

# PA 490 Program Eligibility Determinations and Eligibility Determination Methods Used in Other New England States

By: David Dickerson, Legislative Analyst II  
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## Issue

Describe the process by which PA 490 ([CGS §§ 12-107a - 12-107f](#)) status may be terminated. Briefly describe the reevaluation process for similar New England (Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) states' programs.

## Summary

Connecticut's PA 490 Program allows four classifications of land — farm, forest, open space, and maritime heritage — to be assessed at their current use value, rather than their fair market value ([CGS § 12-63](#)). Landowners interested in the program must apply to their municipal tax assessor to have their land classified as eligible for PA 490 status. Property owners who have obtained PA 490 status for their land do not have to periodically reapply for the classification.

As explained below, municipal tax assessors are empowered, and required by state law, to terminate a property's PA 490 status under certain circumstances. Generally, reconsideration of PA 490 status happens when the land's use changes or when it is transferred to a new owner.

Every New England state has a similar program to PA 490 where certain categories of land are assessed at current use value rather than fair market value. As described in Table 1 below, these states generally require reevaluations, recertifications, or reapplications every one to 10 years to determine whether the land is still eligible for the program.

## Connecticut's PA 490 Program

PA 490 classification runs until the (1) land's use is changed to something other than what was described in the owner's application or (2) land is sold or transferred (unless it is an excepted transfer under [CGS § 12-504c](#)) ([CGS §§ 12-504a](#) & [12-504h](#)). In the case of a change in use, the classification terminates on the earlier of the date the use changes or the assessor becomes aware of this change ([CGS §§ 12-504e](#) & [12-504h](#)). In the case of a transfer, it is the responsibility of the new owner to reapply to the assessor to maintain the PA 490 classification, if the land remains eligible ([CGS § 12-504h](#)).

By law, an assessor's primary objective is to ensure that all taxable property located within a municipality is assessed in accordance with applicable law so that every property owner shares an appropriate share of the total property tax burden. To accomplish this objective, the assessor must discover, list, and equitably value all property within his or her jurisdiction. This may include requesting information from a property owner if the assessor believes the property may no longer qualify for PA 490 status. In practice, many municipalities explicitly require landowners to inform the assessor of any change in use of their land.

Whether an assessor has properly terminated the classification of PA 490 land because of a change in use is an often-litigated issue, because the issue is fact-specific. The following general principles are summarized from the Connecticut Farm Bureau Association's PA 490 guide (2020), which focuses on farmland classifications:

1. Even though no income is derived from land classified as PA 490 farmland, it does not mean that the farmland classification should be terminated;
2. Farmland may lay fallow for a number of years; in many cases, the land use has not changed and should remain classified under PA 490;
3. If a landowner sells off some acreage of land that has been classified under PA 490, the acreage not sold remains under classification and should not be declassified, provided the use has not changed and the remaining acreage meets the minimum acreage required for the classification; and
4. The change of land use approvals by themselves do not require a declassification. But once a property owner begins to use those approvals by converting parts of the property into other uses, and offering it for sale for those purposes, especially in the case of farmland, the owner takes a risk that he or she will be viewed more as a developer and the remaining land will be declassified.

In exchange for the reduced tax assessment PA 490 status provides a property owner, the owner agrees to preserve the land for the statutorily protected purposes for a 10-year period. Generally, if

a property is sold or its use changes within this holding period, a conveyance tax penalty applies ([CGS § 12-504a](#)). This tax is 10% of the fair market value if the land is sold, transferred, or changes use in year one, 9% in year two, 8% in year three, and so on. (No penalty applies after the 10th year.)

## New England States' Programs

Every New England state has a program equivalent to PA 490 that permits certain land to be assessed at its current use value rather than its fair market value, to encourage the land's preservation. The frequency of required eligibility determinations (such as through reevaluation, recertification, or reapplication) differs by state, but generally is every one to 10 years, even when there is no change in use or ownership.

**Table 1: New England States' Programs**

State	Program	Reevaluations / Recertifications / Reapplications
Maine	<a href="#">Farm and Open Space Tax Law</a>  <a href="#">Tree Growth Tax Law</a>  <a href="#">Working Waterfront Land Tax Law</a>	<p>For farms and open spaces, assessors must determine yearly whether land continues to be eligible for the program, if not, they must either remove its classification or provisionally certify it; owners must report to assessors every five years on income derived from the land (<a href="#">Me. Rev. Stat. Ann. tit. 36, § 1109</a>).</p> <p>For forest land, if an assessor determines it is no longer eligible, they must remove its classification (<a href="#">Me. Rev. Stat. Ann. tit. 36, § 581</a>). Owners must prepare and update a forest management and harvest plan for each parcel of land every 10 years (<a href="#">Me. Rev. Stat. Ann. tit. 36, § 574-B</a>).</p> <p>For waterfront lands, assessors must determine yearly whether the land continues to be eligible (<a href="#">Me. Rev. Stat. Ann. tit. 36, § 1137</a>).</p>
Massachusetts	Chapter Land ( <a href="#">Chapter 61, 61A, &amp; 61B</a> )	Agricultural and open or recreational space land owners must reapply every year; forest land owners reapply every ten years ( <a href="#">Mass. Gen. Laws Ann. ch. 61 § 2, 61A, § 6, &amp; 61B § 3</a> ).
New Hampshire	<a href="#">Current Use</a>	Each year owners must apply and assessing officials must determine if land enrolled in the program is still eligible ( <a href="#">N.H. Rev. Stat. Ann. § 79-A:5</a> )

Table 1 (continued)

State	Program	Reevaluations / Recertifications / Reapplications
Rhode Island	<a href="#">Farm, Forest, and Open Space Act</a>	Owners must generally certify yearly that their land is eligible for the program. Additionally, farm and forest land are subject to inspections every five years, or at the request of the tax assessor ( <a href="#">44 R.I. Gen. Laws Ann. §§ 44-27-3 - 44-27-5</a> & <a href="#">Regs §§ 250-40-20-1.6 &amp; 1.7</a> ).
Vermont	<a href="#">Use Value Appraisal Program</a>	<p>Owners of agricultural land or farm buildings must certify their compliance yearly to maintain eligibility (<a href="#">Vt. Stat. Ann. tit. 32, § 3755(f)</a>). The Director of the Division of Property Valuation and Review must also evaluate lands yearly to determine continued eligibility (<a href="#">Vt. Stat. Ann. tit. 32, § 3756(f)</a>).</p> <p>Owners of managed forest land generally must create and follow a 10-year forestland management plan, which must be renewed every 10 years (<a href="#">Vt. Stat. Ann. tit. 32, § 3755(b)(1)(D)</a>). The Department of Forest, Parks, and Recreation must periodically review the management plans and must review management activity reports yearly. It must also, at least once every 10 years, inspect the forestland for compliance with its management plan (<a href="#">Vt. Stat. Ann. tit. 32, § 3755(c)</a>).</p>

## Additional Reading

For more information about current use programs, including the origins and purposes of those programs and common challenges associated with them, please see [A Working Guide to Current Use Taxation for Agricultural Land](#) (2021), published by the Center for Agriculture & Food Systems at Vermont Law School.

For more information about the PA 490 program generally, please see [this](#) Department of Agriculture webpage.

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