



State of Washington
Department of Revenue

Excise Tax Advisory

Excise Tax Advisories (ETA) are interpretive statements issued by the Department of Revenue under authority of RCW 34.05.230. ETAs explain the Department's policy regarding how tax law applies to a specific issue or specific set of facts. They are advisory for taxpayers; however, the Department is bound by these advisories until superseded by Court action, Legislative action, rule adoption, or an amendment to or cancellation of the ETA.

NUMBER: 541.04.45.33.135/129

CONVERSION DATE: July 1, 1998

This advisory was cancelled effective 7/16/2001 and is no longer in effect

TAX LIABILITIES ON FOREST LANDOWNERS AND HARVESTERS: SALE OF STANDING TIMBER VS. SALE OF LOGS

Revised: February 15, 1991

This Excise Tax Bulletin is revised to indicate that under certain circumstances small harvesters may be exempt from payment of the B&O tax. Small harvesters should refer to WAC 458-20-259 (Rule 259) for additional information and specific examples.

Forest landowners who sell timber may be liable for the Business and Occupation Tax (B&O) in addition to the timber excise tax. The liability for both taxes depends on whether the landowner satisfies the legal definition of a "harvester", of timber. If the landowner is not considered a "harvester", the purchaser of the timber must pay the B&O tax and the timber excise tax, and the landowner pays the real estate excise tax (REET). Which taxes apply to each party depends upon the timing of the transfer of title to the timber.

DEFINITIONS:

Harvester: The timber harvester is any person or business that fells, cuts or takes timber for sale or for commercial or industrial use from his own land or the land of another. More specifically, the harvester is the person that owns the timber after it has been harvested and at the time the logs are scaled. (See WAC 458-40-620)

Small Harvester: A small harvester is a harvester who fells, cuts, or takes timber for sale or for commercial or industrial use in an amount not exceeding five hundred thousand board feet in a calendar quarter and not exceeding one million board feet in a calendar year. REFER TO THE "REGISTRATION PROCESS"

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

Please direct comments to:
Department of Revenue
Legislation & Policy Division
P O Box 47467
Olympia, Washington 98504-7467
(360) 753-4161 eta@DOR.wa.gov

To inquire about the availability of receiving this document in an alternate format for the visually impaired or language other than English, please call (360)753-3217. Teletype (TTY) users please call 1-800-451-7985.

BELOW FOR MORE INFORMATION WHICH APPLIES TO SMALL HARVESTERS. (See RCW 84.33.073 for a complete definition).

Scaling: Scaling is the measurement of the quantity or volume of timber after it has been harvested. Units of measurement can be in thousands of board feet (MBF), cubic feet, tons, or cords.

Standing timber: The term "standing timber" is synonymous with the term "stumpage" and means standing or fallen trees having commercial value, which have not yet been severed from the stump. (WAC 458-40-630)

SUMMARY OF TAX LIABILITIES

The tax liabilities that apply to each party for a sale of standing timber versus a sale of logs are summarized as follows:

TYPE OF TRANSACTION	SELLER (Landowner) PAYS:	PURCHASER (Logger/Contractor) PAYS:
I. Sale of standing timber: REET	Timber tax and B&O	tax
II. Sale of logs:	Timber tax and B&O	B&O tax

COMMON TIMBER SALE PROCEDURES:

There are a number of ways in which timber is sold, and the timing of the transfer of ownership and/or title to the timber determines which taxes are due and who is liable for paying them. The two most common sale arrangements and the taxes that apply in each situation are described below:

(1) Sale of Standing timber (stumpage sales): Title to the timber transfers to the buyer before harvesting takes place.

In this situation, the landowner turns over title to the standing timber before it is cut from the stump. The sale may be for a lump sum amount, or a unit price may be specified for each species (eg. \$200 per thousand board feet for Doug fir, \$150 per MBF for hemlock, etc.). The purchaser satisfied the legal definition of a harvester since he is the owner of the timber at the time it is delivered to the sawmill and scaled. The tax liabilities on each party are as follows:

Landowner: For sales of standing timber, the landowner is liable only for the real estate excise tax. The sale must be recorded with the county treasurer using a real estate excise tax affidavit.

Purchaser: Since the purchaser gains title to the timber while it is still standing, he/she is legally the harvester and the one liable for paying both the timber excise tax and the B&O tax. Note that the tax base for the B&O tax is gross receipts from the sale of the logs.

(2) Sale of Harvested timber (Logs): Seller (ie. landowner) retains title until logs are delivered to a buyer and scaled.

Logging contractors often use this approach when buying timber from small landowners. Generally, the contractor makes all the arrangements of the sale, including getting the necessary cutting permits from the Department of Natural Resources, building roads, cutting the timber and delivering the logs to one or more mills for scaling and sale. However, the sale contract (when there is one) often specifies that the landowner retains ownership to the timber until the logs are delivered to a log buyer and scaled. The logger, in effect, is performing the harvesting and marketing services for the landowner. The tax liabilities under these conditions would be as follows:

Landowner: Since the landowner retains title to the logs until they are delivered to a mill and scaled, the landowner is legally the harvester. As such, the landowner is liable for both the timber excise tax on the stumpage value of the timber, and the B&O tax on the total log selling price without any deductions for payments made to the logger. There is no REET tax due in this situation because it is not a sale of standing timber.

Contractor: Although the contractor is the one who does the actual cutting and hauling of the timber, he/she never assumes ownership of the logs. Therefore, the contractor is not a harvester under the law. However, the contractor must pay B&O tax on his/her share of the gross receipts from sale of the logs as an extractor for hire and may also be liable under the motor transportation classification for the hauling.

REGISTRATION PROCESS:

Persons who are registered as timber harvesters for payment of the timber excise tax are also required by law to register for and pay the B&O tax as extractors. This requirement holds true even for small landowners who satisfy the legal definition of a harvester as described above - even though they may only harvest timber one time. However, for periods after June 6, 1990 small timber harvesters (one who harvests less than five hundred thousand board feet in a quarter or one million board feet in the calendar year) are not subject to the business and occupation tax if the value of products, gross proceeds of sales, or gross income of the business is less than \$100,000 in the tax year. The small harvester who has less than this level of activity will not be required to pay B&O tax on the value of the logs harvested. (See WAC 458-20-259).

Since the Department rarely sees a copy of a timber sale contract (often there is no written contract), another source document is used to register harvesters for the timber excise tax - the DNR Forest Practice Application (ie. cutting permit). A copy of the cutting permit is forwarded by DNR to the Forest Tax Division in Olympia. The person whose name appears in Block 4, "Timber Taxpayer" is the one who is set up for the timber excise tax. If that person has never registered for excise tax or received a UBI number (Unified Business Identifier), he/she will be mailed a Master Business Application and asked to fill it out and return it.

Registration for the timber tax is handled by the Forest Tax Division. Business registrations and assignments of UBI numbers are handled by the Department of Revenue, Taxpayer Accounts Control Section, or any field office of the Department of Revenue, Employment Security, or Labor and Industries.

SALES OF STATE, FEDERAL AND OTHER PUBLIC TIMBER:

Persons who harvest timber from state land (eg. DNR), federal land (eg. U.S. Forest Service), or other public lands, are liable for the timber excise tax under RCW 84.33.041. Occasionally, a government agency may harvest timber on public land, either directly or by using a contractor to perform the logging services. In that situation, the first private party to obtain title or possessory interest in the timber or logs is liable for the timber tax.

As in the case of harvest on private land, persons who harvest timber on public land are also liable for the B&O tax. The basis of the tax is the gross receipts from sale of the logs delivered to a mill or other log buyer. The registration requirements are the same as for private timber harvesters.