

FOREST STEWARDSHIP BRIEFINGS

Timber ◇ Wildlife ◇ Water ◇ Soil ◇ Best Management Practices ◇ Forest Health ◇ Recreation ◇ Aesthetics

TAX TIPS FOR FOREST LANDOWNERS

by Linda Wang, Forest Taxation Specialist, USDA Forest Service, Atlanta, GA; John L. Greene, Research Economist, USDA Forest Service Southern Research Station, New Orleans, LA

For more information:

- <http://www.timberbuysell.com/Community/DisplayNews.asp?id=3631>
- <http://texasforesterservice.tamu.edu/uploadedFiles/Sustainable/tax/TaxTips08.pdf>
- <http://www.timbertax.org>

This article summarizes key federal income tax provisions for forestland owners, foresters, loggers, forest product businesses, and tax practitioners. It is current as of October 1, 2008. Consult your tax and legal professionals for advice on your particular tax situation.

TIMBER SALES - If you have held standing timber for over 12 months, income from the sale or disposal of the timber generally qualifies as a long-term capital gain. This is an advantage since long-term capital gains are taxed at lower rates than ordinary income and are not subject to self-employment tax. For most individual forestland owners, the tax rate for long-term capital gains is 15%. From 2008-2010, however, a special 0% rate applies to long-term capital gains.

TIMBER MANAGEMENT EXPENSES - If you manage your forestland for profit as an investment or a trade or business, you can deduct ordinary and necessary timber management expenses. These include timber cruises; fees paid a consulting forester; brush control; protecting the forest from fire, insects and disease; precommercial thinning; timber stand improvement; hired labor; and mid-rotation fertilization. Costs associated with reforestation, including supervision by a forester and brush control, are subject to the reforestation deduction and amortization provisions. Costs associated with a timber sale, including a pre-sale timber cruise, are deductible from the sale proceeds.

FOREST PLANTING COST - You can deduct outright the first \$10,000 per year of reforestation expenses per qualified timber

property and amortize (deduct) any additional amount over 8 years. These provisions apply both to the cost of establishing a plantation and practices to encourage natural regeneration.

COST-SHARE PAYMENTS - If you received a payment from a public cost-share program, you also should receive a Form 1099-G. If the program is approved under section 126, however, you can elect to exclude a calculated portion of the payment from your gross income.

TIMBER BASIS - Basis is a measure of your investment in timber. The total cost of acquiring purchased forestland should be allocated proportionately among capital accounts for the land, the timber, and other capital assets acquired with them. The fair market value of inherited forestland should be allocated similarly. This usually results in a step-up in basis because the fair market value of the property is higher than the decedents basis.

TIMBER CASUALTY LOSSES - You can take a deduction for timber lost in a casualty - an event that is sudden, unexpected, and unusual, like a fire, ice storm or hurricane. Your deduction is the lesser of the decrease in value caused by the casualty or your basis in the timber block.

CONSERVATION EASEMENTS - You can take a charitable contribution deduction for donation of a permanent conservation easement. The amount you can deduct for 2008 is limited to 50% of your adjusted gross income, but you can carry forward any unused amount to be deducted over the next 15 years.

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from Smallwood Utilization Network Forum and News Archive, September 18, 2008.

For more information:

- <http://smallwood-news.com/Forum/phpBB2/viewtopic.php?t=2575>
- <http://www.southernforestryrealty.com/Blog/?p=25>
- <http://www.privatelandonetwork.org/plnlo/conease.asp>

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a voluntary legally binding agreement between a landowner and a qualified land trust or government entity that permanently limits uses of the land in order to protect ecological, historic, or scenic resources. Besides possessing a piece of land and paying taxes on it, landowners have rights to the land such as the ability to subdivide, build structures, cut trees, mine for minerals, and other rights. A conservation easement allows a landowner to retain ownership while restricting some of those rights in order to protect the property's conservation values. Easements are custom designed and negotiated to meet the personal and financial needs of the landowner. An easement may cover portions of a property or the entire parcel. The easement will identify the rights the landowner wishes to retain, limit, or forgo.

Landowners donate conservation easements for a variety of reasons. Foremost is a love of their land and a strong desire to protect it for their families and future generations. Conservation easements are powerful estate planning tools that provide families the opportunity to plan together for the future of their land. The donation of a conservation easement may provide substantial tax benefits through the reduction of federal income and estate taxes, and possible property tax relief.

The landowner remains responsible for all land management activities. The easement holder's interest and responsibility is only

to ensure that the conservation values identified in the easement are protected.

The easement holder (a government entity or a qualified conservation organization) has the obligation to enforce the easement restrictions. To do so, the easement holder has a limited right to access the property for annual monitoring.

Most easements on larger parcels have a Conservation Management Plan that is developed by the landowner, property manager, and/or forestry consultant. The Plan guides agriculture, forestry, and wildlife management practices on the property. It is a more fluid document than the legal easement and, therefore, changes over time as circumstances require. The Conservation Management Plan may be modified without affecting the terms of the easement.

It is strongly recommended that a landowner considering a conservation easement contact appropriate professional advisors to assist the landowner in making the decision and providing assistance through the process. Appropriate advisors would include:

- an attorney to provide legal advice and draft the conservation easement
- an appraiser to determine the value of the conservation easement, which is required if the landowner intends to claim income or estate tax benefits
- an accountant to determine the income tax implications.

from the Texas Forest Service website—Famous Trees of Texas

For more information:

- <http://famoustree-softexas.tamu.edu/TreeHistory.aspx?TreeName=Indian%20Marker%20Tree>

INDIAN MARKER TREE

The Comanches were a migratory people who spent their summers on the high plains of the Panhandle and their winters in Mexico. In the fall, they passed through Central Texas and one of their favorite camping spots was along Hamilton Creek, which flows through the town of Burnet.

The Comanches had several trails. At the

better camping spots along a trail, a sapling-size tree was bent to the ground and tied down to serve as a marker. As the tree grew, it maintained this prostrate or horizontal position.

Such is the position of this live oak on Hamilton Creek - a living monument to the presence of these early residents of Central Texas.

THE FIRST REGIONAL BMP REPORT

In 1997, a task force appointed by the Southern Group of State Foresters (SGSF) developed guidance to assist states in conducting forestry Best Management Practices (BMP) implementation monitoring. This "Framework" was created to promote a consistent approach across the region, allowing monitoring results to be comparable among the states.

In June 2008, the Water Resources Committee released this report titled "Implementation of Forestry Best Management Practices - A Southern Region Report." This publication is the first in the nation to report BMP implementation on a regional level. The report covers re-

sults from 25 statewide BMP implementation monitoring surveys conducted across the Southern region from 1997-2007.

Although the regional data identifies several BMP categories in need of improvement, an overall regional implementation rate of 87% is considered notable. Likewise, "regional progress" has been made in most BMP categories. States reporting multiple surveys have shown increases in BMP implementation. This is largely attributed to the numerous educational, outreach, and training efforts being conducted across the southern region by the states, and to the efforts of the SGSF via the Water Resource Committee.

by Hughes Simpson, BMP Coordinator, Texas Forest Service, Lufkin, TX

For more information:

- <http://www.southernforests.org/publications.htm>

HURRICANE TIMBER LOSS AND TAXES

If all or part of your timber was recently destroyed by Hurricane Ike in East Texas, you may be entitled to claim a deduction on your income tax return for either this year (2008) or last year (2007). Since the loss is caused by a sudden, unexpected, and unusual natural event, it is classified as casualty loss by the Internal Revenue Service. Qualified loss may be deducted directly from your ordinary income.

First, you have to determine the purpose of holding timber. Limits on the allowed amount of the tax deduction are different for personal use (yard trees) and non-personal use (investment or business) purpose. Normally, the deduction on damaged trees owned for personal use is quite limited. As long as you hold timber for producing income, your timber is mostly owned for either investment or business purpose.

To determine casualty loss, you have to figure: 1) the *adjusted basis of timber* for the timber block, and 2) the *difference* of the *fair market value* immediately before and after the loss.

Casualty loss is the smaller amount of 1)

and 2) reduced by insurance claim payment and salvage sale income. In other words, taxpayers cannot deduct more than their cost invested in the timber property.

The key for most cases is to figure out the *adjusted basis of timber*. Generally, the cost of a property is called "basis" in tax terms. Adjusted basis is the original basis decreased or increased by adjustments (such as new purchase or sale of part of timber).

If you did not determine a basis of your timber at the time of acquisition, it's necessary to use the current volume before the storm, growth rate over the years, and timber price at the time of acquisition to get the best possible estimate. It is a retroactive approach. You may need assistance from professional foresters to do the estimation.

If your destroyed timber is located in the presidential declared disaster area, you are allowed to deduct the casualty loss on an amended 2007 tax return instead of waiting until 2008 tax returns are filed (in 2009). Under some circumstances, the two-year replacement period may be extended.

by Yanshu Li, Forest Economist, Texas Forest Service, College Station, TX; adapted from Linda Wang's "Income Tax Deduction for Casualty Timber Loss"

For more information:

- http://texasforests-service.tamu.edu/uploadedFiles/Sustainable/HurricaneIke/Tax-Casualty-loss_Hurricane-Ike.pdf
- <http://texasforests-service.tamu.edu/main/article.aspx?id=5588#taxLoss>

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- Joe Pase, TFS, Lufkin, Texas

TIMBER TAX WORKSHOPS

2009 Timber Income and Property Tax Workshop

To provide you with structured knowledge on timber tax, including the latest changes on tax laws and rules for your preparation of the 2008 tax return, the Texas Forest Service will host two timber taxation workshops in January 2009. Participants will receive an information-loaded workbook including presentation materials, example worksheets, sample federal forms, and supplemental readings. Continuing Education Credits available.

January 27, 2009 - Lufkin - Pitser Garrison Civic Center, 601 N. Second St. Time: 8:30 a.m. -- 4:00 p.m.

January 28, 2009 - Overton - Texas AgriLife Research and Extension Center, 1710 FM 3053 N. Time: 8:30 a.m. -- 4:00 p.m.

For online registration or more information, please visit <http://texasforests.tamu.edu/timbertaxworkshop> or contact Monica Jadowski at (979) 458-6630 or email mjadowski@tfs.tamu.edu. Registration fee will be \$65 per participant (\$30 per additional family member). The registration fee includes the workbook, catered lunch, and refreshments. Space is limited. Please register by January 12, 2009.



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