

# Forestry News

Allegheny County Center

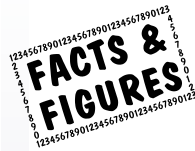
December, 2009

## In This Issue

Federal Capital  
Gains Tax

Local Property Tax

## Tax Tips for Forest Landowners for the 2009 Tax Year



Following is a summary of federal income tax information useful to forest landowners in preparing their 2009 tax returns. The information is taken from US Forest Service Forest Taxation Specialists at the Southern Forest Research Station. It should not be construed as legal or accounting advice. Do consult your legal and tax professionals for advice on your particular tax situation.

### IRS Property Categories

Standing timber may be held as personal use property, investment property, or business property. The tax provisions differ for each category. If you hold timber to produce income but do not actively manage it, you may be an investor. If you actively manage your timber for the regular production of income, you likely hold it for use in a business. It is not difficult to qualify for business use; the characteristics are regularity of activity and production of income (under the passive loss rules, participation in a business may be active or passive; not all of the provisions summarized here apply to passive participants). Holding timber or forest property for personal use—without a profit motive—is a disadvantage tax-wise, because of the limits on deductions. One of the best ways to document that you have a profit motive is in a written management plan.

### Timber Management Expenses

If you hold your woodland as an investment or for use in a business, you can deduct ordinary and necessary management expenses, such as fees paid to a professional forester, or the cost of brush control, thinning, and protecting your timber from fire, insects or disease. If you hold your woodland as an investment, you deduct such management expenses on Form 1040, Schedule A, where they are subject to the 2% of adjusted gross income floor. Because of this, you may prefer to capitalize the expenses instead of deducting them. If you hold your woodland for use in a business, you can deduct management expenses in full on Form 1040, Schedule C (or Schedule F if you are a farmer).

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## Selling Timber

Effective after May 28, 2009, purchasers of timber in a lump sum sale must report the sale on a Form 1099-S (or equivalent). Pay-as-cut timber sales already were subject to this requirement. In most cases your gain from a sale or disposal of *standing* timber can qualify as a capital gain, under IRC sec.1221 (timber held as an investment) or sec. 631(b) (timber held for use in a business).

## Timber Casualty Losses

A timber loss from a casualty, from a sudden, unusual, and unexpected event such as a fire or severe storm, can result in a tax deduction or a taxable gain. The deduction is the lesser of the decrease in value caused by the casualty or your basis in your timber depletion account. A competent appraisal is required.

## Cost-share Payments

If you receive payments from a government cost-share program, you can expect to receive a Form 1099-G. But sec. 126 permits recipients of payments from approved cost-share programs to exclude a calculated part of the payments from their gross income. Approved federal programs include the Forest Health Protection Program (to combat Southern Pine Beetle, western bark beetle, forest diseases, and forest invasive plants, approved August 10, 2009, retroactive to prior years), the Conservation Reserve Program (CRP), Environmental Quality Incentives Program (EQIP), Wildlife Habitat Incentives Program (WHIP), and Wetlands Reserve Program (WRP). Some state programs also qualify. The excludable portion is the present value of the larger of \$2.50 per acre or 10% of the average annual income from the property over the last 3 years.

## Depreciation and the Section 179 Deduction

You can take deductions for capital expenditures you make for your woodland enterprise, for example timber equipment, machinery, bridges, culverts, temporary roads, or the surfaces of permanent roads. If you hold your woodland for use in a business, sec. 179 permits you to deduct up to \$250,000 of the cost of qualifying property purchased and placed in service during 2009, subject to phase-out and taxable income limitations. Expenditures that cannot be deducted under sec. 179—and all capital expenditures by owners who hold their woodland as an investment—can be depreciated over the property's useful life. For example, logging equipment is depreciated over a 5-year period. A first-year deduction of 50% (bonus depreciation) may be taken for depreciable property purchased and placed in service in 2009.

## Timber Depletion

Timber depletion is a measure of your investment in timber sold.

Calculate the taxable amount of income from a timber sale by subtracting the timber depletion deduction and sale expenses from the gross sale proceeds. Calculate your depletion deduction by dividing the total basis in the depletion account by the total volume of timber (the depletion unit - for example thousand board feet - mbf ) then multiplying by the number of units sold (mbf).



## Reforestation Tax Provisions

Under sec. 194 you can fully recover the cost of establishing or reestablishing timber on your woodland. You can deduct outright the first \$10,000 (\$5,000 for married couples filing separately) per year of such expenses per qualified timber property. Any additional amount can be amortized over 84 months (8 tax years). Costs for both natural and artificial regeneration qualify.



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## Forestry Present Use Property Tax ... What Is Present Use Value?

Forestry present-use-value is the value of a tract of land used as forestland, based solely on its ability to produce income from timber growth, assuming an average level of management. A county tax assessor calculates the property tax by applying the current tax rate to the use-value of the land that is producing timber, rather than to the market value, which is based on the highest and best use of the property.



### Acreage and Income Requirements

The qualifying piece of land must have at least 20 acres of contiguous forestland in actual timber production. This constitutes the “parent tract.” Once the 20-acre parent tract qualifies, smaller tracts may be brought under use-value as long as they are under the same ownership and actual use, are under sound forest management, are in the same county or within 50 miles of the parent tract if the smaller tract is not in the same county, and have satisfied the ownership requirements noted below. Forestland is not required to produce annual income.

### Ownership Requirements

For an owner to qualify for forestry present-use-value, the property must meet one of the following requirements: It is the owner’s place of residence, it has been owned by the current owner or a relative of the current owner for the four years preceding January 1 of the year for which the benefit of use-value is claimed. If owned by a business entity or trust, it must have been owned by the business entity or trust or by one or more of the members of the business or creators of the trust for the four-year period preceding January 1 of the year for which the benefit of use-value is claimed. In a transfer of property from a business or trust to a new owner, the land that qualified under the business

or trust qualifies immediately, assuming that the new owner is/was a member of the business or a beneficiary of the trust. The four-year ownership tenure requirement (second item in the list above) will be waived if: The land is appraised at its present-use-value or is eligible for appraisal at present-use-value when the title to the land passes to the current owner, and; when the title to the land passes to the current owner, that owner acquires the land for a qualifying forestry use and continues to use the land in a qualifying forestry use, and; The current owner files an application (within 60 days of the title transfer date) with the county tax office saying he or she accepts liability for the deferred taxes and intends to keep the property in its present use, in this case, forestry.

### Woodland As Part Of An Agricultural Or Horticultural Unit

Agricultural or horticultural land classifications may include woodland that is part of a farm or horticultural unit, and the woodland must be appraised under the use-value schedules as woodland. If the agricultural or horticultural unit contains fewer than 20 acres of woodland, then the woodland portion is not required to be under a sound management program. Also, woodland is not required to be under a sound management program if it is determined that the highest and best use of the tract is to diminish wind erosion, protect water quality, or serve as a buffer from adjacent agricultural, horticultural, livestock, or poultry operations.

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## Application Procedure

A forest landowner must apply for forestry present-use consideration. The application forms may be obtained from county tax assessors, and the application must be filed on a “timely” basis. It must be filed during the regular listing period of the year in which the benefit of the classification is first claimed. If the market value or present-use-value of the property changes, for instance, during periodic property tax revaluations, the application must be filed within 30 days of the date on the tax assessor’s “notice of a change.” The regular listing period (unless extended by a majority vote of the county commissioners) falls during the month of January and ends with the close of business on January 31. The application must be submitted to the tax assessor’s office in the county where the property is located. When property is transferred in whole or in part, the seller should notify the assessor of the change. The buyer can re-qualify the property by submitting a new application within 60 days of the title transfer date.

## Attention



I hope the information in this newsletter will be beneficial to you. If there are any programs or workshops you would like to have presented or receive more information on, please let me know.

Also, for those of you who would prefer to receive newsletters electronically, please call the Alleghany Extension Center, 372-5597 or send a note to Kathy Miller at [kathy\\_miller@ncsu.edu](mailto:kathy_miller@ncsu.edu) and let her know and she will be happy to add you to the E-News List.

Sincerely,

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