

**This draft is provided for discussion purposes only to determine what topics a possible proposed rule might address. This discussion draft is under no circumstances to be used to determine a tax liability and/or eligibility for tax exemptions.**

**WAC 458-61A-113 Timber, standing.**

(1) The real estate excise tax applies to the sale of timber if the ownership of the timber is transferred while the timber is standing. Ownership is considered the right or license to the timber, including the right of ingress and egress to the timber and the right to harvest, market, and profit from the timber. The tax applies to the sale of standing timber whether the sale is accomplished by deed or by contract. See also chapter 84.33 RCW and chapter 458-40 WAC for specific regulations and rules regarding the taxation of timber and forest land.

(2) ~~The grantor's irrevocable~~ An agreement to sell timber and pass ownership to it as it is cut is a taxable transaction if the total amount of the sale is specified in the original contract ("lump sum sale"). The taxable value is the total price paid in cash plus the fair market value of any other consideration. See chapters 84.33 RCW and 458-40 WAC.

(3) ~~A contract to transfer the ownership of timber after it has been cut and removed from land by the grantee is not a taxable transaction.~~ An agreement to sell timber and pass ownership is a taxable transaction if the original contract specifies the price per unit of timber and the duration of the contract agreement does not exceed five years ("pay as cut" or "scale" sale). The taxable value is the estimated total sale price. If at completion of the contract, the real estate excise tax was underpaid, the grantor must file an amended affidavit and pay the additional tax owed. If the real estate excise tax was overpaid, the grantor may request a refund of the amount of overpayment.

(4) A contract between a timber owner and a harvester ~~when~~ in which the harvester provides the service of cutting the timber and transporting it to the mill is not subject to the real estate excise tax if the timber owner retains ownership of the timber until it is delivered to and purchased by the mill.

