

A Technical Information Release is designed to provide immediate information of changes in tax laws administered by the Department for the policy positions of the Department as a service to taxpayers and practitioners. A Technical Information Release represents the position of the Department on the limited issues discussed herein based on current law and Department interpretation. For the current status of any tax law, practitioners and taxpayers should consult the source documents (i.e., Revised Statutes Annotated, Rules, Case Law, Session Laws, etc.)

The purpose of this information release is to provide information to selectmen, assessors or other municipal officials responsible for assessing the Land Use Change Tax when land is disqualified from Current Use. If you have specific questions, you may contact the Department of Revenue Administration, Property Appraisal Division, P.O. Box 454, Concord, NH 03302-0454, (603) 271- 2687.

LAND USE CHANGE TAX

On Friday, February 16, 2001, the Joint Legislative Committee on Administrative Rules (JLCAR) adopted the Current Use Board's amendment to CUB 308 regarding the assessment of the land use change tax. This amendment to CUB 308 was in response to the New Hampshire Supreme Court's decision dated April 12, 2000 in the Appeal of the Estate of Richard Van Lunen. In that case, the Supreme Court interpreted CUB 308 to require that "...the value of any betterment to the land not be included in determining the lands full and true value when it is removed from Current Use."

The Current Use Board amended CUB 308 to clarify that "The full and true value of the land being disqualified pursuant to RSA 79-A: 7, shall be based upon the highest and best use of the land, including the value of all betterments serving the land." CUB 308.01(b).

In addition, the Board defined "betterment" to mean "the installation or construction of improvements which influence the value of land such as roads, water lines, utility lines or other physical improvements."

Generally, changes to the current use rules are effective April 1 to coincide with the next property tax year. However, due to the significant financial impact which the Van Lunen decision may have on a number of municipalities, this rule change became effective February 22, 2001. THEREFORE, ANY LAND DISQUALIFIED FROM CURRENT USE ON OR AFTER FEBRUARY 22, 2001, SHALL BE ASSESSED IN ACCORDANCE WITH CUB 308.01(b) AS EXPLAINED ABOVE.

Copies of the rule adopted on February 16, 2001, which also includes changes to the "Forest land" and "Forest land with Documented Stewardship" assessment ranges, are available on the department's web site at www.nh.gov/revenue. Current Use Criteria Booklets for the tax year beginning April 1, 2001 will be published and distributed in mid-March.

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 Property Appraisal Division, (603) 271-2687.