

Michigan Department of Treasury

Qualified Forest Property Exemption

Questions and Answers

**Public Act 378 of 2006
Public Act 379 of 2006**

Background Information

Note: The Assessment and Certification Division of the Michigan Department of Treasury and the State Tax Commission are not authorized to issue legal opinions. Therefore, the comments in this publication are not to be considered as such, but rather as statements of fact as the State Tax Commission and the Assessment and Certification Division interprets the facts.

Public Act 378, 379, and 380 enacted in September 2006, created the Qualified Forest Property (QFP) program. This is an opportunity for owners of smaller forestland parcels in Michigan which are not classified as agricultural land or do not receive a principal residence exemption to receive reduced property taxes on land in productive, managed forests. The benefit to landowners enrolled in the Qualified Forest Property program is that the enrolled forestland is exempt from certain school operating taxes if it meets certain size, productivity, and management requirements. In addition, purchasers of QFP enrolled property may apply to their local government to prevent the property's taxable value from uncapping, which normally occurs in the year following a transfer of ownership.

Introduction

What is the qualified forest property exemption?

The qualified forest property exemption is an exemption from certain local school operating millage provided by law for parcels that are qualified forest property.

Does the qualified forest property exemption eliminate the property taxes for parcels that receive the exemption?

Not completely. Property taxes are determined by multiplying a parcel's taxable value by an overall (composite) millage rate as follows:

$$\text{Taxable Value} \times \text{Millage Rate} = \text{Property Taxes}$$

Some property tax exemptions eliminate the taxable value of property receiving the exemption. The qualified forest property exemption, however, has no effect on the taxable value of parcels receiving the exemption. Instead, the qualified forest property exemption works to reduce (not eliminate) property taxes by reducing the overall (composite) millage rate for parcels receiving the exemption.

How does the qualified forest property exemption affect the property taxes for a parcel? In other words, what is the potential benefit to a property owner whose parcel receives the qualified forest property tax exemption?

A parcel that is qualified forest property is entitled to an exemption from certain local school operating taxes. Local school operating taxes typically are 18 mills and (when levied) usually constitute a large portion of the total property taxes for a parcel. Exemption from this millage rate is therefore a significant benefit to a property owner.

When was the qualified forest property exemption first established?

The qualified forest property exemption was first established by P.A. 378 in September of 2006. The first enrollment period began in 2007 and the first exemptions begin in 2008.

Is the qualified forest property exemption the same as the homeowner's principal residence exemption (formerly known as the homestead exemption) or the qualified agricultural property exemption?

No. The qualified forest property exemption, the homeowner's principal residence exemption, and the qualified agricultural property exemption all provide an exemption from certain local school operating taxes however the requirements for obtaining each of these exemptions are quite different.

Please see the document [Qualified Agricultural Property Exemptions Guidelines](#) available on the Michigan Department of Treasury's website for the requirements to obtain the qualified agricultural property exemption, www.michigan.gov/treasury.

Please see **Form 2856, [Guidelines for the Michigan Homeowner's Principal Residence Exemption](#)** available on the Michigan Department of Treasury's website for the requirements to obtain the principal residence exemption.

Is it possible for a qualified forest property to also qualify for either the qualified agricultural property exemption or the principal residence exemption at the same time?

No, the definitions of the three types of properties do not co-exist.

Note: It is generally not possible for the same property to receive both a qualified forest property exemption and a qualified agricultural exemption or a principal residence exemption at the same time

because each exempts the same local school operating millage.

If the qualified forest property exemption, the qualified agricultural exemption, and the principal residence exemption all provide an exemption from the same millage, how can someone tell which of these exemptions a parcel is receiving?

For 2003 and years before 2003, it was the practice of many assessors to label parcels which had the qualified agricultural property exemption as having the homestead exemption (now known as the homeowner's principal residence exemption). The result was viewing the assessment roll, or the tax roll, or tax bills, a person could not determine whether a parcel was receiving the homestead exemption or the qualified agricultural property exemption. It is important to have the ability to make this distinction because different eligibility criteria apply for each exemption and different appeal procedures apply for each. The same problem occurs with property receiving the qualified forest exemption. Starting in 2004, the State Tax Commission required that assessors indicate on the following documents whether a parcel is receiving the homeowner's principal residence exemption or the qualified agricultural property exemption so that a reader of these documents can determine which exemption (if any) the parcel is receiving:

Assessment roll
Tax roll
Tax bills
State Tax Commission Form L-4046,
Taxable Valuations

The State Tax Commission also recommends that the annual form used to notify property owners of increases in tentative state equalized value or tentative taxable value (e.g., State Tax Commission Forms L-4400 and L-4400 LH) also indicate whether a parcel of property qualifies for the

homeowner's principal residence exemption or the qualified agricultural property exemption. The State Tax Commission also recommends these documents to include identification of properties receiving a qualified forest exemption in 2008 and requires the identification after 2008.

Note: See also State Tax Commission Bulletin No. 9 of 2003.

Exemption Requirements

What are the main requirements for a parcel to be eligible for the qualified forest property exemption?

1. The minimum size parcel that may be enrolled in the program is 20 contiguous acres. This ensures that the property is large enough for forest management. The property must not contain buildings or other structures.
2. The maximum acreage that can be enrolled by a single owner is 320 acres within a township or city.
3. At least 80% of the property must be productive forest. The standard for productive forest is that it is capable of growing at least 20 cubic feet per acre per year; or approximately one-quarter of a cord of timber per acre per year.
4. The forestland must be stocked with forest products – timber, pulpwood, and related products. Stocked means that the forestland must have a sufficient number of trees per acre or a sufficient percentage of the area occupied by trees that would produce a forest product.
5. No buildings or other structures are permitted on the property.
6. Must have a forest management plan approved by the Michigan Department of Natural Resources, OR a plan approved by a third party certifying organization. Third party

certifying organizations include but may not be limited to the Forest Stewardship Council and the Sustainable Forest Initiative. Please contact the Department of Natural Resources for a complete list of third party certifying organizations.

7. Each forest management plan must include at a minimum: map of property, description of practices that will be undertaken, estimate of time before each practice is completed, soil conservation practices that may be necessary, and activities for the management of forest resources other than trees.

The following are items that will be checked by the Department of Natural Resources:

- a. Name, address and dated signature of ALL property owners.
- b. Name, address and dated signature of plan writer.
- c. Time period covered in the plan (cannot exceed 20 years)
- d. Complete legal description of the property including parcel identification numbers.
- e. Acreage covered in the plan conforms to the requirements (20 contiguous acres, 80% productive forest).
- f. Statement of property owners' forest management goals and objectives.
- g. Description of activities to be undertaken for the management of forest resources other than timber.
- h. Soil types and a description of soil conservation practices to be used if needed.
- i. Maps, diagrams or aerial photographs of the property.
- j. Narrative description of each management unit.
- k. List of prescribed practices, approximate treatment

schedule and accomplishment dates for each stand.

1. Signature of compliance with all terms and conditions of the approved plan.
8. The forest management plan must be updated at a minimum of 20-year periods.
9. The applicant must attest that the property will be managed according to the plan.
10. The property owner must report the amount of timber produced on their enrolled lands each year to the Michigan Department of Natural Resources.
11. The applicant must file Treasury Form 4449 with two copies of the forest management plan to the Michigan Department of Natural Resources postmarked not later than October 1 in order to be considered for enrollment in the following tax year.
12. The DNR approved plan and the affidavit must then be submitted to the local assessor by December 31st. The local assessor determines if the property qualifies for the qualified forest property enrollment based upon the recommendation from the DNR (the forest management plan is acceptable and the State-wide acreage limitation has not been exceeded), a field review of the property to ensure that it is vacant (no buildings or other structures), and a check of the assessment rolls to determine that the acreage limitation of the property owner has not been exceeded.

I own a forty acre parcel in one section and a 120 acre parcel in another section that is not contiguous. Do I need to submit two forest management plans to the Department of Natural Resources and pay \$200 for each plan?

No, the DNR's rules for plan submission are:

Land within a single taxing unit (township or city), contiguous or not – 1 plan

Land in two taxing units, but is contiguous – 1 plan

Land in two or more taxing units, but is not contiguous – 1 plan for each taxing jurisdiction.

You may ask your plan writer to write one or more plans for your submission based on the rules stated above. Most forest lands will have more than one type of forest stand and will require different treatments. This can easily be accomplished in a single plan. If your property is in two or more townships or cities, you will need to submit a copy of the Treasury Form 4449 for each township or city with the forest management plan.

May a forest management plan be transferred to a new owner of QFP land or will a new plan be required?

The forest management plan submitted by the original applicant will be the basis for determining the compliance with the QFP Act. If there is a partial transfer of QFP a new forest management plan is required. If the entire property is transferred, the grantee should inquire of the grantor about receiving a copy of the forest management plan. The expiration date of the original plan will not change. The new owner may wish to submit a revised plan along with the appropriate fee to the DNR. The new forest management plan will enable the new owner to tailor the forest land to individual and specific goals.

My land is used for forest production and for hunting. Will my property qualify for the QFP exemption?

Yes, as long as the requirements are met (acreage limitations, productivity, forest management plan and practices, and the property is vacant).

A parcel's eligibility for most property tax exemptions is determined as of December 31 of the prior year (i.e., the year immediately before the year of the

exemption being considered). This status day is often called “tax day”. Is tax day also the status day for the qualified forest property exemption?

Yes. The application form (Treasury Form 4449) and two copies of the forest management plan must be submitted to the Department of Natural Resources postmarked by October 1 to provide the Department time to review the plan. The approved plan and the application form then must be submitted to the local assessor on or before December 31 (tax day) to be considered for the exemption in the following year.

CFA lands, Ownership, and Buildings and Structures.

Commercial Forest Act lands (CFA, CFR)

I currently have 160 acres enrolled in the Commercial Forest Act. I have received a letter from the Department of Natural Resources indicating that I can withdraw from the CFA provisions without penalty if I enroll the land under the provisions of the Qualified Forest Property act. I want to keep my land listed as CFA land. Do I need to do anything to keep my land in CFA?

No, if you decide not to change programs, you do not need to take any action.

What if I decide to switch from CFA to QFP after September 26, 2007?

You will be required to withdraw from CFA and pay all withdrawal fees. Since lands listed in CFA are exempt from ad valorem taxes, the assessor must treat the value as new value. The assessor will assess the property at 50% of the market value (true

cash value). The taxable value (the value the millage rate is multiplied by to determine the tax bill) will be equal to the State Equalized Value (SEV) – normally the same as the assessed value.

A QFP application Form 4449 must then be submitted to the DNR. If the forest management plan is more than 20 years old, a new or revised plan and fee must be submitted. If the plan is less than 20 years old and requires no revisions the DNR will make a recommendation to the local assessor and supply the assessor with a copy of your original forest management plan.

The assessor’s duties will remain the same as in the previous question.

Ownership

I own a 600 acre tract of land described as a single parcel on the assessment role. The QFP exemption has a maximum limitation of 320 acres. Can I get a partial exemption to cover 320 of my 600 acres?

No. The QFP act does not provide for partial exemptions or for more than 320 acres per township or city. However, you may request that the assessor split your 600 acre parcel into two or more smaller parcels.

Will I be required to have my parcel split before I can apply for a QFP exemption?

No. You can ask the assessor to make the split at anytime, but the action will not become effective until the next tax year. You can ask the assessor to split the parcel when the Department of Natural Resources informs him/her that the forest management plan and Treasury Form 4449 have been approved. Since the QFP exemption will not be effective until the following year and the split parcels will be effective then also the exemption will be permitted provided there is acreage available under the State-wide limitation.

A split will normally result in a new parcel identification number that will not match the number indicated on the original application form. If the assessor makes any parcel identification number changes he or she shall include the new number on the application form and return a copy of that form to the DNR for record keeping purposes. The new number and legal description should be included with the next forest management plan update. The DNR may request a copy of a changed legal description for inclusion with the DNR copy of the forest management plan.

If the assessor splits my acreage into two or more parcels, will I lose the benefit of the capped taxable value? Will the taxable value uncap?

No. The capped value will not uncap unless there is a change in ownership. Please review State Tax Commission Bulletin 8 of 1995 (Taxable Value) and Bulletin 16 of 1995 (Transfers of Ownership) for detailed discussions of these subjects.

What does the assessor need to split this parcel?

You will need to supply the assessor with the legal descriptions of each parcel you wish created. A registered survey is not required. The assessor will retire the parcel identification number of your original parcel and assign a new number for each split parcel.

Can property owned by a legal entity (such as a partnership, corporation, limited liability company, association, etc.) receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption. Unlike the homeowner's principal residence exemption, ownership by a partnership, corporation, limited liability company, association, or

other legal entity does not disqualify the property for the qualified forest property exemption. Ownership by an individual also does not disqualify the property for the qualified forest property exemption. For information regarding the homeowner's principal residence exemption, please see **Form 2856, Guidelines for the Michigan Homeowner's Principal Residence Exemption**. This form is available at the Michigan Department of Treasury Web site, **www.michigan.gov/treasury**.

Who determines if QFP remains QFP after a portion of the ownership is rescinded or transferred?

A revised forest management plan must be submitted to the DNR for verification of appropriate management prescriptions. The assessor will determine if the acreage limitations (minimum 20 acres) is met. The assessor will consult with the DNR to determine if the forest management plan and/or productive acreage meet the requirements.

Can property owned or being purchased under a land contract receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone who has retained a life lease on that property receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of being a beneficiary of a will receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of being a beneficiary of a trust receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

Can property owned by someone as a result of intestate succession receive the qualified forest property exemption?

Yes, provided the property otherwise qualifies for this exemption.

I plan to purchase land enrolled as QFP. I already own 320 acres of QFP in this township.

There are three options available to you. The first is to request the owner of the property you wish to purchase to rescind the land and pay the recapture taxes.

If this request is not granted and you still desire to purchase the property you may either rescind the property and pay the recapture taxes yourself or select another parcel of your existing QFP ownership equal to the acreage of the property you are acquiring and rescind and pay the recapture taxes on that property.

Buildings and Other Structures

I have an old pole barn on my property that is no longer being used. Will this count as a structure or a building?

Yes, this building will disqualify the parcel for the QFP exemption. If you want to receive the exemption you will need to accomplish one of two actions. Either remove the pole barn or request the assessor make a split so that the pole barn is not part of the parcel requesting the exemption.

I have 65 acres of woodland with a cabin on it. How can I enroll this property?

You will need to supply the assessor with a legal description that includes the cabin and request it be split into a separate parcel. Only vacant parcels will qualify as QFP.

How does zoning or the Land Division Act affect QFP?

Forest management will need to be permitted by local zoning ordinances before the property will qualify. The Land Division Act will not affect a property's ability to be enrolled as QFP. If a split of the property is required to make a parcel qualify, you will need to check with the local municipality regarding land divisions. Each municipality is required to have a designated land division coordinator.

I also use my forest land for deer hunting. How are my deer blinds treated?

As long as the deer blind is of the traditional nature (small, non-habitable, no utilities) it will not be considered a building or a structure whether it is a ground blind or an elevated blind. If the blind is constructed so as to provide sleeping quarters or other amenities, it will be considered a structure.

What about gas and oil wells?

There are many types of gas and oil well structures. The well and non-enclosed pump will not be considered a structure. The acreage used by these facilities will be included in the non-productive forest land area and thus, with other openings, must be less than 20% of the parcel. This is in line with the treatment of similar items permitted for Commercial Forest Act lands.

Maintenance sheds and/or storage tanks will be considered structures.

The property owner may request the assessor create a split for improved or non-productive gas and oil field lands provided the remaining property meets all QFP guidelines. The property owner shall supply the legal description for each split parcel. The assessor will retire the original parcel identification number and supply new parcel identification numbers for each newly described parcel.

I have two brothers and we own a section of land (640 acres) as a single parcel. Can we each enroll a portion of this property or are we limited to 320 acres?

No. The limitation is 320 acres per owner. You and your brothers together are considered one owner. You may, however, transfer ownership of a portion of the property to each person and then each person may enroll their ownership. This will likely cause the taxable value to uncap due to this transfer of ownership.

My brother and I own 200 acres of land as a single parcel. I also own an additional 300 acres in the same township with no co-owners. Can all of this property be enrolled as QFP?

Yes, the 200 acre parcel owned by you and your brother is one ownership and is less than the 320 acre maximum limitation. The 300 acre parcel owned by you alone would be a separate ownership. If your brother deeds his interest in the 200 acre parcel to you, you will need to immediately withdraw any portion that will cause you to exceed 320 acres in the unit

Rescinding and Withdrawal of Qualified Forest Property, Penalties, Recapture Taxes

Withdrawals and Rescissions

Can a property owner withdraw a qualified forest property exemption that has been incorrectly granted?

Yes. If a qualified forest property exemption is erroneously granted, an owner may request in writing that the local tax collecting unit withdraw the exemption.

If a property owner requests that a local tax collecting unit withdraw an erroneously granted qualified forest property exemption, what are the property tax officials required to do?

The local assessor must notify the property owner that the qualified forest property exemption has been denied based on the owner's request. The exemption is to be removed immediately from the tax roll(s) affected by the denial as if the exemption had not been granted. The local unit and the County treasurer are responsible for changing the tax roll(s) in their possession. A corrected tax bill for each affected tax year must be issued by the local unit and/or the County treasurer, again depending on possession of the tax roll(s) for the affected years. The corrected tax bill(s) will be for the additional taxes caused by the removal of the qualified forest property exemption.

If a property owner requests that a local tax collecting unit withdraw an erroneously granted qualified forest property exemption, will the resulting corrected tax bill(s) include penalty or interest?

If an owner requests that the exemption be withdrawn before the owner is contacted in writing by the local assessor regarding the owner's eligibility for the exemption, and if the owner pays the corrected tax bill(s) within 30 days after the corrected tax bill(s) are issued, the owner is not liable for any penalty or interest on the additional taxes. An owner who pays a corrected tax bill more than 30 days after the corrected tax bill is issued will be liable for the penalties and

interest that would have accrued if the exemption had not been granted from the date the taxes were originally levied.

What is the difference between a withdrawal of a qualified forest property exemption and a rescission of this exemption?

A withdrawal of the qualified forest property exemption works to remove the exemption from the parcel for the year(s) involved as if the exemption had not been granted for the year(s). A withdrawal results in additional taxes being billed for the current and/or prior years. A withdrawal is only available for a QFP exemption that was erroneously granted. A rescission of the qualified forest property exemption, on the other hand, works to remove all of the qualified forest property exemption for the next tax year. A rescission will result in the application of the recapture tax and if there was an exempt transfer of ownership, a repayment of the benefit the property received (up to the most recent 10 years after the exempt transfer of ownership – see Recapture Taxes later in this document).

Example: It is June. A 60-acre parcel is classified residential by the assessor on the assessment roll. In prior years and until this month, the parcel had been used entirely to grow commercial timber. The parcel has been receiving a qualified forest property exemption since the current owner enrolled the property. The commercial timber operation ceased on this parcel this month when the owner sold the parcel to a developer who has begun to construct a subdivision over the entire parcel. The new owner has rescinded the qualified forest property exemption since the property is no longer qualified forest property. Under these circumstances, the parcel will continue to receive the qualified forest property exemption on its tax bills for the current year; however the recapture taxes must be paid. The assessor must remove the

qualified forest property exemption for the next tax year.

Is a property owner required to rescind the qualified forest property exemption when all or a part of the property benefiting from that exemption is no longer qualified forest property?

Yes. Not more than 90 days after all or a portion of property receiving the qualified forest property exemption is no longer qualified forest property, the owner must rescind the exemption for the applicable portion of the property by filing a rescission form with the local assessor. The rescission form for this purpose is Form 4450, Request To Rescind Qualified Forest Property Exemption. This form is available at the Michigan Department of Treasury Web site, www.michigan.gov/treasury.

Note: A property owner may request that the assessor create a split of the parcel and withdraw only that part of the property not qualified provided the split is requested prior to the non-qualified use and the remainder of the property still meets the requirements of the Act.

Is there a penalty when a property owner fails to file a rescission form when all or a part of the property receiving the qualified forest property exemption is no longer qualified forest property?

Yes. An owner who fails to file a rescission form as required by law in this situation is subject to a penalty of \$5 per day (beginning after the 90 days to file have elapsed) up to a maximum of \$1,000. This penalty is to be collected under MCL 205.1 to 205.31 and is to be deposited in the General Fund of this State.

Note: It is not the responsibility of local unit or County treasurers to collect this penalty. In fact, local unit treasurers and County treasurers are not legally authorized to collect this penalty. This penalty is collected by the Revenue Division of the Department

of Treasury. The assessor, local treasurer, or county treasurer should notify the Department of Treasury, Revenue Division of any penalty for timely collection.

Should assessors remove the qualified forest property exemption from a parcel after that parcel transfers ownership?

No. Once a parcel is granted the qualified forest property exemption, the exemption remains in place until the end of the year in which the property is no longer qualified forest property (except in withdrawal and denial situations). Ownership is not relevant in determining whether a parcel continues to receive the qualified forest property exemption. Unless the new owner files Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property, the assessor will uncap the taxable value of the property.

Example: A parcel is 20 acres in size and is classified residential on the assessment roll. Several years ago, the owner filed Form 4449, Claim For Qualified Forest Property Exemption From Some School Operating Taxes, to claim the qualified forest property exemption and the parcel is still receiving this exemption. In June of this year, the owner decides to sell the parcel. The sale occurs in August of this year. In this situation, the exemption will remain in place for the rest of the year in which the sale occurred (i.e., this year) and for subsequent years as well, provided that the property remains qualified forest property. The new ownership of the parcel is not a consideration with regard to the parcel's eligibility to continue receiving the qualified forest property exemption. Also, unlike the homeowner's principal residence exemption where eligibility for the exemption is tied to ownership, with the qualified forest property exemption, a new owner is not required to file an affidavit (Form 4449, Claim For Qualified Forest Property Exemption From Some School Operating Taxes) to maintain

the qualified forest property exemption for the year(s) following the change in ownership.

Note: For information regarding the homeowner's principal residence exemption, please see Form 2856, Guidelines for the Michigan Homeowner's Principal Residence Exemption. This form and Form 4449 which is mentioned in the preceding paragraph are available at the Michigan Department of Treasury Web Site:

www.michigan.gov/treasury

Denials and Appeals

Application Appeals

I timely submitted my application and copies of the forest management plan to the Department of Natural Resources who determined that the plan met the qualifications of the act and indicated there was available acreage under the State-wide cap. The appropriate paperwork was submitted to the local assessor but no action was taken by the assessor. What do I do now?

The Act provides that an owner of property, that is qualified forest property on December 31, which an exemption was not on the tax roll, may file an appeal with the July or December board of review under section 211.53b in the year the exemption was claimed or in the immediately succeeding year. If the property qualified and there is acreage available under the State-wide cap, you may appeal to the July board of review or to the December board of review. You also have a right to further appeal to the Michigan Tax Tribunal's small claims division should the July or December board of review deny your claim.

I applied for the Qualified Forest Exemption on an 80 acre tract I own, my plan was approved by the Department of Natural Resources, there is acreage available under the State-wide limitation, and I currently have no land listed. The assessor denied my claim. Do I have any recourse?

Yes. An owner of property that is qualified forest property on May 1 for which an exemption was denied by the assessor in the year the affidavit was filed, may file an appeal with the July board of review for summer taxes or, if there is not a summer levy of school operating taxes, with the December board of review under MCL 211.53b. You also have a right to further appeal to the Michigan Tax Tribunal's small claims division should the July or December board of review deny your claim.

I was granted a Qualified Forest Property exemption last year. This year the assessor denied my exemption. Do I have any recourse?

Yes. An owner of property that is qualified forest property on December 31 for which an exemption was denied by the assessor, may file an appeal with the March Board of Review under MCL 211.30 followed by an additional appeal to the residential and small claims division of the Michigan Tax Tribunal if needed.

Local Unit Denials

Can an assessor deny a qualified forest property exemption for a prior year on the initiative of the assessor?

No. With the exception of withdrawal situations, where the property owner has requested the withdrawal of the qualified forest property exemption for a prior year, the assessor cannot deny a qualified forest property exemption for a prior year.

*Note: See the section on **withdrawals and rescissions** in this publication for additional information on withdrawals of the qualified forest property exemption*

Can an assessor deny the qualified forest property exemption for the current year?

Yes, in these situations:

1. The assessor can deny a claim for a **new** qualified forest property exemption if there are buildings or structures on the parcel, or if the owner of the property has or will have more than 320 acres of land enrolled as qualified forest property in the local unit, or the Department of Natural Resources indicates the submitted forest management plan is deficient.
2. The assessor can deny an existing qualified forest property exemption when preparing the annual assessment roll. If the assessor believes that a parcel that received the qualified forest property exemption last year is no longer qualified forest property, the assessor is to deny the exemption when preparing the annual assessment roll.
3. The Department of Natural Resources notifies the assessor that the property owner has not filed the required annual report of harvest, acreage, and new construction.

If an assessor discovers that a parcel which was exempt in a prior year is incorrectly receiving this exemption for the current year, can the assessor deny the qualified forest property exemption for the current year?

No. Even if the assessor discovers a situation where it is clear that a parcel is incorrectly receiving the qualified forest property exemption for the current year, after the close of the March Board of

Review, the assessor has no power to deny the exemption. The assessor in such a situation may only deny the exemption for the next year (and must do so if the parcel's eligibility remains the same when the next year's assessment roll is created). However, see the note below.

Note: However, an assessor can deny a qualified forest property exemption for the current year after the close of the March Board of Review for that year if the property owner has requested the withdrawal of the exemption for the current year. (See the section on withdrawals and rescissions in this publication for additional information on withdrawals of the qualified forest property exemption.) An assessor can also deny a qualified forest property exemption for the current year after the close of the March Board of Review of that year due to a processing delay. If, for example, an affidavit claiming the exemption is filed on or before the filing deadline of December 31, the assessor may take time to process and deny that exemption claim. The denial may then occur after the close of the March board of review. (The State Tax Commission has recommended to assessors that the denial occur before July 1.)

In situations where the assessor can deny the qualified forest property exemption for the current year, how does the assessor deny this exemption? What notification is made to the property owner?

The way in which the assessor denies a qualified forest property exemption for the current year, and what type of notification is made to the property owner regarding the denial, depends on the circumstances:

1. To deny a new claim for a qualified forest property exemption, the State Tax Commission has recommended the assessor deny the exemption and the owner be notified immediately of the denial, the

reason for the denial, and the owner's rights of appeal to the July or December board of review. The notification should be made in writing.

2. To deny an existing qualified forest property exemption when preparing the annual assessment roll, the assessor eliminates the exemption from the upcoming assessment roll and notifies the property owner by mailing the property owner a notice of increase in tentative state equalized valuation or tentative taxable valuation at least 10 days before the March board of review. This notice shows the level of the qualified forest property exemption, if any. Although not required by statute, it is advisable for the assessor to notify any property owner in writing if their exemption is being denied.

3. To deny an existing qualified forest property exemption after the close of the March board of review, an assessor would deny the exemption and notify the owner immediately of the denial, the reason for the denial, and the owner's rights of appeal to the July or December board of review. The notification should be made in writing.

Note: An assessor can deny a qualified forest property exemption for the current year in a fourth situation as well: when the property owner has requested a withdrawal of the exemption for the current year. See the section on withdrawals and rescissions in this publication for additional information on withdrawals of the qualified forest property exemption. This section includes a discussion on the method of the denial by the assessor and the notification provided to the property owner when a withdrawal occurs.

Can a denial of a qualified forest property exemption be appealed?

Yes.

What is the appeal process for appealing the denial of a qualified forest property exemption?

The process for appealing the denial of a qualified forest property exemption depends on the denial situation. Appeals processes associated with various denial situations are provided below:

1. When the assessor has denied (or partially denied) a claim for a **new** qualified forest property exemption, the property owner must appeal in the same year to the July or December board of review of the City or Township where the property is located. If not satisfied with the decision of the July or December board of review, the property owner may then appeal further to the Michigan Tax Tribunal within 30 days of the board of review action.
2. When the assessor denies an existing qualified forest property exemption while preparing the annual assessment roll, the property owner must appeal in that year to the March board of review of the City or Township where the property is located. If not satisfied with the decision of the March board of review, the property owner must then appeal further to the residential and small claims division of the Michigan Tax Tribunal by July 31 of that year.
3. When the assessor has denied an existing qualified forest property exemption after the close of the March board of review, the property owner must, in the opinion of the State Tax Commission, appeal in that year to the July or December board of review of the City or Township where the property is located. If not satisfied with the decision of the July or December board of review, the property owner must then appeal further to the Michigan Tax Tribunal within 30 days of board of review action.

Note: The State Tax Commission annually publishes a chart concerning property tax appeal procedures. For a summary of the appeal options discussed above (and information on other property tax appeal processes), the reader is directed to the most

recent edition of this annual bulletin at the Department of Treasury Web site, www.michigan.gov/treasury.

If a parcel did not receive the qualified forest property exemption last year, can the March board of review grant an appeal by the property owner requesting the qualified forest property exemption be added for the current year?

No. If the parcel did not receive the qualified forest property exemption in the prior year, the March board of review of the City or Township where the property is located does not have the legal authority to grant the exemption for the current year, even if the parcel qualifies for the exemption.

If a parcel received the qualified forest property exemption last year and continuation of the existing exemption was denied by the assessor this year, as the assessor prepared the assessment roll, can the property owner appeal the denial to the July or December board of review?

No. The appeal in this situation is to the March board of review of the City or Township where the property is located and then to the Michigan Tax Tribunal by July 31 of that year (if not satisfied with the March board of review decision). Neither the July nor the December boards of review have the legal authority to hear an appeal regarding the denial by the assessor of the continuation of a qualified forest property exemption under these circumstances.

Can an owner of property that was qualified forest property on December 31 for which an exemption was not on the tax roll, later obtain that exemption?

Yes. The law provides that an owner of property that was qualified forest property on December 31 for which an exemption was not on the tax roll, may appeal to the

July or December board of review of the City or Township where the property is located. July and December boards of review have the power to grant the exemption for the current year (the year in which the appeal is made) and the immediately preceding year—provided the parcel in question otherwise qualified for the exemption for the year(s) involved.

The July or December Board of Review may only grant this exemption for the previous year if a timely filed application with an approved forest management plan was submitted but the exemption was not placed on the assessment roll.

Note: If an appeal of the type discussed in this question is denied, the property owner may then appeal further to the Michigan Tax Tribunal within 30 days of board of review action.

Transfers of Qualified Forest Property

A general discussion of transfers of ownership is the subject of the State Tax Commission Bulletin No. 16 of 1995 located on the Michigan Department of Treasury web site.

A question and answer document dealing extensively with transfers of ownership is has also been published by the Department of Treasury, Transfer of Ownership and Taxable Value Uncapping Guidelines

Certain Transfers of Qualified Forest Property Are Not "Transfers of Ownership".

PA 378 of 2006 provides that a transfer of qualified forest property is not a "transfer of ownership" provided that:

a) The property remains qualified forest property after the transfer, AND

b) The person to whom the property is transferred files an affidavit with the assessor and the register of deeds. (The STC recommends that the assessor verify that an affidavit has also been filed with the register of deeds.)

The signer of the affidavit must attest that the qualified forest property shall remain qualified agricultural property. The affidavit, Form 4508, can be obtained at the Department of Treasury web site, www.michigan.gov/treasury.

When a property is transferred and the transfer is not a "transfer of ownership", the taxable value of the property is not uncapped in the year following the transfer.

Important Note: *If qualified forest property is transferred and does not remain qualified forest property, the taxable value may still be exempt from uncapping if the transfer qualifies under some other section of law, such as a qualifying transfer to a trust, etc. See STC Bulletin 16 of 1995 for a discussion regarding "Transfers of Ownership".*

What happens to the QFP exemption when I die and my land passes to my children or other heirs?

The exemption follows the property until such time as the property is no longer qualified forest property. Property is no longer qualified forest property when a rescission is made (Form 4450), the forest management plan has not been revised during the past 20 years, or the requirements of the exemption are not met. The taxable value of the property will uncap when your heirs become the beneficiary of your estate. However they may file the appropriate form with the register of deeds in the county the property is located and with the assessor certifying that the property will remain qualified forest land and the taxable value will not be uncapped. Once this form is filed, the property will be subject to the repayment of the benefits the property received for up to ten years after the first

exempt transfer if the property ceases to be qualified forest property.

Can I sell my land if it has a QF property tax exemption?

Yes, you may sell the land. The land may retain the qualified forest exemption if the purchaser desires and agrees to maintain the property as qualified forest. Additionally, the new owner may also file the appropriate forms with the register of deeds in the county in which the property is located and the local assessor to prevent the uncapping of the property. If this form is not filed, the taxable value of the property will uncap.

Note: The owner of qualified forest property shall inform a prospective buyer that the qualified forest property is subject to recapture tax provided in the qualified forest property recapture tax act. If the new owner of the property does not wish to maintain the property as QFP, he/she may desire that you rescind the exemption and pay the recapture tax. The recapture tax is the responsibility of the owner at the time the property ceases to be QFP.

I wish to sell 10 acres of my 80 acre ownership. The entire 80 acres is QFP. What will happen to the 10 acre parcel I wish to sell? What will happen to the remaining 70 acres?

The assessor will split the 80 acre parcel into a 70 acre parcel and a 10 acre parcel. The original parcel identification numbers should be retired and new parcel identification numbers assigned to each parcel.

You will be required to rescind the QFP exemption on the 10 acre parcel. If the parcel is not rescinded within 90 days of the split, a \$5.00 per day fine up to a maximum of \$1,000 will be due on the property. Additionally, the property will be subject to the Qualified Forest Recapture Tax Act (see next section).

The 10 acre parcel will be uncapped in the year following the transfer of ownership

The 70 acre parcel will remain QFP and you will not need to take any special action regarding this parcel, its capped value will remain in place.

I own 40 acres of QFP and I want to add my son to the deed as an equal owner. What complications should I anticipate?

50% of the property's taxable value will uncap unless you and your son file Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property, with both the Register of Deeds and the assessor (see Transfer of Ownership document). Should the property later cease to be QFP, part two of the Recapture Tax Act will be applied in addition to the recapture tax.

Qualified Forest Property Recapture Tax

When does the QFP recapture tax apply?

The QFP recapture tax applies when the property ceases to be QFP either through rescission (Form 4450), violation of the requirements of the QFP Act, or by a change in use that is not compatible with the QFP Act.

What is the QFP recapture tax?

There are two parts of the QFP Recapture Tax Act.

Part 1 applies whenever a QFP ceases to be QFP. The recapture tax is payable by the parties in ownership of the property when it ceases to be QFP. There are two possible calculations for Part 1 that depend on whether a harvest of forest products was made after the enrollment of the property.

If a harvest was made, the recapture tax is:

(Current SEV of the Property) X (Total Millage in the Township or City the property is located in) X 7

Example:

Current taxable value = \$15,000

Current SEV = \$25,000

Current Millage = 45 Mills

$\$25,000 \times 0.045 \times 7 = \$7,875$

If there was not a harvest made, the recapture tax is twice the above.

Same Example – no harvest

$\$25,000 \times 0.045 \times 7 \times 2 = \$15,750$

Part 2 of the recapture tax applies if there was a transfer of ownership that was exempt from the uncapping requirement because Form 4508, Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property. Part 2 equals the difference in the amount of property tax paid and the amount of property tax that would have been paid if the taxable value of the property had uncapped, but only for the most recent 10 years after the exempt transfer. If there was more than one exempt transfer, the calculation will be made taking into consideration the taxable values that would have resulted because of each transfer of ownership.

Must a harvest be of commercial products to qualify as a harvest when determining part 1 of the recapture tax?

The prescriptions included in the approved forest management plan will be the determining factor. In some cases non-commercial harvesting may be indicated by the forest management plan for pre-commercial thinning, silvicultural best management practices, or for environmental concerns such as soil erosion.

I own 120 acres of QFP in a township. I have had a timber harvest on 40 acres but wish to rescind 10 acres in an area that has not been harvested. What portion of the recapture tax will I pay?

If the acreage was enrolled as a single parcel (a single property tax identification number) then the property will be considered to have had a harvest and will be subject to a recapture tax (Part 1) of the current SEV of the acreage withdrawn times the total millage times 7.

If the acreage is part of more than one QFP application (two or more non-contiguous parcels) and the harvest was not in the parcel being withdrawn, the amount calculated above will be multiplied by 2.

Note: The SEV should be determined by the parent parcel rate per acre and not the child (10 acre) rate.

Who pays Part 1 and Part 2 of the Recapture Tax?

The parties that own the property when the property ceases to be QFP pay the recapture taxes.

Who is responsible for collecting the recapture tax?

The Treasurer of the State of Michigan is charged with the collection of the recapture tax.

How is the Treasurer notified that the recapture tax is assessable?

MCL 211.1035(2) states: The assessor of the local tax collecting unit shall notify the treasurer of the date the property is converted by a change in use. *The method and forms for this portion of the requirement are not developed at the time this document is issued. Please check the Michigan Department of Treasury web site for further information.*

Who calculates the amount of the recapture tax the Treasurer shall collect?

The assessor of the local unit shall determine the SEV and, if necessary, the taxable values of the parcels. The local treasurer shall determine the millage rates required. If the property ceases to be QFP and the property owner does not rescind the exemption within 90 days, the assessor will determine the penalty (\$5.00/day, maximum of \$1,000). Together the assessor and the local unit treasurer shall complete the recapture tax spreadsheet provided by the Department of Treasury. A copy of the spreadsheet calculation and the notification form shall be sent to the Michigan Department of Treasury after all appeal periods the property owner may be entitled to have expired.

NOTE: The recapture tax local unit reporting procedures are currently being developed by the Department of Treasury. Specific details and forms will be appended to this document when available.

Who is the recapture tax credited to?

MCL 211.1035(3) states: The treasurer shall credit the proceeds of the recapture tax collected under this act to the general fund of this state.

What if the recapture tax is not paid when billed?

MCL 211.1033(2) - If the recapture tax is imposed, it becomes a lien upon the property until paid. If the recapture tax is not paid within 90 days of the date the property was converted, the treasurer (State) may bring a civil action against the owner of the property as of the date the property was converted. If the recapture tax remains unpaid on March 1 in the year immediately succeeding the year in which the property is converted, the property shall be returned as delinquent to the county treasurer. If the recapture tax, interest, penalties, and fees remain unpaid after the property is returned as delinquent to the county treasurer, it is subject to forfeiture, foreclosure, and sale for the enforcement and collection of the delinquent taxes as provided in sections 78 to 79a of the general property tax act.

Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property

Issued under authority of P.A. 378 of 2006. Filing is mandatory.

INSTRUCTIONS: This form must be filed to claim that a transfer of property is not a statutory transfer of ownership because the property will continue to be qualified forest property. This form must be filed with the register of deeds for the county in which the qualified forest property is located and then with the assessor of the local tax collecting unit where this property is located.

1. Street Address of Property		2. County
3. City/Township/Village Where Real Estate is Located		
<input type="checkbox"/> City <input type="checkbox"/> Township <input type="checkbox"/> Village		
4. Name of Property Owner(s) and Address (Print or Type)	5. Property ID Number (from Tax Bill or Assessment Notice)	
6. Legal Description (Legal description is required; attach additional sheets if necessary)		
7. Daytime Telephone Number	8. E-mail Address	
<i>I (we) as transferees of this Qualified Forest Property, certify that I (we) agree to follow the existing Forest Management Plan and have been supplied a copy of that plan by the transferor.</i>		
Name	Signature	

CERTIFICATION & NOTARIZATION (Notarization necessary for recording with Register of Deeds)

I certify that the information above is true and complete to the best of my knowledge. I further certify that the property noted on this affidavit currently is and will remain qualified agricultural or qualified forest property.

Signed _____

Name (Print or Type) _____

Title _____

Must be signed by owner, partner, corporate officer, or a duly authorized agent.

State of _____

County of _____

Acknowledged before me this _____

day of _____, _____

By _____

Notary Signature _____

Name of Notary (Print or Type) _____

Notary Public, State of _____,

County of _____

My commission expires: _____

Acting in the County of _____

Drafter's Name _____

Drafter's Address _____

LOCAL GOVERNMENT USE ONLY		
Number of Acres <input type="checkbox"/> Approved <input type="checkbox"/> Disapproved	Assessor's Signature	Date

Assessor must forward a copy of this affidavit if approved to the Department of Natural Resources at:

Qualified Forest Property Tax Exemption; Forest, Mineral & Fire Management; Michigan Department of Natural Resources; P.O. Box 30452; Lansing, MI 48909-7952

Instructions for Completing Form 4508,

Affidavit Attesting that Qualified Forest Property Shall Remain Qualified Forest Property

This form must be filed by the person(s) to whom qualified forest property is transferred to claim that the transfer is not a statutory transfer of ownership because the property will continue to be used as qualified forest property. This form must be filed with the register of deeds for the county in which the qualified forest property is located. This form must also then be filed with the local assessor in the township or city where the qualified forest property is located. The transfer of an entire parcel may continue to be subject to an original forest management plan contingent upon completion of the certification on this form. If the transfer is of part of a parcel, or the original forest management plan is not transferred to the new owner, the new owner(s) will be required to file a new forest management plan, application Form 4449, and a plan review fee of \$200 to the Department of Natural Resources (address is found on Form 4449).

EXCERPTS FROM MICHIGAN COMPILED LAWS (MCL)

Section 211.7jj[1]

(1) Except as otherwise limited in this subsection, qualified forest property is exempt from the tax levied by a local school district for school operating purposes to the extent provided under section 1211 of the revised school code, 1976 PA 451, MCL 380.1211, according to the provisions of this section.

(5) Not more than 90 days after all or a portion of the exempted property is no longer qualified forest property, the owner shall rescind the exemption for the applicable portion of the property by filing with the local tax collecting unit a rescission form prescribed by the department of treasury. An owner who fails to file a rescission as required by this subsection is subject to a penalty of \$5.00 per day for each separate failure beginning after the 90 days have elapsed, up to a maximum of \$1,000.00. This penalty shall be collected under 1941 PA 122, MCL 205.1 to 205.31, and shall be deposited in the general fund of this state.

(7) If the assessor of the local tax collecting unit believes that the property for which an exemption has been granted is not qualified forest property based on a recommendation from the department of natural resources, the assessor may deny or modify an existing exemption by notifying the owner in writing at the time required for providing a notice under section 24c. A taxpayer may appeal the assessor's determination to the board of review meeting under section 30. A decision of the board of review may be appealed to the residential and small claims division of the Michigan tax tribunal.

(8) If property for which an exemption has been granted under this section is not qualified forest property, the property that had been subject to that exemption shall be immediately placed on the tax roll by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll as though the exemption had not been granted. A corrected tax bill shall be issued for each tax year being adjusted by the local tax collecting unit if the local tax collecting unit has possession of the tax roll or by the county treasurer if the county has possession of the tax roll.

(9) If property for which an exemption has been granted under this section is converted by a change in use and is no longer qualified forest property, the property is subject to the qualified forest property recapture tax levied under the qualified forest property recapture tax act. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, if the qualified forest property is converted by a change in use.

(10) If qualified forest property is exempt under this section, an owner of that qualified forest property shall annually report to the

department of natural resources on a form prescribed by the department of natural resources the amount of timber produced on that qualified forest property and whether any buildings or structures have been constructed on the qualified forest property. Beginning in 2008, and every 3 years thereafter, the department of natural resources shall provide to the standing committees of the senate and house of representatives with primary jurisdiction over forestry issues a report that includes all of the following:

- (a) The number of acres of qualified forest property in each county.
- (b) The amount of timber produced on qualified forest property each year.

Section 211.27a. (3)

"Upon a transfer of ownership of property after 1994, the property's taxable value for the calendar year following the year of the transfer is the property's state equalized valuation for the calendar year following the transfer."

Section 211.27a. (6)

"...'[T]ransfer of ownership' means the conveyance of title to or a present interest in property, including the beneficial use of the property, the value of which is substantially equal to the value of the fee interest."

Section 211.27a.(7)(O)

A transfer of qualified forest property, if the person to whom the qualified forest property is transferred files an affidavit with the assessor of the local tax collecting unit in which the qualified forest property is located and with the register of deeds for the county in which the qualified forest property is located attesting that the qualified forest property shall remain qualified forest property. The affidavit under this subdivision shall be in a form prescribed by the department of treasury. An owner of qualified forest property shall inform a prospective buyer of that qualified forest property that the qualified forest property is subject to the recapture tax provided in the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036, if the qualified forest property is converted by a change in use. If property ceases to be qualified forest property at any time after being transferred, all of the following shall occur:

- (i) The taxable value of that property shall be adjusted under subsection (3) as of the December 31 in the year that the property ceases to be qualified forest property.
- (ii) The property is subject to the recapture tax provided for under the qualified forest property recapture tax act, 2006 PA 379, MCL 211.1031 to 211.1036.