



State of New Hampshire Department of Revenue Administration

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Synopsis of New Hampshire Timber Tax Law

The Notice of Intent to Cut: (RSA 79:10)

The State of New Hampshire has a real estate tax and by definition timber is considered to be real estate, therefore taxable. However, the method in which it is taxed is different from other real estate and is described in the State Constitution. Timber is only taxed at the time it is cut and at a rate, which encourages the growing of timber. In order for the municipal assessing officials to be aware of cutting operations they must be notified of the cutting by the owner filing a notice of intent to cut timber. The Notice of Intent, which is required by law, notifies the assessing officials, NH Department of Revenue (DRA) and the NH Div of Forest & Lands. Timber on all land ownerships is taxable at 10% of the stumpage value at the time of cutting. The only exemptions are as follows:

1. 10 MBF saw logs and 20 cords fuel wood for personal use by the owner. (RSA 79:1 II(b) 1&2)
2. 10 MBF saw logs and 20 cords of wood for land conversion purposes when all permits for the conversion have been received.(RSA 79:1 II (b) (5)
3. Shade and ornamental trees, usually considered to be trees within striking distance of a building. (RSA 79:2)
4. Christmas trees, fruit trees, and nursery stock and short rotation tree fiber. (RSA 79:2)
5. Any amount of firewood for maple syrup production. (RSA 79:1 II (b) 2)
6. Government and utilities not selling the wood.(RSA 79:1 II (b) 3 & 4)

(Items 1-6, No Intent required and Timber not taxable)

The Notice of Intent to Cut must be completed with a volume estimate, signed by the assessing officials and posted on the job site before any cutting requiring a notice can start. The original volume estimate cannot be exceeded without filing a supplemental Notice of Intent to cut for additional volumes. Notice of Intent to Cut forms are available from the DRA and the Town (RSA 79:10).

Town officials have 30 days to sign the Intent to cut form (RSA 79:10 I (b)). They may withhold signing **only** for the following reasons:

1. The form has been improperly filled out (RSA 79:10).
2. Land is enrolled in the unproductive current use category that does not allow timber harvesting. (RSA 79-A:2, XIII, Current Use Administrative Rule Cub 305.02 (b));
3. A timber tax bond is required but has not been posted (RSA 79:3-a & 10-a).

TDD Access: Relay NH 1-800-735-2964

Individuals who need auxiliary aids for effective communication in programs and services of the Department of Revenue Administration are invited to make their needs and preferences known to the Department.



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4. All owners of record have not signed the intent to cut (RSA 79:1,II & 79:10 I (a)). All owners of record are listed on the property record card.

If town officials have not acted on the Intent to Cut within 30 days of receipt the landowner Shall contact DRA, which then inquires with the town as to the status of the paperwork. If municipal officials are withholding signing, the landowner should be notified in writing by the town as to the reasons within 30 days of receipt of the Notice of Intent to Cut by the town. (RSA 79:10 I (b))

Tax Responsibility: (RSA 79:1 II(a))

The responsibility for the timber tax depends on the type of ownership and must be one of the following:

1. Landowners with timber rights on their own land (Joint Tenants).
2. Landowner with timber rights on their own land (Tenants in common).
3. Persons with deeded timber rights on land they previously owned
4. Persons purchasing timber on public lands Federal, state, county, town, etc.

Timber Tax Bond: (RSA 79:10-a)

Owners that own land within the town the cutting is to take place and are current on property taxes and timber taxes cannot be required to post a timber tax bond. All other owners must post a timber tax bond before the Notice of Intent to Cut is signed. Timber tax bonds are usually equal to the expected timber tax.

Extensions: (RSA 79:10 II) (RSA 79:11 II)

Extensions are allowed upon written request by the owner to the assessing officials prior to April 1. Extensions allow cutting to continue through June 30 and reports are due August 15.

Report of Wood Cut: (RSA 79:11)

Report of Wood Cut forms are sent to the owners filing a notice along with a certificate, which should be posted at the job site. Reports of wood cut must be filed with the town within 60 days of completion or by May 15, whichever comes first. The report form serves as the basis for determining the timber yield tax.

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Appeal Process: (RSA 79:8)

If a taxpayer believes they have been overtaxed they must appeal to the Town within 90 days of the tax bill. If the Town denies the appeal then the taxpayer may appeal in writing to the Board of Tax and Land Appeals (BTLA) within 6 months of the tax bill for an appeal board hearing. The Guideline to Assessing Timber is available from DRA to assist owners and towns in proper assessment of timber per NH timber tax law.

Penalties, Doomage and Enforcement: (RSA 79:12) (RSA 21:J 39) (RSA 79:28 & 28-a)

Fines for non-compliance range up to \$2000. A Doomage penalty may be assessed for improper reporting (Doomage is two times what the tax would have been if the Report had been seasonably filed and truly reported.) The DRA and Division of Forest & Lands have authority to issue a cease and desist for any cutting operation not in compliance with RSA 79.

This is only a synopsis of the law, for further clarification refer to the New Hampshire statutes or call the Department of Revenue Administration, Municipal and Property Division at 230-5900.

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TITLE V TAXATION

CHAPTER 79 FOREST CONSERVATION AND TAXATION

Section 79:28

79:28 Enforcement. –

I. The department of revenue administration shall administer and enforce this chapter. The director of the division of forests and lands and his agents shall also have enforcement authority in regard to the proper filing and reporting of intents to cut, posting of certificates and intents to cut, and proper filing and reporting of the timber cut and shall otherwise assist in enforcement of this chapter as agreed upon by the commissioner of the department of revenue administration and the director, division of forests and lands. It is the intent of this section to authorize the commissioner of the department of revenue administration and the director, division of forests and lands, and their agents, to have enforcement authority and the right to stop any operation in violation of RSA 79 and report same to local authorities.

II. Officials responsible for the enforcement of this chapter may enter upon any lands for which an intent to cut has been signed or a certificate has been issued pursuant to RSA 79 or may enter upon any lands that they believe may have an operation in violation of RSA 79. They also may review any records in conjunction with any timber operation in the state.

Source. 1975, 380:10. 1985, 275:16. 2003, 138:4, eff. Jan. 1, 2004.

Bridging The Enforcement Gap

Town officials can play a vital role in the enforcement of timber laws. While this publication provides general information on laws that apply to timber harvesting, municipal officials should also have complete copies of all relevant statutes and administrative rules.

Become familiar with the laws

Selectman may delegate responsibilities for reviewing timber harvesting operations to a code enforcement officer, the conservation commission, a designated forestry committee, a law enforcement officer, or a licensed forester working for the town. Some towns employ a “timber tax monitor” usually on a part-time basis to keep track of timber harvesting activity, report filing, and payment of timber tax.

Conservation commissions may ask the town assessing officials to notify them when an Intent to Cut Timber form has been filed. Some towns now routinely provide information and materials such as *Best Management Practices for Erosion Control on Timber Harvesting Operations* to those filing an Intent to Cut Timber form. Town road agents and police can also inform the conservation commission of the location of logging or land conversion activities.

After determining the location of the logging operation and whether it is forestry work or land conversion for development (different laws apply), the conservation commission, after obtaining landowner permission, can check the operation for compliance. Remember, **a conservation commission or a board of selectman does not have legal authority to enter private land without first obtaining permission**. An effort should be made to work constructively with the landowner and logger. It is wise to be sure that a potential violation exists before filing a complaint or reporting the problem to proper authorities.

Please note that a *Notification of Forest Management or Timber Harvest Activities Having Minimum Wetlands Impact* **can not** be used if the property is slated to be converted for development, subdivided into multiple lots, or any other non-forestry use.

What to look for at the site

Unless exempted, a logging operation should comply with the following:

- A timber cutting operation may not start until one of the following is posted in a conspicuous place within the area of cutting:
 - The certificate from DRA;
 - A copy of the notice of intent to cut signed by the assessing officials; or
 - A copy of the notice of intent to cut with the operation number along with the date, time and name of municipal official or employee who provided the operation number.
- Either a tyvek, Confirmation of Complete Forestry Notification, or a dredge and fill permit from the New Hampshire Wetlands Bureau must be posted on the site. They are *not* required if no wetlands or surface water bodies are impacted. If no form or permit is present, and you believe one is required, you should contact the Wetlands Bureau.
- In general there should be a well-distributed stand of healthy trees along roads (including Class VI roads). If the trees have been completely removed from along the road, the Division of Forests

and Lands should be contacted to determine whether the landowner has applied for a variance to the basal area law. If the land is being converted to non-forest uses, the basal area law may not apply, but local and state officials should be contacted to see that the appropriate permits have been obtained.

- In general, there should be no large piles of slash near roads or lakes. Slash and slash piles may be present when cutting takes place in these areas, but should be removed promptly. When this condition is not met, contact the Division of Forests and Lands.
- If the owner is disturbing (damaging) a public highway (including Class VI), permission must be sought under RSA 236:9.

Get Help

The New Hampshire Division of Forests and Lands forest rangers are available to help town officials enforce timber harvesting laws. These rangers have the authority to enforce laws relating to Basal Area and Slash (RSA 227-J), Wetlands (RSA 482-A), Alteration of Terrain (RSA 485-A:17), and Timber Tax (RSA 79). **When potential violations of state harvesting laws are encountered, the state forest ranger for that region should be notified immediately by calling the Forest Protection Bureau in Concord at (603) 271-2217. Timber tax issues or questions should be directed to the Department of Revenue Administration at (603) 230-5950.**

Who Has Authority to Enforce or Assist in Enforcing Regulations

The following table lists important regulations and the official bodies responsible for their enforcement.

REGULATION	ENFORCEMENT/AUTHORITY
Timber Tax Enforcement	NH Department of Revenue Administration NH Division of Forests and Lands Town Tax Assessor or Town Selectmen
Dredge-and-Fill Permits	NH Wetlands Bureau Town Planning Board Town Selectmen Town Conservation Commission NH Division of Forests and Lands
Wetland Forestry Notification	NH Wetlands Bureau NH Division of Forests and Lands
Basal Area and Slash Law	NH Division of Forests and Lands Municipality, after notifying NH Division of Forests and Lands
Timber Trespass	NH Division of Forests and Lands
Deceptive Forestry Practices	NH Division of Forests and Lands