

Rollback Tax

In that the tax break given in the Land Use Program is the difference between the use value and the fair market value, the savings represents a “deferred tax” and not a discount. Should qualifying land use change to non-qualifying use, such acreage will be subject to rollback taxes. The rollback tax includes the current and up to the 5 previous years in its calculations, as well as interest. (If the land has only been in the program for 2 years, then the rollback would consist of the tax which was deferred for those 2 years.) This may be accomplished by means of a supplemental assessment based on the difference between land use value and fair market value.*

Changes to non-qualifying use include such situations as:

- the cessation of farming activity (farming operation being no longer productive)
- the owner harvesting timber with no provision to reforest
- the landowner causing pollution by not following accepted best management practices
- the property being developed, subdivided or sold

The only way for the property owner to be removed from the Land Use Program without having the rollback tax levied is for him/her to elect to be removed from Land Use, and from the tax benefits, while continuing with a qualified use for the next consecutive 5 years (or however long they were in Land Use if it was less than 5 years) until all tax liens are clear. This would allow the land owner to work his way out of the program without paying rollback taxes.

Rollbacks are not levied when change in ownership (FULL transfer) occurs, as long as the qualifying use is still met.

As of the date of the sale, the new owner will have 60 days to apply for Land Use. If he/she elects not to apply, then the taxable value will revert to the fully assessed value effective the date of transfer. The new owner will be sent a supplemental bill for property taxes based on converting the value back to the full fair-market assessment.

A new owner does not have to apply for Land Use to prevent paying rollback taxes. As long as they do not change the use of the land for the first 5 years of owning it, they will not be charged rollback taxes. However, if a plat is filed or a building permit is issued to do with this parcel within 5 years from the date of purchase, the new owner will be charged rollback tax on the number of acres involved in this change of use.

When the zoning is changed to a more intensive use at the request of the owner or agent, only the acreage which has changed use (rezoned or split-off) is subject to the rollback tax, providing there is sufficient acreage remaining to meet the minimum acreage requirements to continue to qualify for Land Use.

The owner shall report any change in use/zoning within 60 days or a failure to report penalty shall be applied. If it is discovered that a property owner has misled the locality by providing false or misleading information, the current application on file is void and

fair market values are to be applied. The rollback tax (including interest and penalty) shall be levied plus an additional penalty of 100% of the rollback total. The rollback is to be levied on the portion of the parcel on which the change was made and is to be paid within 30 days.

“Who is billed for rollback taxes?” Land is subject to a lien; however, the owner will be billed if his action triggered the rollback. Interest shall accrue from the date of transfer of ownership until tax is paid in full.

***We include here a reference to the Code of Virginia §58.1-3237 D:**

“Liability to the roll-back taxes shall attach when a change in use occurs, or a change in zoning of the real estate to a more intensive use at the request of the owner or his agent occurs. Liability to the roll-back taxes shall not attach when a change in ownership of the title takes place if the new owner does not rezone the real estate to a more intensive use and continues the real estate in the use for which it is classified under the conditions prescribed in this article and in the ordinance.”

“The owner of any real estate which has been zoned to more intensive use at the request of the owner or his agent as provided in subsection E, or otherwise subject to or liable for roll-back taxes, shall, within sixty days following such change in use or zoning, report such change to the commissioner of the revenue or other assessing officer on such forms as may be prescribed. The commissioner shall forthwith determine and assess the roll-back tax, which shall be assessed against and paid by the owner of the property at the time the change in use which no longer qualifies occurs, or at the time of the zoning of the real estate to a more intensive use at the request of the owner or his agent occurs, and shall be paid to the treasurer within thirty days of the assessment. If the amount due is not paid by the due date, the treasurer shall impose a penalty and interest on the amount of the roll-back tax, including interest for prior years. Such penalty and interest shall be imposed in accordance with §§ [58.1-3915](#) and [58.1-3916](#).”