

Memorandum

To : Mr. Bill Jackson, MIC:60

Date: July 30, 1993

From : Kristine Cazadd

*K. Cazadd*Subject: Immediate Harvest Values - Interpretation of R & T §38204(a) and Property Tax Rule 1023(b).

This is in response to your June 7, 1993, memorandum to Mr. Ken McManigal wherein you requested our interpretation of Section 38204(a) and Rule 1023(b), as to whether timber harvest plan costs should be considered/deducted when establishing immediate harvest values.

As you indicated, Section 38204(a) provides that immediate harvest values for timber yield tax purposes shall be determined:

"...from the best evidence available, including (1) **gross proceeds from sales on the stump** of similar timber of like quality and character at similar locations or, (2) **gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest...**"

Similarly, Rule 1023(b), which implements Section 38204, provides that immediate harvest value schedules adopted by the Board,

"...provide estimates of harvest values by considering **gross proceeds from sales on the stump** of similar timber of like quality and character at similar locations, or **gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest...**"

The Timber Tax Division staff has previously taken the position that "**gross proceeds from sales on the stump**" and "**value on the stump immediately prior to harvest**" include all costs incurred before the harvest, that is, costs of access, marking, and preparation of a timber harvest plan, and costs associated with gaining approval to harvest. Deductions are available only for costs incurred after the harvest, such as logging, hauling, and scaling expenses.

Timber industry representatives are concerned that because of the recent escalation in costs associated with gaining approval to harvest, staff's position that these are **prior-to-harvest costs** should be reconsidered. The escalation apparently stems, in large part, from the fact that numerous statutory provisions and administrative rules and regulations related to timber harvesting have been enacted during the past five years, quadrupling the component costs of meeting environmental and resource conservation standards. These standards must be met in order to secure approvals to harvest and of timber harvest plans. At the same time, governmental restraints in removing productive forest areas from harvesting have greatly reduced the total cut, forcing harvesters to spread the prior-to-harvest costs over much smaller yields.

While we all recognize that such changes have seriously impacted the timber industry, greatly increasing the costs of securing approvals to harvest and of timber harvest plans, there is no legal authority for considering/deducting before-the-harvest costs in calculating immediate harvest values. To the contrary, as previously noted, Section 38204(a) and Rule 1023(b) are authority for preventing it. Thus, only if it could be established that a component cost(s) associated with gaining approval to harvest constitutes after-the-harvest, rather than before-the-harvest cost(s), could such component cost(s) possibly be considered/deducted when establishing immediate harvest values.

However, for all practical purposes, given the present statutory scheme, timberowners interested in the exclusion/deductibility of such costs from the determination of immediate harvest values by the Board staff under Section 38204(a) and Rule 1023(b) should be advised that, in staff's view, legislation enacting a specific provision/exception for such purpose is needed.

For the foregoing reasons, we conclude that unless proven otherwise, timber harvest plan cost(s) are cost(s) incurred before the harvest and should not be considered/deducted when establishing immediate harvest values. Please feel free to contact us if you have any further questions regarding this matter.

KEC
precednt/timbtx/93008

cc: Mr. Richard Ochsner
Mr. Ken McManigal

Memorandum

Mr. Ken McManigal

Date : June 7, 1993

From : Bill Jackson

Subject: Interpretation of R&T Section 38204(a)
and Property Tax Rule 1023(b)

Timber industry representatives have raised the question as to whether consideration should be given to timber harvest plan costs in calculating immediate harvest value. At the May 27 TAC meeting, staff agreed to first see if there were any legal barriers preventing such an adjustment and, if not, next meet with industry to hear its contentions.

Rule 1023(b) states in part:

"The harvest value schedules adopted by the Board provide estimates of harvest values by considering gross proceeds from sales on the stump of similar timber of like quality and and character at similar locations, or gross proceeds from sales of logs, or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest,..." (emphasis added). R&T Code Section 38204(a) contains similar language.

Harvest plans must be approved by the appropriate regulatory agency prior to timber being harvested. Staff has always taken the position that costs associated with gaining approval to cut timber are part of the proceeds attributable to value on the stump immediately prior to harvest. If we were to deduct these costs from stumpage sales or log sales it is our opinion we would no longer be estimating immediate harvest value. Furthermore, the statute speaks to "gross proceeds" not "net proceeds" attributable to value on the stump immediately prior to harvest (see Paul Crebbin's attached memo on this subject).

Industry's contention is that the costs associated with harvest plans have risen dramatically in recent times, and that this burden should be taken into consideration as "other relevant factors" when estimating stumpage value.

Mr. Ken McManigal

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June 7, 1993

Is the law clear that the costs of timber harvest plans should not be deducted from sales on the stump or sales of logs when estimating immediate harvest value of timber?

Please let me know if you have need to meet and discuss this issue.

WBJ:pb
Enclosure

cc: Mr. John W. Hagerty

Bill

Memorandum

Forest Appraisers & Auditors

Date : October 31, 1990

From : Paul E. Crebbin

Subject: Deductible Costs From Log Prices

A discussion arose during our recent value setting period regarding what costs should be deducted from log prices to arrive at an estimated stumpage value. In writing this memo, I attempted to clear some of the cobwebs from my thinking and hope it clarifies some of the issues raised at our meeting.

Immediate harvest value is defined, in part, in the Yield Tax Law, Section 38109 and Board Rule 1023 as:

...the amount that each species or subclassification of timber would sell for on the stump at a voluntary sale made in the ordinary course of business for purposes of immediate harvest."

This is further refined in Section 38204 where it is stated, in part, that the harvest values estimated by the Board:

"...shall be determined...from the best evidence available, including (1) gross proceeds from sales on the stump of similar timber of like quality and character at similar locations or, (2) gross proceeds from sales of logs, or of finished products adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest...". (Underlining added.)

In comparing stumpage prices, or estimated stumpage values, with log prices (less costs) it can become confusing as to what costs should be deducted from log prices and what costs you would expect to be included in stumpage value. Another way of looking at stumpage value, from a log price approach, is what cost would be included in the stumpage value, such that it is represented in the value on the stump immediately prior to harvest. It seems reasonable to assume that costs, that would be included in stumpage value, are all those that must be incurred immediately prior to harvesting, and those that would be incurred from that point onward would be costs deducted from the log price to arrive at an estimate of harvest

October 31, 1990

value.

This implies that the stumpage value we are estimating includes all necessary costs that must be incurred immediately prior to harvest, such that harvesting can take place. Costs that are incurred before harvest are Timber Harvest Plan preparation, marking timber to be cut, access and those other typical costs necessary before saw can be placed in the tree. Typical costs incurred after this point are those that would be deducted from log sale prices obtained such as contract logging costs, which includes the contractor's estimated profit, and hauling costs.

One of the possible future costs that we may have to consider after the November election, is the RFP costs, if one is required to be present during the harvesting on each private harvest operation.

If you have any comments or thoughts on this subject, let me know.

A handwritten signature in cursive script, appearing to read "Paul".

PEC:pb