



**INFORMATION NOTICE
SALES AND USE TAX 2017-01**

Property and Services Directly Used in Timbering Operations

Issued: October 13, 2017

The Department of Revenue (“Department”) provides this Sales and Use Tax Information Notice to taxpayers engaged in timbering operations as a business enterprise and vendors selling property or services to such taxpayers. Act 84 of 2016 amended Article II of the Tax Reform Code of 1971 to exclude from tax the purchase or use of tangible personal property or taxable services predominantly used directly in timbering operations, effective July 1, 2017. 72 P.S. § 7201(k)(8), (o)(4). This Information Notice is intended to clarify the property or services that are considered to be directly used in timbering operations and therefore excluded from Sales and Use Tax.

I. General Overview

For Sales and Use Tax purposes, the term “timbering” includes the business enterprise of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood by a company primarily engaged in the business of harvesting trees. Id. § 7201(k)(8)(B), (o)(4)(B)(ii). The term “timbering” does not include the harvesting of trees for the purpose of clearing land for access roads, but includes all operations prior to the transport of the harvested product necessary for:

- a. Removal of timber or forest products from the site;
- b. In-field processing of trees into logs or chips;
- c. Complying with environmental protection and safety requirements applicable to the harvest of forest products;
- d. Loading of forest products onto highway vehicles for transport to storage or processing facilities; and
- e. Postharvest site reclamation including those activities necessary to improve timber growth or ensure natural or direct reforestation of the site.

Id.

The timbering exclusion does not extend to all property or services used in timbering operations. Generally, only machinery or equipment and their associated parts and foundations, as well as supplies or services which are predominantly used directly in the



timbering operations may be excluded from Sales and Use Tax. 72 P.S. § 7201(k)(8), (o)(4). The determination as to whether property or services are predominantly used directly is fact-specific and depends on the use of the property or service in relation to the timbering operations.

The factors that determine whether property or services are directly used are the physical and temporal proximity of the property or services to the timbering operation as well as the existence of an active causal relationship between the use of the property or services and the producing or harvesting of trees in the timbering operation. Generally, in considering the existence of an active causal relationship, the fact that particular property may be considered essential to the conduct of the business because its use is required either by law or practical necessity does not, of itself, mean that the property is used directly.

Furthermore, the direct use in timbering operations must be predominant. If the property or services are used in two different activities, one of which is direct use and the other is not, the property is not excluded from Sales and Use Tax unless it is used more than 50% of the time in the direct-use activity. Id.

II. Purchases that qualify for the timbering exclusion

It is not possible to provide an exhaustive list of the property and services that do or do not qualify for the timbering exclusion. However, based on information currently available to the Department, the timbering exclusion applies to the following types of property and services:

- a. Machinery and equipment used to harvest logs and trees, or to transport the harvested product to the log landing site, including but not limited to: axes; shovels; chainsaws or manual saws; forwarders; harvester-processors; feller-bunchers; mulchers/masticators; brush cutters; shovel loggers; skidders; brush piling shovels; brush-rake piling cats; log loader attachments and yarders (truck/trailer-mount, small swing, mobile, tower, etc.); cable yarding carriage; swing machines; loaders; heavy-lift and aerial truck helicopters
- b. Lighting equipment and supplies used to light the operations defined above as “timbering”
- c. Machinery and equipment used to process harvested trees and logs at the roadside log landing site, including but not limited to: tracked log loaders, sorters, shovels, and processors; tree delimiters and log cutters; on-site wheel log loaders; delimiter/debarker/chipper machines; grinders to convert waste wood into useable wood biomass



- d. Machinery and equipment used to transport production personnel or equipment during the timbering operation, other than motor vehicles required to be registered under the Vehicle Code, 75 Pa.C.S. §§ 101-9910, including but not limited to utility helicopters or utility trailers
- e. Machinery, equipment, and materials used in postharvest site reclamation including but not limited to: fertilizer hopper tanks or trailers used to haul or transport fertilizer; hydro-seeder trailers; dozers or graders; fill; fertilizer; seedlings; grass seed; shrubs; stone; concrete; soil nutrients
- f. Machinery, equipment, and supplies designed and used to control, abate, or prevent air, water, or noise pollution generated in the timbering operation, regardless of whether the pollutants are recycled or used in any manner
- g. Property used to test and inspect the timber products during actual timbering operations or before the product is loaded onto highway vehicles for transport away from the timbering site
- h. Wrapping equipment and supplies, including internal packing materials and returnable containers, used in packaging which passes to the ultimate consumer
- i. Property which is used directly in research activities, provided that the object of the research is the production of a new or improved product or method of producing a product. The exclusion does not apply to property used in market research or in other research which is conducted with the objective of improving administrative efficiency
- j. Machinery and equipment used for environmental or safety requirements, other than motor vehicles required to be registered under the Vehicle Code, including but not limited to: protective devices worn by production personnel in their work such as harnesses, gloves, goggles, etc.; firefighting water tanks; fire dozers; slip-on fire pumpers and forwarders; fire trailers; fire-retardant bombers and lead airplanes
- k. Replacement or repair parts (e.g., motors, belts, screws, bolts, cutting edges, air filters or gears) which are installed and become an integral part of machinery or equipment directly used in timbering operations
- l. Operating supplies (e.g. fuel, gasoline, oil, lubricants, paint and compressed air) which are actively and continuously used in the operation of directly used machinery and equipment
- m. Maintenance or repair services to machinery or equipment directly used in timbering operations

III. Purchases that do not qualify for the timbering exclusion

Based on information currently available to the Department, the timbering exclusion does not apply to the following types of property or services:

- a. The following services: lobbying services; adjustment, collection, or credit reporting services; secretarial or editing services; disinfecting or pest control services, or building maintenance or cleaning services; employment agency services; help supply services; lawn care services; self-storage services
- b. Motor vehicles required to be registered under the Vehicle Code, regardless of their purpose. This includes, but is not limited to: water tenders; fire trucks and water tankers; fertilizer hopper trucks; trucks or motor vehicles used to transport production personnel; line spool trucks; low boy trucks; pilot cars
- c. Replacement or repair parts (e.g., motors, belts, screws, bolts, cutting edges, air filters or gears) or operating supplies (e.g., fuel, gasoline, oil, lubricants, paint and compressed air) for vehicles required to be registered under the Vehicle Code
- d. Materials, supplies, or equipment used to construct, reconstruct, alter, remodel, service, repair, maintain, or improve real estate or real estate structures, even though they may house or otherwise contain equipment or machinery used directly in timbering operations. This includes, but is not limited to: dozers; excavators; dump trucks; graders; compactors used to compact subgrade and rock surfacing; backhoes and ditch hoes; rock crushers and conveyors; loaders; rock drills; bridge cranes
- e. Machinery, equipment, tools, or supplies used to support, clean, service, fuel, repair, or perform maintenance upon directly used machinery or equipment, including but not limited to: chain, hoists, tire spreaders, welding equipment, drills, sanders, wrenches, paint brushes and sprayers, oilers, absorbent compounds, dusting compounds, air blowers, wipers, trailers, or tankers
- f. Property used in timbering recordkeeping and other administrative or managerial work including, but not limited to: office furniture, supplies and equipment; textbooks and other educational materials; books and records; supplies used to record the quality or quantity of work in production, goods in storage, the flow of work, or the results of inspection; property used to instruct workers in routing work or in other production activities
- g. Property used in advertising harvested products for sale, in marketing or transporting the products to a market or to customers, in selling the products, or for the exhibition of harvested products



- h. Property used for the personal comfort, convenience, or use of employes
- i. Property including machinery, equipment, fuel, or power used for building ventilation buildings, general illumination, air conditioning and other space cooling, space heating, and similar purposes. However, such property may qualify if it is established that the use of the property bears an active causal relationship to the timbering operation
- j. Property used to transport personnel or to collect, convey or transport other property, and storage facilities or devices used to store the property, prior to the actual timbering operation
- k. Property used for waste handling and disposal of pollutants other than in the course of timbering operations, unless the property is used for postharvest site reclamation including those activities necessary to improve timber growth or ensure natural or direct reforestation of the site
- l. Property which is used after the harvested product is loaded onto highway vehicles for transport away from the harvesting site, including but not limited to log loaders and other machinery or equipment used at timber mills or production facilities, and wood transport machines used to deliver harvested product from the timbering site to other locations such as long and short log trucks or trailers, chip van trucks, log railcars, cargo ships or barges
- m. Property which is used for the purpose of clearing land for access roads, including but not limited to: dozers; excavators; dump trucks; graders; compactors used to compact subgrade and rock surfacing; backhoes and ditch hoes; rock crushers and conveyors; loaders; rock drills; bridge cranes

IV. Claiming the timbering exclusion

A purchaser may claim the timbering exclusion on property which it directly uses in its timbering operations by presenting to the supplier or vendor of the property a valid, properly executed Pennsylvania Exemption Certificate (REV-1220). The Exemption Certificate should be completed by checking box 1 and stating that the property or services will be used directly and predominantly by purchaser in performing purchaser's operation of timbering.

Any additional charges incurred in conjunction with the sale, lease, or rental of tangible personal property (e.g., set-up fees, travel costs, or additional labor or material fees) are also taxable, regardless of whether they are separately stated, if the property is not directly used in the timbering operation. On the other hand, additional charges in conjunction with



the sale, lease, or rental of property that is directly used in the timbering operation are also excluded from tax.

If a transaction involves the sale, rental, or lease of tangible personal property and the property is furnished with the services of an operator, it is presumed that the transaction involves a transfer of the right to direct the use of the property. Accordingly, this transaction would be taxable as the sale, lease, or rental of tangible personal property and the provision of help supply services if the property is not directly used in the timbering operation. If the property is directly used in the timbering operation, then the transaction is excluded from tax; however, a separately stated operator fee would remain taxable because the timbering exclusion does not apply to help supply services.

Furthermore, a taxpayer may claim other exclusions from Sales and Use Tax in addition to the timbering exclusion based on the taxpayer's business activities. For example, a taxpayer that harvests trees to manufacture paper products may claim the timbering exclusion for its activities related to the harvesting of trees and the manufacturing/processing exclusion for its activities related to manufacturing paper products for retail sale.

Finally, please note that if a purchaser is entitled to claim the timbering exclusion on otherwise taxable property or services, then a third-party vendor (e.g., an independent contractor) performing the same timbering operations for the purchaser is also entitled to the timbering exclusion on the property or services predominantly used directly in its timbering operations. See Commonwealth v. R.G. Johnson Co., 433 A.2d 465, 468 (Pa. 1981).