riding and equine boarding. It may not be used for horse racing, dog racing, or any sport normally undertaken in a stadium, gymnasium, or similar structure. Land under this category must be open either to the public or to members of a nonprofit organization, though the landowner may charge a fee for this service.

Forest management in Ch. 61B

Forest management in Ch. 61B is *optional*. If done, it must follow an approved 10-year forest management plan as described in the Ch. 61 program.

Tax reduction for Ch. 61B land

Rather than being assessed for its development value, Ch. 61B land is assessed at its recreational use value, which cannot be more than 25% of the fully assessed value of the land. In other words, the assessed value of the land is reduced by at least

75%. To see an example of how taxes are calculated under Ch. 61B, see Example 3, p. 13. To use the online Ch. 61B Calculator to calculate your taxes under Ch. 61B, visit www.masswoods.net.

For a comparison of tax reductions across all Ch. 61 programs see Table 2, p. 16.

Administration of Ch. 61B

Each community's board of assessors administers the Ch. 61B program. Find the application at your local assessor's office and at www.masswoods.net.

Ch. 61B costs

When landowners choose to enroll their land in a Ch. 61B program, they are responsible for the registry recording fees for lien or release forms. If landowners decide to manage their forestland under Ch. 61B, then they are also responsible for the cost of preparing a 10-year forest management plan.

Withdrawal penalties in Ch. 61B

When a landowner enrolls in the Ch. 61B program, a lien is attached to the landowner's property to ensure that undeveloped land will continue to provide public benefits. This lien stays with the property when sold or transferred to another landowner. No penalties apply as long as the land remains enrolled or eligible for enrollment in one of the three Chapter 61 programs.

However, if the enrolled land is sold for or converted to a nonchapter use within 10 years from the date of its enrollment in Ch. 61B, then the landowner is responsible for either rollback taxes or conveyance taxes, whichever is greater.

These penalties apply only to the portion of the land that is changed to a nonchapter use. However, when the classified land is being sold or converted to a residence for the owner; the owner's spouse, parent, grandparent, child, grandchild, brother or sister, or the surviving spouse of those relatives; or an employee working full-time in the use and care of the property for its classified use, no penalty tax is assessed.

Below is an explanation of the rollback and conveyance taxes. These penalties can be confusing. If you are uncertain about how withdrawal penalties apply to your situation, contact your local assessor's office or state service forester.

ROLLBACK TAXES

The rollback tax is identical for Ch. 61B and Ch. 61. The rollback tax is assessed if the land changes use while enrolled or within 5 years of withdrawal from the Ch. 61B program. Rollback taxes are the difference between what the property tax would have been at the full assessment, known as Ch. 59 taxes, and the tax paid under Ch. 61B, plus 5% simple interest per year. The rollback tax is calculated for each year the landowner has been enrolled in the program, up to 5 years. After more than 5 years of enrollment, the rollback tax is calculated only for the 5 most recent years of enrollment.

If the landowner withdraws from the program, the rollback tax is still assessed if the land use changes to a nonchapter use within 5 years of withdrawal. In such cases, the rollback tax is due for each year within this 5-year look-back period for which Ch. 61B reduced taxes were paid.

“ Because there is no requirement for land enrolled in Ch. 61B to be managed or have a 10-year forest management plan, the Ch. 61B program is a good fit for landowners who take a passive approach to their land. ”



There are no rollback tax penalties for withdrawing a property from Ch. 61B if the landowner keeps the land in a use eligible for any one of the Chapter 61 programs for a period of 5 years after it is withdrawn from the program.

CONVEYANCE TAXES

The conveyance tax is calculated differently for Ch. 61B than it is for Ch. 61 and Ch. 61A. The conveyance tax is designed to levy a more severe financial penalty if the land is sold for or converted to another use within the early years of Ch. 61B enrollment. The intent of the conveyance tax is to discourage landowners from enrolling their land in the Ch. 61B program to save taxes before developing the land. If the land is sold for or converted to a nonchapter use within 10 years from the beginning of the fiscal year when it was first enrolled, this tax is due if it is greater than what the total rollback tax penalty would be. For Ch. 61B, the conveyance tax is 10% of the sale price if sold within 0–5 years of its first enrollment and 5% if sold within 6–10 years of the property’s first enrollment.

After the first 10 years of enrollment, the conveyance tax no longer applies. The conveyance tax can also be avoided if the land is purchased by a new owner who states on a notarized affidavit their intention to keep the land in a use covered by any Chapter 61 program for at least 5 years after the purchase. If the land is not continued in the use stated in the affidavit for at least 5 consecutive years, then the conveyance tax becomes due and payable by the new owner.

Some transfers are exempt from the conveyance tax, including transfers between husband and wife and parent and child when no consideration is paid for the property. Before making a transfer, the landowner should determine whether it would trigger the conveyance tax.

First refusal option in Ch. 61B

All Chapter 61 programs give the town a first refusal option that is triggered if the land use is converted to a nonchapter use (e.g., residential, commercial, or industrial) while enrolled in the program or within 1 year of withdrawing from the program. Some exceptions apply. See “First Refusal Option,” p. 17, for more information.

EXAMPLE 3: Property Tax Calculation under Ch. 61B Based on FY 14 Rates

STEP 1

$$\text{Assessment of land enrolled in Ch. 61B} \times .25 = \text{Ch. 61B valuation}$$

STEP 2

$$\text{Ch. 61B valuation} \div 1000 = \text{Per thousand Ch. 61B valuation}$$

STEP 3

$$\text{Per thousand Ch. 61B valuation} \times \text{Town's per thousand commercial tax rate} = \text{Estimated tax bill under Ch. 61B}$$

EXAMPLE The example below is for 13.68 acres located in Charlton, Massachusetts, with a land assessment of \$105,500.

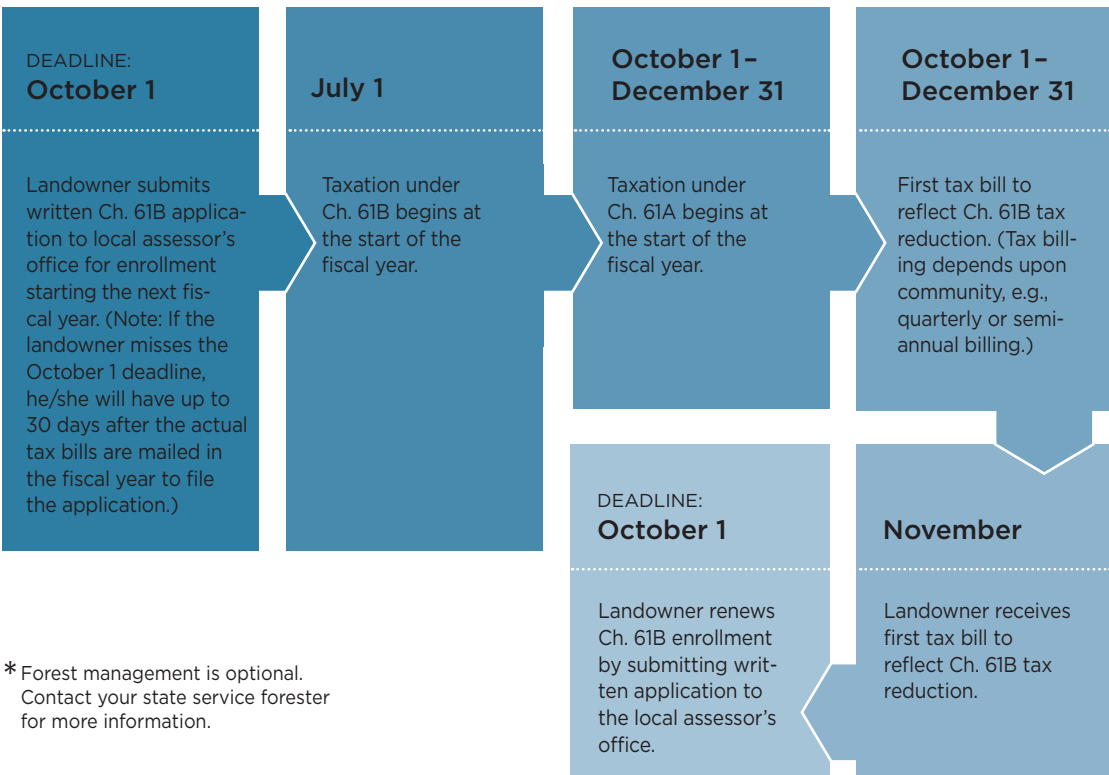
STEP 1 $\$105,500 \times .25 = \$26,375$

STEP 2 $\$26,375 \div 1000 = 26.375$

STEP 3 $26.375 \times 12.66^* = \mathbf{\$333.91}$ is the estimated tax bill under Chapter 61B

*This is based on Charlton's commercial tax rate of \$12.66 per \$1000 valuation.

KEY DATE TIMELINE: Chapter 61B-Open Space and Recreation*



* Forest management is optional. Contact your state service forester for more information.

TABLE 1: COMPARING THE CHAPTER 61 PROGRAMS

Program Characteristics	<h1>Chapter 61</h1> <p>FORESTRY</p>
Land Use	Forest management
Administration	Department of Conservation and Recreation (DCR) Service Forestry Program
Minimum Acreage	10 acres
Tax Reduction	Based on market value of forest products land is capable of producing, set annually by Farm Land Advisory Committee
Requirements	10-year forest management plan approved by the state service forester
Posting (excluding public access)	Posting allowed
Renewal Timeframe	Reapply every 10 years by September 30 with new 10-year forest management plan
Forest Management	Required
10-Year Forest Management Plan	Required

Chapter 61A

AGRICULTURE

Agriculture, including forest management

- Local board of assessors
- DCR Service Forestry Program if managing forestland

5 acres

Based on market value of farm products land is capable of producing, set annually by Farm Land Advisory Committee

- Demonstrate at least \$500 in annual sales of agricultural products, including forest products
- If managing forestland, 10-year forest management plan approved by the state service forester

Posting allowed

Reapply **annually** by October 1

Required for enrolled productive forestland

Required only if landowner manages forestland

Chapter 61B

OPEN SPACE AND RECREATION

Passive or recreational use (forest management optional)

- Local board of assessors
- DCR Service Forestry Program if managing forestland

5 acres

75% reduction of assessed value

- Land mostly natural, wild, or open, or used for an approved recreational use
- If managing forestland, 10-year forest management plan approved by the state service forester

- Posting allowed under “natural, wild, or open” category
- Posting may be allowed under the Recreation category for organizations with paying members

Reapply **annually** by October 1

Optional

Required only if landowner manages forestland

Comparison of Property Taxes for Forestland under Ch. 59 (no program), Ch. 61B & Ch. 61/61A Based on FY 14 Tax Rates

Town	Number of Enrolled Acres	Land Assessment	FY 2014 Tax Rate	Ch. 59 (no program)	Ch. 61B	Ch. 61/61A
Boxford	6.45	\$288,400	\$15.47	\$4,462	\$1,115	\$5*
Taunton	18.00	\$145,600	\$14.61 (Res) \$31.19 (Com)	\$2,127	\$532	\$13
Falmouth	9.46	\$289,300	\$8.15	\$2,358	\$589	\$4*
Phillipston	72.16	\$179,700	\$16.29	\$2,927	\$732	\$58
Sterling	45.87	\$293,300	\$16.93	\$4,966	\$1,241	\$38
Charlton	13.68	\$105,500	\$12.66	\$1,336	\$334	\$8
Hawley	41.00	\$70,400	\$16.05	\$1,130	\$282	\$43
Montague	14.64	\$75,300	\$16.34 (Res) \$24.85 (Com)	\$1,230	\$308	\$12
Williamsburg	67.63	\$263,400	\$17.37	\$4,575	\$1,144	\$76
Chester	130.25	\$107,300	\$20.88	\$2,240	\$560	\$177
Southwick	24.00	\$93,700	\$17.06	\$1,599	\$400	\$26
Richmond	22.23	\$549,500	\$10.29	\$5,654	\$1,414	\$15
Monterey	92.00	\$746,900	\$6.08	\$4,541	\$1,135	\$36

*Due to minimum acreage requirements, this value is calculated only for Ch. 61A Forestland



©Shutterstock.com/Gemena.com

What is the first refusal option?

The purpose of the Chapter 61 programs is to help keep land undeveloped; therefore when a landowner chooses to convert enrolled land to another use, the municipality's first refusal option (sometimes referred to as the right of first refusal) is triggered. If any land under Ch. 61, 61A, or 61B is intended to be converted to a nonchapter use (either sold or retained in the same ownership) while enrolled or within one fiscal year of being removed from the program, then the municipality has the option to match a bona fide offer to purchase the property at the price contained in the offer. If the owner is not selling the property but is converting its use to a nonchapter use, the municipality has an option to purchase the property at full market value as determined by an independent appraiser.

The option must be exercised by the municipality within 120 days of (1) receiving a notice from the owner that complies with the law (in the case of a sale) or (2) the agreement of the consideration (the market value) in the case of a conversion by the owner. After exercising the first refusal option, the land must then be acquired by the municipality within 90 days, unless an extension is agreed upon by the landowner. The municipality may exercise its first refusal option to buy the land or it may transfer the first refusal option to an eligible conservation organization (e.g., state conservation agency, land trust) who then must also acquire the land within 90 days.

For more information on the first refusal option process, including what must be included in the notice to sell or convert, visit www.masswoods.net.

The first refusal option is triggered

- when the landowner intends to sell the land for a residential, commercial, or industrial use;
- when the landowner maintains ownership of their land and changes the land use to residential, commercial, or industrial use; or
- if the landowner withdraws from the program and changes the land use within 12 months or within one fiscal year of withdrawal.

The first refusal option is NOT triggered if

- the landowner chooses to switch to a different current-use program;
- the change of use is for the construction of a residence for an immediate family member;
- the landowner chooses to withdraw from a program, but keeps the land in agricultural, forestry, or recreational use for a period of one year from the time it was last taxed under the Chapter 61 program; or
- the landowner sells the property to a new owner who agrees to maintain the land use, as verified through an affidavit.

“ The purpose of the Chapter 61 programs is to help keep land undeveloped. ”



Chapter 61

FORESTRY

Q: Neil and Danielle own 57 acres. They are interested in managing their forest, but want to make sure they are comfortable with the type of forest management being done on their land. Does the state require a minimum amount of forest management that needs to be done?

A: Though some forest management activity is required in the Ch. 61 program, the amount and type of management should be determined based on the landowner's goals, in consultation with the landowner's private forester.

Q: Addie has 40 acres in Ch. 61—Forestry. After 14 years in the program, she decides to build 10 houses on the property for sale outside the immediate family. Will Addie have to pay penalty taxes?

A: Because the land has been enrolled in Ch. 61 for over 10 years, it is not subject to a conveyance tax. Because she is converting the land use, however, Addie will have to pay rollback taxes. Her rollback taxes will be the difference in taxes between her Ch. 61 tax payment and the fair market assessment for each year within a period of 5 years, plus 5% interest per year. In addition to the rollback taxes, the town where Addie owns the land will have the right of first refusal to purchase it at a fair market price as determined by an independent appraiser. The town may also transfer the right to purchase the land to a qualified conservation organization.

Chapter 61A

AGRICULTURE

Q: Bob and Pam have had 89 acres in Ch. 61A—Agriculture for 12 years. They have decided to remove their land from the program, but not to change its land use. Will Bob and Pam have to pay penalty tax?

A: Bob and Pam will not have to pay any penalty tax as long as they maintain the land use for a minimum of 5 years and the town will have no first refusal option at the close of the fiscal year following the year that the land was enrolled. Because the land has been in Ch. 61A for longer than 10 years and because the land is not being sold for or converted to a nonchapter use, the conveyance tax does not apply.

Q: Jim and Lisa have 100 acres in Ch. 61A—Agriculture. Fifty acres are actively farmed, and 50 acres are included as nonproductive accessory forestland. They decide to harvest timber from these 50 forest acres. Can Jim and Lisa harvest timber and keep their land in Chapter 61A—Agriculture?

A: Jim and Lisa may harvest timber on forestland enrolled in Ch. 61A, and they must do so under the guidance of an approved 10-year forest management plan. Instead of being assessed as “nonproductive” accessory land, the forestland is now producing timber, and these “productive” acres are assessed based on the market value of the agricultural products (i.e., timber) produced as determined by the Farmland Valuation Advisory Commission.

Chapter 61B

OPEN SPACE AND RECREATION

Q: Dana and Mike have 17 acres enrolled in Ch. 61B—Open Space and Recreation. For years, they have taken a passive approach to managing their land, and now they have decided to harvest timber to help pay for unexpected medical bills. Can they stay in Ch. 61B and harvest timber, or do they have to switch to Ch. 61—Forestry?

A: Active forest management is allowed under Ch. 61B, but it is not required. Dana and Mike may stay in Ch. 61B and harvest timber from their land as long as an approved 10-year forest management plan guides the harvest.

Q: Eli has owned 13 acres, which he has had in Ch. 61B—Open Space and Recreation for 4 years, when he decides to sell the property to the Smith family. The Smiths intend to keep it in its open space land use. They sign an affidavit promising to not convert the land. Will Eli have to pay penalty taxes for selling the land?

A: No, as long as the new owners sign the affidavit saying they will not convert the land, Eli will not have to pay anything. The affidavit transfers any penalties for changing the land’s use to the new owners. The Ch. 61B lien will remain on the land. If the Smiths wish to keep it in Ch. 61B, they must file annually with the local assessor’s office.



Conservation-Based Estate Planning

Deciding what will happen to your land when you are gone may be the most important step you can take as a landowner. An estate is the total of all of your assets, including your land. Conservation-based estate planning ensures that your assets are distributed in a way that meets the personal and financial goals of you and your family and that your land is treated in a manner consistent with your goals.

The Chapter 61 programs can reduce your annual property taxes and help you maintain your ownership while you explore longer-term plans for the land. Chapter 61 programs can be combined with other conservation-based estate-planning tools such as trusts, conservation restrictions, and all types of private ownership. Although not a permanent land protection tool, a Chapter 61 lien will remain on your property after your passing until a future owner decides to remove it.



For more information about conservation-based estate planning and how the Chapter 61 programs may help you meet your goals for the future of your land, visit www.masswoods.net.

Next Steps

1. Discuss your short- and long-term goals for your land with your family.
2. Contact your local state service forester to discuss the Chapter 61 programs or request a site visit. Visit www.masswoods.net to find the state service forester working in your town.
3. Contact your local assessor's office for Ch. 61A or 61B applications or download them at www.masswoods.net. Contact a private forester to develop a forest management plan needed to enroll in the Ch. 61 program. Find a private forester working in your town by visiting www.masswoods.net.
4. Learn how the Ch. 61 programs can add to your conservation-based estate plan by visiting the "Future of My Land" section of the UMass Extension website: www.masswoods.net/future-my-land.



Additional Information

www.masswoods.net

The UMass Extension website for landowners, featuring information on:

- Ch. 61 programs and property tax calculators
- Ch. 61 Frequently Asked Questions (FAQs)
- Ch. 61, 61A, and 61B application forms
- Conservation-based estate-planning information
- State service foresters and private foresters working in your town
- Land trusts working in your town
- Landowner cost-share programs
- Enabling legislation for the Chapter 61 programs

ACKNOWLEDGMENTS

Thank you to the following reviewers for their valuable assistance with this publication:

Christine Chisholm, Department of Agricultural Resources

Department of Revenue, Division of Local Services,
Bureau of Municipal Finance Law

Richard Evans, Attorney

Wendy Sweetser Ferris, Franklin Land Trust

Jennifer Fish, Program Coordinator, Massachusetts Department of
Conservation and Recreation Service Forestry Program

John Follet, Landowner, Chesterfield Conservation Commission

Cynthia Magrath, Landowner, Hilltown Community Development
Center Board, President, Worthington Agricultural Commission

Bob O'Connor, Director of Land and Forest Conservation, Massachusetts
Executive Office of Energy & Environmental Affairs

Sandy Papush, Landowner, Goshen Open Space Committee,
Hilltown Land Trust

Jay Rasku, Mount Grace Land Conservation Trust

Linda Swadel, Massachusetts Association of Assessing Officers

Neil Toomey, Landowner, Becket Agricultural Committee, Becket Community
Preservation Committee

Funding for this publication was provided by the Renewable Resources Extension Act (RREA) and the USDA Forest Service's Division of State and Private Forestry. USDA is an equal opportunity provider and employer.

Design: Penny Michalak; Editorial Services: Sally Farnham; Printing: Mansir Printing



**UMass
Extension**



MIX
Paper from
responsible sources
FSC® C002068

