

FACT SHEET

No. 46

Timber & Timber Harvesting in West Virginia

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Timber Harvesting and the West Virginia Timber Severance Tax

The West Virginia Severance or Business Privilege Tax applies to the acts of severing, extracting, reducing to possession and producing for sale, profit, or commercial use, any natural resource product. This includes coal, oil, gas, limestone, sandstone, other minerals, oil shale, and timber. For timber, the value of the product immediately following severing from the stump, delimiting and topping, is subject to a severance tax of 3.22% of the value.

In West Virginia, the party who has ownership of the timber is responsible for paying the severance tax unless the right is assumed by another entity via a signed contract.

Severance tax is imposed on the gross value of timber at the point where the tree has been severed, delimited and topped. Such timber is classified as a manufactured product. If the landowner has sold the trees, usually called stumpage, to an individual or company, and they proceed to cut it then they, not the landowner, owe the tax. If the landowner cuts the trees and sells them, he owes the tax. If the landowner sells the trees for a share of the gross price realized at the mill, he owes a proportionate share of the tax based on his cutting contract, as for example 50:50 sharing unless his obligation is assumed contractually by the partner. In all these examples, the tax is based on the gross value immediately after production or severance.

Since timber is not always sold as discussed above, the gross value may be determined by a cost basis where every cost attributable to the production of the timber up to and including the point of production (severance), including both direct and indirect costs, is deducted from the selling price of the logs. A reasonable markup by the taxpayer may also be included. The taxpayer bears the responsibility of keeping adequate records to support this method of determining gross value. Thus, if an independent logger produces the timber, he can deduct the cost of the stumpage, the cost of preparing and transporting the logs to the mill where they are sold and a profit markup from the gross amount.

In the absence of adequate records to substantiate the gross value of a cost basis, the following rules are used to determine gross value:

- A party who produces timber and sells the logs and by-products on the ground, either where the trees were felled or at a central collection point, shall report 75 percent of the gross proceeds as gross value; or
- A party who produces timber, sells, and delivers timber products, in the same condition as when those products leave the forest, to a sawmill or other consumer shall report 50 percent of the gross proceeds as gross value; or
- A party who produces timber and further saws, mills, or otherwise manufactures the timber products into lumber, cross ties, timbers, veneers, or other products for sale, profit or commercial use, shall report 25 percent of the gross proceeds received for the final product as gross value. Where no sale is made, the fair market value of the lumber, cross ties, timbers, veneers, or other products, must be determined and 25 percent of the fair market value reported as gross value.

Each taxpayer is entitled to an annual severance tax credit of \$500, but this can not be deducted from any quarterly or other installment payment - only from the annual settlement - and if the taxpayer was not engaged in business the entire year, he can only deduct \$41.37 per month for each month he did work.

As of July 1, 1998, all non-resident business people subject to the timber severance tax must notify the West Virginia Department of Tax and Revenue between 90 and 30 days prior to severing timber in West Virginia and must pre-pay, or post a bond to cover the amount of estimated severance tax due from the timber to be severed calculated as 4% of the value and in no case less than the stumpage purchase price. The notice must give all of the information required by the WV Division of Forestry notification of cutting (19-1B-6 of the State Code) plus the estimated gross value of the timber and any other data the Tax Commissioner may require. *Non-resident* means a person or company that does not have a permanent place of business in West Virginia for the purpose of conducting timbering operations. The penalty for noncompliance within the stated deadlines is loss of the timbering license for one year plus a 50% penalty of the tax owed. Underestimation of the severance tax by 25% or more also results in a 50% penalty.

The timber severance tax is dedicated to the operation of the WV Division of Forestry.

(Prepared by Richard Waybright)

Some of the above has been excerpted from the WVFA "Money Can Grow on Trees" landowner packet

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