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UNDERSTANDING FIRE TAX

An Analysis Of The Maine Commercial Forestry Excise Tax

PREPARED BY:

**The Economics Task Group
Of
The Maine Forestry Action Forum**

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EXECUTIVE SUMMARY

In January 1986, the Maine Forest Service sponsored--Forestry Action Forum--created the Economics Task Group to study whether "forest fire control should be financed from a broad base tax such as property tax or general fund."

The Task Group found that principles of sound taxation require that a tax be judged upon:

EQUITY--Tax burden distributed according to benefits received and ability to pay.

CERTAINTY--The amount of tax should be predictable for both the taxpayer and the government.

NEUTRALITY--Unless intended, the tax should not interfere with economic decisions.

SIMPLICITY--Taxpayers should easily understand the law.

PRODUCTIVITY--The tax should produce sufficient stable revenue that is not affected by short-term changes in the tax base.

EFFICIENCY--Administration and costs should be fair and in proportion to revenues.

COMPETITIVENESS--The tax should reasonably compare to other states and not cause migration of residents or dislocations of economic activity.

After reviewing the history of fire control funding in Maine, funding changes over the years, other options, and the FIRE CONTROL EXCISE TAX, the Task Group concludes the FIRE CONTROL EXCISE TAX, as presently structured, does not satisfactorily meet the principles of sound tax policy. At a minimum, it has not been stable, it does not fairly apportion costs according to benefits received, and it is not easily administered. The cost of fire control should be financed from a broad base tax.

- o THE TAX IS CONFUSING AND DIFFICULT TO ADMINISTER.
- o THE TAX IS NOT LEVIED ON ALL OWNERS OF 500 ACRES OR MORE OF COMMERCIAL FOREST LAND.
- o THE 500-ACRE EXEMPTION IS UNFAIR.
- o THE NUMBER OF SEPARATE ENTITIES TAXED HAS DECLINED, THE COST OF FIRE CONTROL HAS RISEN, AND THE NUMBER OF PROTECTED AREAS HAS REMAINED THE SAME.
- o OWNERS OF 501 ACRES OR MORE IN ORGANIZED TOWNS PAY TWICE FOR FIRE PROTECTION.
- o MAINE AND OREGON ARE THE ONLY STATES THAT SUBSTANTIALLY TAX THE LANDOWNER THROUGH A PROPERTY OR EXCISE TAX. THE TAX REMAINS CONTROVERSIAL AND HAS NOT PROVIDED AN ENVIRONMENT OF STABLE EXPECTATIONS.

ALSO
 IDAHO 48.6%
 MONTANA 25.5%
 WASHINGTON 38.4%

DRAFT REPORT
ECONOMICS TASK GROUP

INTRODUCTION

In January 1986, representatives from the natural resource community participated in the Forestry Action Forum sponsored by the Maine Forest Service in the Department of Conservation. As a result of that Forum, seven Task Groups were established to carry out specific actions to address needs identified at the Forum. The Economics Task Group, one of the seven groups, was charged to study the issue of whether "forest fire control should be financed from a broad base tax such as property tax or General Fund." The Economics Task Group met throughout 1986 and early 1987. This report summarizes the Task Group's findings.

EVALUATION CRITERIA

The principles of sound taxation require that a proposed tax be judged on the elements of equity, efficiency, effectiveness, and long-range acceptability. A tax should meet certain criteria. The following classic criteria were judged by the Economics Task Group to have merit to evaluate the Commercial Forestry Excise Tax.

Equity (Fairness). A tax burden should be distributed according to the benefits received and the ability to pay. The tax should be consistent with the overall distribution objectives of the State.

Certainty (Predictability). Taxes should be designed to

give fiscal certainty to the taxpayer and the government. The rules of taxation should be clearly stated and evenly applied. In the case of property tax, appraisal of property should reflect its market value without bias.

Neutrality. Taxes should be designed to avoid unintended interference with private (consumer, worker, producer) economic decisions.

Simplicity (Convenience). Tax laws should be easily understood by taxpayers to minimize administrative and compliance costs, and to facilitate ease of payment.

Productivity. A tax should produce sufficient, stable revenue that will not have annual or short-term fluctuations from changes in the tax base.

Efficiency. Fair administration should be feasible and efficient. The administration and collection costs should not be out of proportion to the revenues.

Competitiveness. The tax rate and tax burden should compare reasonably to other states for the taxation effects on the State's economy, employment, and the migration of residents as the State competes for economic activity.

HISTORY OF FOREST FIRE CONTROL FUNDING IN MAINE

Frequent forest fires at the end of the nineteenth century caused concern about the forest. At that time, forest landowners performed fire suppression efforts on their lands--and the costs were ever-increasing.

In 1891, the Legislature created the Maine Forest

Commission in response to public concern for the conservation of the forest. The Commission's only purpose was to evaluate the condition of the forest--including fire incidence.

Meanwhile, landowners in the unorganized towns decided to band together to support a centralized fire suppression effort because individual efforts were inefficient and costly. The Maine Forest Service (which evolved from the Maine Forest Commission) became the designated fire protection agency in 1906. Because no funds were provided by the Legislature, the landowners themselves provided funding, through a Maine Forestry District Tax (MFD), and support services to the agency. Forest fire control in the organized towns, on the other hand, was the responsibility of the individual towns.

1947 Fires

The dual forest fire control system continued until 1947, when major forest fires swept the State. Prior to 1947, the Maine Forest Service performed detection, suppression, training, and prevention only in the Maine Forestry District. The magnitude of the 1947 fires' destruction showed the need for a state-wide organization to coordinate fire protection.

After 1947, in addition to its MFD responsibilities, the Maine Forest Service was given the responsibility, by the Legislature, to coordinate protection in the organized towns and to perform suppression when the situation warranted.

While ultimate responsibility for forest fire control grew to encompass all of the State, funding did not. The Maine Forestry District continued to finance two-thirds of the Maine

Forest Service's fire control budget, with the General Fund contribution the other one-third.

Funding Changes Begin

Each year, the Legislature found itself presented with bills regarding requests to withdraw from the MFD by towns. As the number of towns in the MFD decreased, the cost to those remaining towns became too burdensome.

In 1982, the 110th Legislature established the Maine Forest Fire Control Study Commission to examine the "organization, administration, funding, and delivery of services by the Maine Forest Service's, Division of Fire Control." The Commission's report recognized the inequities of the MFD tax, recommended "that the Maine Forestry District as now constituted be abolished", and proposed financing fire control from the General Fund.

The 111th Legislature accepted the Commission's recommendation and abolished the MFD, but adopted a funding mechanism similar to that proposed in the Commission's minority report. The new tax, known as the Forest Fire Control Suppression Tax, was a two-tiered tax upon forest landowners.

In the organized towns, a tax (tier 1) was levied upon owners who had parcels of one hundred acres or more of protected land within the town. Organized towns have the responsibility to respond first to fires before the Maine Forest Service assists.

In unorganized towns, the Maine Forest Service has the responsibility for first response. Consequently, a second tax

(tier 2) was levied that was in addition to the tax for owners of parcels of more than 100 acres. This additional tax was intended to pay the State for the cost of first response.

The 111th Legislature also established the Forest Fire Control Advisory Council to oversee all aspects of administration and conduct of the State's forest fire control program. While the Council recommended funding for forest fire control from the General Fund, the Legislature, in 1985, enacted different changes in the fire suppression tax system. Among other changes, the acreage threshold for taxation purposes was raised to 500 acres, and the first 500 acres owned was exempt from taxation. This figure was for ownership in the aggregate, not ownership within a town, as the tax had been applied before. The second tax representing cost of first response by the Maine Forest Service in unorganized towns was abolished and replaced with a system whereby the unorganized towns reimbursed the State for a portion of forest fire suppression costs when fires occur.

Meanwhile, through a class action suit, certain landowners had taken the taxation issue to court. The Maine Supreme Court declared the tax unconstitutional on the grounds that, as administered, the tax was levied on the use of the land rather than the value of the land. State law maintains that a property tax must be levied on ownership of property. As administered, the tax was in reality an excise tax upon the use of the land.

Thus, the Legislature was forced to deal with the issue again. In 1986, the property tax was changed to an excise tax.

The Commercial Forestry Excise Tax was enacted. The tax is imposed on the "privilege that results in costs as well as benefits to the State" of "engaging in commercial forestry." "Persons enjoying that privilege (are) subject to the tax." (36 MRSA § 2721) Previously, the suppression tax was a property tax, but did not reflect the market value of the property--all owners paid the same amount per acre. The Excise Tax based payment on a use--that of commercial forestry.

Other Options Examined

Both the Fire Control Study Commission and the Forest Fire Advisory Council, as well as the Legislature, examined numerous options. Among the options are those listed in the following table:

<u>Option</u>	<u>Strengths</u>	<u>Weaknesses</u>
1. Special tax on landowners and others who benefit; in form of severance tax, special industry tax, user fees.	1. Those who benefit must pay.	1.a. Difficult to determine who benefits and by what proportion. b. Difficult to assess all prospective taxpayers. c. Regressive. ¹ d. Uncertainty--cost of tax not known until acres reported annually. e. Revenue stream uncertain and not matched to fire control budget.

¹In general, a tax that takes a higher percentage of low income than high income is considered regressive.

- | | | |
|--|--|--|
| 2. Property Tax | <ul style="list-style-type: none"> 2.a. Similar to town police or fire protection for those who own property. Tax based on value of property. b. Mechanism in place to collect tax. c. Broad based: all property, forested or not, contributes to payment. d. Certainty of tax amount. | <ul style="list-style-type: none"> 2.a. Value of ownership of forest land not necessarily proportional to ability to pay tax. b. Non-protected property contributes to tax. c. Regressive tax. d. Necessary to update lists of owners for billing. |
| 3.a. Special tax per acre on all forest land or on all land. | <ul style="list-style-type: none"> 3.a. Those who are defined in special rules must pay. b. Targeted payments to specific groups. | <ul style="list-style-type: none"> 3.a. Administrative difficulty to define land base. b. Difficult and costly to collect from owners of small parcels. c. Does not consider "value" of the land. d. Unclear who benefits. |
| 4. General Fund | <ul style="list-style-type: none"> 4.a. Most equitable. b. Administratively sound. c. Broad based. d. Progressive; based on ability to pay. e. Fire control treated like other services, e.g. social services. f. Social value of service evaluated equally with program components of government. | <ul style="list-style-type: none"> 4.a. Uncertainty about proportional services to different groups or people, e.g. landowners, recreationists. |

THE EXCISE TAX

The Commercial Forestry Excise Tax is "levied upon owners

of commercial forestland" (12 MRSA § 2723) possessing 500 acres or more of forestland. Presumably, owning 500 acres or more indicates that the land is being used for commercial forest activity.

The tax is levied annually. Its computation is derived as follows:

1. Each December, the Commissioner of Conservation submits the projected cost of fire control for the next fiscal year to the Legislature.
2. The Legislature approves the cost of fire control and indicates the amount which will come from the General Fund.
3. The Commissioner of Conservation certifies to the State Tax Assessor, by September, the amount needed to be raised by taxes, minus the General Fund amount. This tax amount does not include the General Fund amount appropriated for Fire Control.
4. Forest landowners file tax returns to the State Tax Assessor, by March 1, indicating the amount of land owned and any transfers of ownership, as of April 1 of the previous year.
5. The State Tax Assessor sends tax bills to landowners by April 1.
6. Commercial Forestry Excise Tax to cover costs of fire protection due May 1.

FINDINGS

Finding #1

The Tax is confusing and difficult to administer.

The tax is dependent on the State's budgetary process. That process occurs every two years. Adjustments can only occur to the second year of the biennial budget and these adjustments must be made in the Legislature's emergency sessions.

The budget is prepared on a biennial basis, meaning that a

budget is submitted for two operational years. This estimate of operating cost is almost a year before the costs are incurred for the first year of the biennial budget and almost two years for the second year of the biennial budget estimate. Because the tax is collected ten months into the fiscal year, the taxes are collected almost two and three years respectively after the biennial budget estimate is prepared. Figure 1 illustrates this calendar of events.

The result is that few landowners and state or local officials fully comprehend the tax's rationale, calculation, timing or administration.

Figure 1

COMMERCIAL FORESTRY EXCISE TAX CALENDER OF EVENTS

CALENDAR YEAR	1ST QUARTER			2ND QUARTER			3RD QUARTER			4TH QUARTER			STATE FISCAL YEAR
	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	
CY86							D.O.C. BUDGET FOR FY 88-89 SUBMITTED TO GOVERNOR			D.O.C. CONFIRMS FIRE CONTROL COSTS FOR FY 88 TO LEGISLATURE			FY87
CY87	GOV'S BUDGET FOR FY 88&89 SUBMITTED TO LEGIS			LEGISLATURE APPROVES BUDGET & FIRE CONTROL FY 88 & 89			TAX ASSESSOR GETS AMOUNT TO COLLECT FOR FY 88 FROM DOC			DOC CONFIRMS FIRE CONTROL COSTS FOR FY 89 TO LEGISLATURE			FY88
CY88	OWNERS CERTIFY OWNERSHIP FOR CY 87 *	BILLS FOR FY 88 SENT TO OWNERS		TAX FOR FY 88 PAID FOR CY 87 OWNER-SHIP **	LEGIS APPROVES FIRE CONTROL COST FOR FY 89		TAX ASSESSOR GETS AMOUNT TO COLLECT FOR FY 89 FROM D.O.C.						FY89
CY89	GOV'S BUDGET FOR CY 90-91 SUBMITTED TO LEGIS	OWNERS CERTIFY FOR OWNER-SHIP TO OWNERS	BILLS FOR FY 89 SENT TO OWNERS	TAX FOR FY 89 PAID FOR CY 88 OWNERSHIP									FY90

* TAX FOR FY 89 THAT IS PAID IN CY 88 IS BASED ON OWNERSHIP OF CY 87

** TAX FOR FISCAL YEAR PAID TEN MONTHS INTO THE FY THAT THE COSTS OCCUR. THUS PAYMENT FOR SERVICES OCCURS AFTER 83% OF THE SERVICE IS RENDERED. TAX IS PAID BASED ON OWNERSHIP OF THE PRIOR YEAR.

Finding #2

The Tax is not levied upon all owners of 500 acres or more of commercial forestland.

The statute states that the tax shall be levied upon owner of 500 acres or more of commercial forestland. "Covenants of property, whether joint tenants or tenants in common, shall be treated as one person." But the Tax, in fact, is administered as accounts rather than individuals, because the existing records are kept on a town basis, not according to individual owners.

An account may consist of several different landowners jointly sharing a parcel of land. Some landowners share numerous parcels of land with diverse landowners and in varying proportionate ownerships.

The ownership pattern in the State and the method of taxing the various entities has led to inequitable payment of the Commercial Forestry Excise Tax. Using a hypothetical example:

Landowner A owns 5,000 acres. Because this landowner is a single entity, she will be taxed on 4,500 acres (the first 500 acres are exempt.) The total tax bill at 24.6 per acre (the 1986 rate) would be \$1,107.

In another example, Landowner B also owns 5,000 acres, but pays \$0. Here is how:

Landowner B owns eleven parcels jointly with another landowner.

TABLE 1.

ACCOUNT	LANDOWNER B	LANDOWNER C	TOTAL	TOTAL EXEMPT
	----- (ACRES) -----			
#1	495	5	500	500
#2	490	10	500	500
#3	485	15	500	500
#4	480	20	500	500
#5	475	25	500	500
#6	470	30	500	500
#7	465	35	500	500
#8	460	40	500	500
#9	455	45	500	500
#10	450	50	500	500
#11	275	225	500	500
Total	5,000	500	5,500	5,500

In summary, no practical mechanism to fairly apportion taxes exists when there are minimum acreage exemptions and mixed ownership patterns.

Finding #3

The 500-acre exemption is unfair.

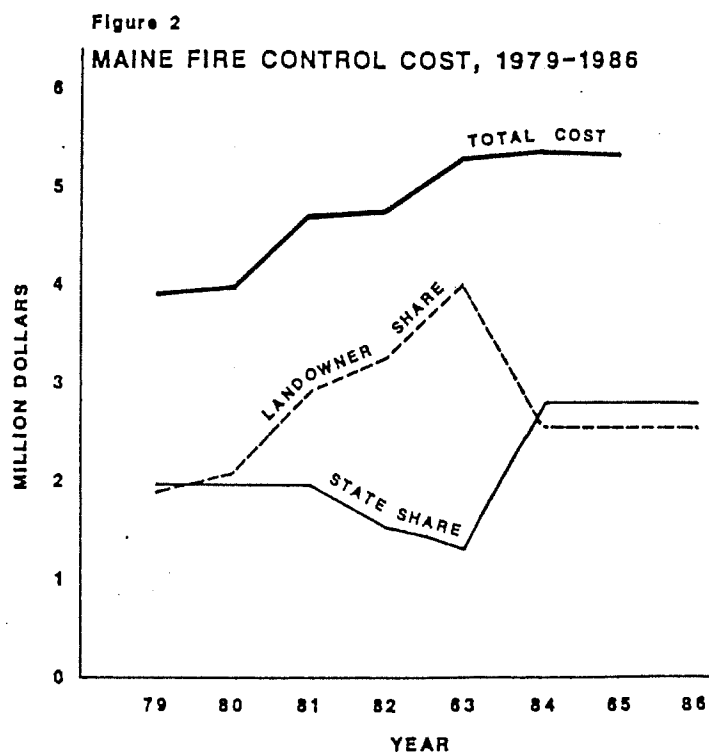
The legislative basis for the 500-acre exemption is arbitrary. Previous to the enactment of the Commercial Forestry Excise Tax, a 500-acre exemption was repealed for the Tree Growth Tax Law, because the 500-acre exemption did not allow all landowners to participate in Tree Growth.

Finding #4

The total cost per acre of fire control has risen. The number of acres protected has remained the same. Federal contribution to the cost has declined. And the number of separate entities taxed has declined.

The cost of fire control, approved by the Legislature, has risen on the average 6.9% per year. Because the State now funds

one-half the fire control costs (formerly one-third), the General Fund contribution has risen. (Figure 2. and Table 2.)



The federal contribution has declined considerably and is not likely to increase (Figure 3.). Indeed, further decline is likely.

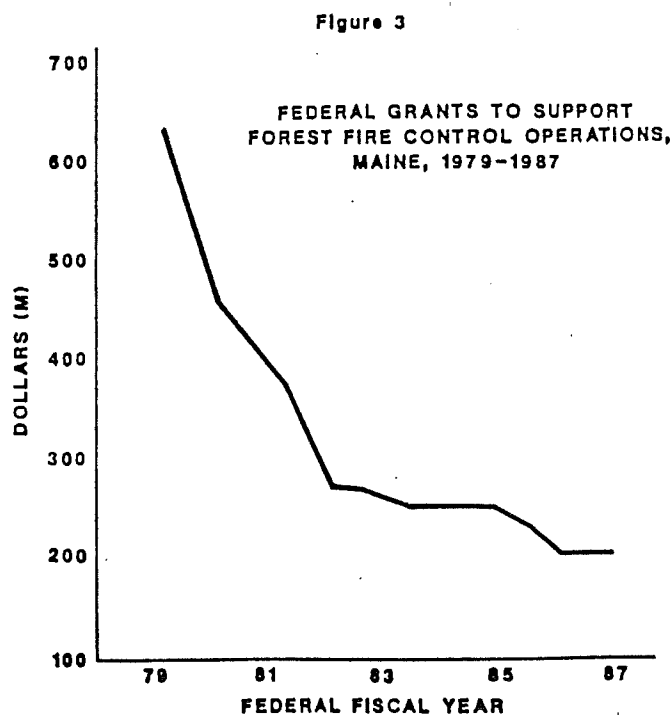


TABLE 2.
FOREST FIRE CONTROL COST ANALYSIS

CALENDAR YEAR	1979	1980	1981	1982	1983	1984	1986	1987
State Fiscal Year	FY '80	FY '81	FY '82	FY '83	FY '84	FY '85	FY '86	FY '87

APPROPRIATION								
Original	\$4,038,924	\$4,116,355	\$4,710,331	\$4,689,449	\$5,601,832	\$5,737,082	\$5,410,051	\$6,297,098
Supplemental	\$23,050	\$17,750	\$1,541	\$65,152	\$13,182	\$13,414		(\$46,828)
Deappropriation	(\$163,000)	(\$150,360)			(\$303,069)	(\$352,731)	(\$68,758)	(\$71,147)
NET APPROPRIATION	\$3,898,974	\$3,983,245	\$4,711,872	\$4,754,601	\$5,311,945	\$5,397,765	\$5,341,293	\$6,179,123
=====								
LEGISLATIVE set amount to be raised (exc. "other" income)		\$.213 cents/ac	\$2,888,056 Charge MFD	\$3,258,087 Charge MFD	\$3,250,000 plus \$.09/ac 1st response	\$5,115,000	\$5,078,103	\$5,870,231
BUREAU OF TAXATION								
Total Tax Collected	\$1,899,780	\$2,021,357	\$2,880,056	\$2,238,303	\$4,000,475	\$2,561,825	\$2,537,052	\$2,933,964

% Net App as TAX	49%	51%	61%	68%	75%	47%	48%	47%
% Net App GEN FLND	51%	49%	39%	32%	25%	53%	52%	53%

TAX RATE	4.5 mills	\$.213	\$.298	\$.347	\$.253	\$.249	\$.246	\$.295
Surcharge					\$.090			
units	100% Eval.	per acre	per acre	per acre	Unorganized per acre	per acre	per acre	per acre
Date Tax Due	Oct 1 79	Oct 1 80	Oct 1 81	Oct 1 81	Dec 31 83	Dec 1 84	May 1 86	May 1 87
=====								
TAXED ACRES	????	????	9,689,561	9,340,021	12,858,904	10,298,033	10,449,674	9,963,556
PROTECTED ACRES	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000	17,000,000
UNTAXED ACRES			7,310,439	7,659,979	4,141,096	6,711,967	6,550,326	7,036,444
Cost/Prctcd Ac	\$.23	\$.23	\$.28	\$.28	\$.31	\$.32	\$.31	\$.36
Cost/taxed acre			\$.30	\$.35	\$.31	\$.25	\$.24	\$.29
Cost/untaxed acre			\$.25	\$.20	\$.32	\$.42	\$.43	\$.46

NUMBER OF TAX BILLS					NA	3,000	1,539	1,154
NUMBER OF ACCOUNTS					14,906	2,113	883	623

1974-1982 Tax was from Maine Forestry District

1983 Tax was \$.253/ac for fire control on all ownerships over 100 acres plus \$.09/ac on all ownerships over 100acs in unorganized townships.

1984 Tax was \$.249/ac on all ownerships over 500 acres.

1985 No tax was paid in 1985

1986 1983 & 1984 tax was rebated. Cost of '83, '84, & '85 fire control was charged to owners of record in 1985. This was paid in May of 1986.

1987 Tax/ac to all ownerships greater than 500 acs/township of "commercial forest land."

When the taxable acreage threshold was 100 acres, 14,906 accounts were sent tax bills by the Bureau of Taxation. The figure declined to 623 accounts since when the 500-acre threshold was instituted.

Currently, taxes are assessed on only 61% of the total number of protected acres; the remaining acres are exempt.

Finding #5

Owners of 501 acres or more (the first 500 acres are exempt) in organized towns pay twice for fire protection.

In organized towns, the local fire department has the responsibility for first response to all fires regardless of whether a structural or forest fire. Property owners pay for this protection through local property taxes. Only in cases when the seriousness of a situation warrants does the State, through the Maine Forest Service, assume primary responsibility.

In unorganized towns, the State has primary responsibility for all fires, because these towns are unable to provide service themselves.

Thus, property owners in organized towns pay twice for fire protection--once through their local property tax and again through the Commercial Forestry Excise Tax.

Finding #6

In a comparison of selected states' fire control funding mechanisms, Maine and Oregon are the only states that substantially tax the landowner through a property or excise tax.

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The Economics Task Group examined other states' forest fire protection funding mechanisms. The criteria considered for comparison were:

- a. Amount of forested land.
- b. Amount of private non-industrial land.
- c. Amount of private industrial land.
- d. Amount of state and other publicly owned land.
- e. Amount of federal land.

The states that compared closest in the above criteria are shown in Table 3.

Finding #7

The Tax continues to be controversial.

Since 1983, the Tax has been under scrutiny. It has been changed considerably in three legislative sessions and has been successfully challenged in court. Together with debates over, and changes in, the Tree Growth Tax Law, the changes in the Commercial Forestry Excise Tax rules and rates have meant that Maine has been unable to provide an environment of stable expectations as to levels of taxation for woodland owners.

CONCLUSION

The Economics Task Group of the Forestry Action Forum concludes that the Commercial Forestry Excise Tax, as presently structured, does not satisfactorily meet the principles of a sound taxation policy. At a minimum, it has not been stable, it does not fairly apportion costs according to benefits received, and it is not easily administered. The cost of fire control should be financed from a broad tax base.

TABLE 3.
FIRE CONTROL COSTS FOR COMPARATIVE FORESTED STATES

	MAINE	NEW HAMPSHIRE	VERMONT	NEW YORK	MICHIGAN	MINNESOTA	WISCONSIN	GEORGIA	OREGON	SO. CAROLINA
Forest Land State Protected (million acres)	17.6	4.1	4.5	17.0	19.6	22.8	17.0	27.0	16.0	12.8
1985 Fire Control Budget (M\$)	6,000	600	206	4,788	6,351	2,528	5,520	17,758	13,502	10,238
Fire Control Cost/Protected Ac	\$.34	\$.15	\$.05	\$.28	\$.32	\$.11	\$.32	\$.66	\$.84	\$.85
FUNDING SOURCES										
Federal	7.4%	12.3%	19.0%	10.0%	7.0%	28.7%	6.4%	2.5%	1.8%	2.8%
State General Fund	46.3%	82.0%	80.0%	90.0%	88.0%	71.3%	93.6%	91.0%	25.0%	97.2%
State Property Tax	46.3%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	6.5%	67.4%	0.0%
Other	0.0%	5.7%	1.0%	0.0%	5.0%	0.0%	0.0%	0.0%	5.8%	8.0%
Total Funding	100%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
NOTES	Prop tax to land owners of more than 500 forest acres	5.7% tax on timber in unorganized townships Organized towns pay 50% of cost for fires in town	1% donations from VTQA Personnel also work on non-suppression forestry activities Towns responsible for total suppression costs until cost reaches preset limits	Local Gov't. pays 50% of cost for local fires	4% from fish & game fund 1% from State Land Timber Sales	All property (land & homes)	County tax includes 4 cents per forest acre	Prop. tax assessment varies by location-- minimum of \$15 per landowner 5.8% slash hazard tax for owners & operators that produce hazardous slash		

APPENDIX

TASK GROUP MEMBERS

LLOYD IRLAND, CHAIRMAN - PRESIDENT - THE IRLAND GROUP
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