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Bulletin Number 2015-01
Personal Property Tax

TO: County Assessors

FROM: Stephanie Maxwell, General Counsel

DATE: July 16, 2015

RE: PERSONAL PROPERTY TAX ON LOGGING EQUIPMENT

This bulletin addresses best practices for consistency in the personal property taxation of equipment used by a logger to harvest timber from property not owned by the logger. In short, equipment used by loggers to harvest timber from property not owned by the logger is not exempt from personal property taxation and must be taxed consistently and equally on a statewide basis.

Tennessee Code Annotated §67-5-901 provides that, for purposes of taxation, all tangible personal property shall be classified according to its use. The statute provides for assessment levels of tangible personal property based on the following classifications, as set forth in Article II, Section 28 of the Tennessee Constitution: (1) public utility property; (2) industrial and commercial property; or (3) all other tangible personal property. Whether the tangible personal property is used for a commercial and industrial purpose is the determining factor in classifying tangible personal property for ad valorem personal property tax.

Industrial and commercial property is defined to include “all property of every kind used, directly or indirectly, or held for use, for any commercial, mining, industrial, manufacturing, trade, professional, club whether public or private, nonexempt lodge, business, or similar purpose, whether conducted for profit or not”. T.C.A. §67-5-501(4). “All other tangible personal property” is defined to include “all tangible personal property, including that used in agriculture, except public utility tangible personal property and commercial and industrial tangible personal property”. T.C.A. §67-5-501(1). Timber likely fits the definition of an agricultural product in this context, based on statutory definitions of “farm property”¹ and “products of the soil”².

¹ Tennessee Code Annotated §67-5-501(3) defines farm property as “all real property that is used, or held for use, in agriculture, including, but not limited to, growing crops, pastures, orchards, nurseries, plants, trees, timber, raising

Tennessee Code Annotated §67-5-903(a) requires “partnerships, corporations, other business associations not issuing stock and individuals operating for profit as a business or profession” to file a reporting schedule with the local assessor listing fully all tangible personal property “used or held for use in such business or profession”. Black’s Law Dictionary defines “business” as a “commercial enterprise carried on for profit; a particular occupation or employment habitually engaged in for livelihood or gain”.

A person or entity who holds himself or itself out as a timber harvester for livelihood or gain is a business, is subject to tangible personal property taxation, and should report all equipment used or held for use in the conduct of the business. The fact that the logging company has contracted to purchase the standing timber from the property owner does not change the analysis and does not convert the logger to a “producer” of timber, the agricultural product. Though timber is an agricultural product, merely harvesting it is not an agricultural use. It is the production of the timber which renders the equipment used in such production “other personal property” which must be reported and taxed. In contrast, a property owner who harvests timber growing on his own property is a producer, not an industrial and commercial entity, and is not subject to tangible personal property taxation.

Please check your tax rolls and be sure you are taxing all loggers and logging companies as set forth in this bulletin.

Please feel free to contact your Division of Property Assessments’ area office for further guidance on this issue.

livestock or poultry, or the production of raw dairy products, and acreage used for recreational purposes by clubs, including golf course playing hole improvements”.

² Tennessee Code Annotated §67-5-216(a) states that “[a]ll growing crops of whatever kind, including, but not limited to, timber, nursery stock, shrubs, flowers, and ornamental trees, the direct product of the soil of this state or any other state of the union, in the hands of the producer or the producer's immediate vendee, and articles manufactured from the produce of this state, or any other state of the union, in the hands of the manufacturer, shall be exempt from taxation”.