Department of Revenue
Washington State

Frequently Asked Questions

Implementation of SB 6180: Consolidation of the Current Use Timber Land Classification and the Designated Forest Land Program

Q. What is the impact of the passage of SB 6180 for the Current Use Timber Land (CUTL) classification and the Designated Forest Land (DFL) program?

A. This bill allows counties the option of merging their CUTL classification under chapter 84.34 RCW into their DFL program under chapter 84.33 RCW. This bill also made the following changes to the DFL program:

- Reduced the minimum acreage requirement from 20 acres to five acres;
- Changed the approval due date for DFL applications from May 1 to July 1 of the year following application; and
- Authorized the assessor to require a timber management plan for DFL, less than 20 acres, if the assessor has reason to believe the land is no longer being used primarily for growing and harvesting timber.

Q. When does SB 6180 become effective?

A. SB 6180 has an effective date of June 12, 2014.

Q. Does the new five-acre minimum apply to the DFL program only if a county merges their CUTL classification into their DFL program?

A. No, the new minimum acreage for the DFL program applies to all DFL, regardless of whether a county chooses to merge their CUTL classification with their DFL program.

Q. If an owner has land less than 20 acres (not classified as CUTL) and applies for the DFL program, when is the earliest the owner could apply, and if approved, when would the designation be effective?

A. The new due date for approval of a DFL program application is July 1 of the year following application. If an owner submitted their completed DFL application on June 12, 2014, the county assessor must approve or deny that application prior to July 1, 2015. If the assessor does not approve or deny the application prior to July 1, 2015, then the application is automatically approved. If approved, the assessed value will be reduced beginning January 1, 2015 for taxes due in 2016. If denied, the applicant may appeal the denial to the county board of equalization. The date the application is denied determines the deadline for the applicant to appeal the denial to the county board of equalization. RCW 84.40.038

Q. If an owner of land 20 acres or more (not classified as CUTL) applied for the DFL program in 2013, by which date does the assessor have to approve or deny the application?

A. The assessor must have approved or denied the application prior to May 1, 2014, because SB 6180 was not effective until June 12, 2014.

Q. When an assessor is auditing the DFL program in his/her county to determine eligibility, can the assessor require a timber management plan from the owner?

A. Yes, but only if the DFL is less than 20 acres and the assessor has reason to believe that the DFL is no longer being used primarily for the growing and harvesting of timber. For all DFL, the assessor can also require a timber management plan when an application for classification or reclassification into the DFL program is submitted or when DFL is sold/transferred and the buyer signs a notice of continuance.

Q. If a county does not merge their CUTL classification into their DFL program, can owners of CUTL apply to reclassify their land into the DFL program?

A. Yes, owners of CUTL can apply to reclassify their land into the DFL program, but they are not required to do so.

Q. If a county has not merged their CUTL classification into their DFL program and a property owner has less than 20 acres of forest land, to which classification should they apply? If they are denied, to whom does the property owner appeal?

A. The property owner chooses which classification to apply:

- If the property owner applies for DFL, they apply to the assessor. If the assessor denies the application for classification, the property owner can appeal to the board of equalization.
- If the property owner applies for timber land, they apply to the county legislative authority. If the county legislative authority denies the application for classification, the property owner can appeal to Superior Court.

Q. If after June 12, 2014, one of these approved applicants removed their under 20-acre parcel, is compensating tax due?

A. If the land is removed under DFL (with no exception to tax), compensating tax is due. If the land is removed under CUTL (with no exception to tax), additional tax, interest, and penalty are due.

Questions Specific to Counties Considering Merging their CUTL Classification into their DFL Program

Q. What steps do the county legislative authority and the assessor need to take if the county wants to merge their CUTL classification into their DFL program?

A. If a county decides it wants to merge their CUTL classification into their DFL program, the county legislative authority must enact an ordinance that:

- Terminates the CUTL classification.
- Declares that CUTL is considered DFL.

Beginning on the adopted merger date, the county assessor must notify each owner of CUTL of the merger by certified mail.

Once the merger occurs, the CUTL classification for the county is terminated and any agreement, such as the Open Space Taxation Agreement, prepared by the granting authority when a CUTL application was approved will no longer be in effect. The county is also required to notify the Department of Revenue (Department) that it merged their CUTL classification into their DFL program.

Q. How should a county notify the Department of a completed merger?

A. The county can mail, email, or fax a copy of the ordinance to the Department at:

Attn: Current Use Specialist
Department of Revenue
PO Box 47471
Olympia, WA 98504-7471
Fax: (360) 534-1380 Email: judyw@dor.wa.gov

Q. How will the public know if a county has merged their CUTL classification into their DFL program?

A. A member of the public can contact the county assessor's office or they can go to the Department's web site at http://dor.wa.gov/content/FindTaxesAndRates/PropertyTax/, then select, "Find counties with merged timber land and designated forest land classifications." The Department will maintain the list of counties that have merged their CUTL classification into their DFL program.

Q. Will owners of CUTL be required to complete an application for the DFL program if the county merges their CUTL classification into their DFL program?

A. No, land classified as CUTL is automatically considered DFL on the merger date.

Q. If a county is planning to merge their CUTL classification into their DFL program, how are pending withdrawals handled if an owner submitted a two-year notice?

A. The DFL program does not include a two-year withdrawal provision because there is no penalty (only compensating tax) upon removal from the DFL program. If a two-year withdrawal notice for CUTL is pending, the county assessor should contact the owner, prior to the merger, to discuss the following options:

- Immediate removal from the CUTL classification
- Immediate removal from the DFL program following the merger
- Removing the land from the DFL program once the two-year period has lapsed

The amounts owing upon removal from the CUTL classification and the DFL program will vary. Because the calculations are different, the assessor should calculate the amounts owing for all three options described above, so the owner is aware of potential impacts.

Q. If a county merges their CUTL classification into their DFL program and a property owner requests removal from the DFL program shortly after the merger, would the owner owe compensating tax even though the land had not been in the DFL program for very long?

A. Unless the removal met an exception to compensating tax under RCW 84.33.140(13) or (14), compensating tax would be due. The date the land was classified as CUTL is considered the date the land was in DFL. Below is an example:

- 15 acres of land is approved for the CUTL classification effective January 1, 2002.
- The county in which the classified land is located merges their CUTL classification into their DFL program effective September 1, 2014.
- The owner requests removal of their land and the assessor removes the DFL on June 30, 2015.
- Nine years of compensating tax (plus taxes for the current year) would be due because the land is considered DFL as of January 1, 2002, and not September 1, 2014.

Q. If a county merges their CUTL classification into their DFL program, would the merger be considered a breach of contract of the Open Space Taxation Agreement and allow the owner to request removal from the CUTL classification without the assessor imposing additional tax, interest, and penalty?

A. No, RCW 84.34.070(2)(b), as amended by SB 6180, provides that designation of forest land as a result of the merger does not constitute a "removal" from the CUTL classification; therefore no additional tax, interest, and penalties are due. Moreover, WAC 458-30-355 states that the agreement to tax land according to its current use is not a contract and if changes made to chapter 84.34 RCW by the legislature caused land to be removed from classification, the owner would not be required to pay the additional tax, interest, and penalty. The merging of a county's CUTL classification and DFL program is not considered a "removal" and the merger, by itself, would not cause the land to be removed so unless the removal meets an exception to additional tax, interest, and penalty under RCW 84.34.108(6), the assessor is required to impose the additional tax, interest, and penalty.

Q. If a county merges their CUTL classification into their DFL program, does the assessor still have to keep a dual roll?

A. No, the assessor will no longer be required to keep a dual roll.

Q. If a county merges their CUTL classification into their DFL program, will the assessed (taxable) value of the land change?

A. No, the assessed (taxable) value of the land should not change because CUTL and DFL are both assessed according to WAC 458-40-540.

Q. Does merging the CUTL classification and DFL program affect the tax base for excess levies?

A. Yes, the tax base for excess levies includes the taxable value of real and personal property (local and state assessed), plus timber assessed value (TAV), less boats and full senior citizen exempted value. Since the assessed value of DFL is used in the calculation of TAV, (not the assessed value of CUTL), the merging of these two programs will result in an increased tax base for excess levies. An increased tax base results in a reduced levy rate applied to real and personal property assessed value.

Q. Is the distribution of timber excise tax affected by merging the CUTL classification and DFL program?

A. The distribution process of timber excise tax will remain the same. Timber excise tax is distributed to the taxing districts based on the types of levies they have and the percentage of the county's DFL located within each taxing district.

Merging the CUTL classification and DFL program may change the percentage of DFL in each taxing district, thus the distribution percentage of timber excise tax may change per taxing district within the county.

For more information
If you have questions or need additional information about this topic, contact the Department of Revenue, Property Tax Division at (360) 534-1400.♦