

## Timber Tax Tips for Loggers

### IS YOUR ACCOUNTANT A FORESTER?

By Jim Burns

Probably not. I know of only one accountant in the Michigan, Wisconsin and Minnesota area that has a college degree in both accounting and forestry. In this same area, I only know of one other tax preparer with a degree in accounting plus being an experienced logger from a prior career.

So, big deal, how does this apply to my logging business? Simple answer. If you are not reporting your income from cutting and selling trees you own as a capital gain income, you are probably paying way more (thousands) in federal and state income taxes than you need to.

This is all legal. I'm not talking about some risky tax preference scheme or a way to hide money. I have been writing these tax savings articles for 10-years now and they are not coming to you from some federal prison! What you can elect to do as loggers is, and has been part of the Internal Revenue Code for a long time. Here in lies the problem.

The federal tax Code is huge. It covers more ways of receiving and reporting income and allowable deductions than you or I could ever think of. An introductory caution to the Code advised by the Internal Revenue Service, sums it up in few words (unusual). "Finally, the IRC (Code) is complex and its sections must be read in the context of the entire Code and court decisions that interpret it."

Yes, court decisions as well as U.S. Treasury Regulations are also involved. Add to this situation the fact that everything is constantly changing. For example, loggers are required to issue Form 1099-S for stumpage payments they made to landowners in 2008. Instructions with this Form say the landowner has to receive it no later than February 2, 2009. However, in December 2008 the due date was changed to February 17, 2009.

How can any one person be expected to be knowledgeable and an expert in all areas of the tax laws? It is next to impossible. This is why experts in specific areas of the tax law exist. When confronted by unusual tax situations, general practice accountants have the opportunity (obligation) to involve an expert in order to obtain the lowest, legal tax bill for their client.

Capital gain tax treatment of timber sale income is detailed primarily under **Sections 631(a)** and **631(b)** of the Internal Revenue Code. This is a highly specialized area of the tax law. The terminology used and appraisal requirements that are specified are written for experienced foresters. Most accountants do not have this kind of expertise, nor are they confronted with timber sales on a regular basis, if at all.

Based upon my experience, I would say that at least a majority of tax accountants know nothing about the sale of trees (timber) being capital gain income. The ones that do have no idea how to calculate a depletion deduction or implement the other provisions of Sections 631(a) or (b). The result of this is that most timber sales are reported as ordinary income, which when added to other income can move the taxpayer

into a higher tax rate bracket plus, require the payment of an additional 15.3% for the self-employment tax, resulting in the huge tax bill referred to previously.

As far as income tax services are concerned, our firm only specializes in the timber tax laws specified in the Code. We do not prepare or advise upon general income tax reports. Do not call us with questions about accelerated depreciation, for example, or other ordinary income concerns and expect an answer. This is what you have your accountant for. Our service to him or her is just to prepare and complete the Form T required for reporting the timber income transactions.

The three of us involved, are all graduate foresters with years of practical experience. Appraisals of timber and timberland values are not something new, but a normal part of our business. We understand all the terminology of the Code Sections and know how to report timber income to achieve maximum tax savings.

If your accountant meets all of these knowledge prerequisites, he or she is only halfway there. Present and historical information regarding timber values, stumpage prices, land prices, other forestry and real estate transactions are also required to complete a timber tax return.

For the past ten-years I have been writing articles such as this and specializing in completing the tax reports for anyone's timber sale. Every year I receive a disturbing number of calls from readers who tell me their tax preparer informed them it was not legal, or it could only be used by big companies or farmers could not use it, or various other reasons too numerous to mention. Based upon this experience, I have to conclude that this is a common occurrence throughout the country.

Give your accountant a break! Do not show-up in the middle of tax season (read, busy season) and say I want to use capital gain tax treatment. This will tend to make them irritable and provoke an answer like "this is not legal for you..." which means, "I do not know anything about this, and don't have the time to do any research now, go away!"

Of course your accountant wants to get the lowest tax bill possible for you, but at this time of year, spare time is not available. Do them a favor, give them a copy of this article and tell him or her to call me, we can help insure the low tax bill.

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