

Virginia Department of Taxation

Forest Products Tax Working Group

August 11, 2014



Overview

Overview of the Issue

- Rising concern that the point of imposition of the tax may not reflect current industry practices
- In general, the tax was intended to be paid by mills and other manufacturers when first enacted
- Shift in the industry to more “in-woods” processing of forest products
- Forest products may now be subject to the tax earlier in the chain of commerce than previously contemplated

Objectives of the Working Group

- Forward – focused
 - Issues of prior compliance will be handled on a case-by-case basis with a focus on ensuring that someone paid the tax
- Obtain a consensus of industry representatives on what legislative change, if any, is needed
- If legislative change is desired, make certain the proposal is one that the industry understands, agrees with, and can comply with

Current Tax Structure



Background

- **Imposed on Forest Products Severed from Land in Virginia**
 - **Exemption for forest products:**
 - Severed from land owned by the U.S. and VA government, and
 - For experimentation or teaching of forestry in state educational institutions
 - **Exemption for owners severing timber from their own premises used for:**
 - Construction or repair of own structures
 - Home consumption
 - Processing their own farm products
 - **No Exemption for forest products:**
 - Severed from land owned by the U.S. and VA government, but
 - Entering commercial channels of trade for competitive markets

Background Cont.

- **Levied on every Manufacturer and Shipper**
 - A “Manufacturer” is a person who:
 - operates a sawmill;
 - Other mill, chemical plant, or other operation for processing forest products;
 - purchases forest products for use in connection with mining, piles or poles;
 - severs posts, fuel wood, fish net poles and similar products
 - A “Shipper” is a person who sells or ships any forest product in an unmanufactured condition outside the Commonwealth
 - Tax is imposed only once on any forest product

Scenario #1 – Current Tax

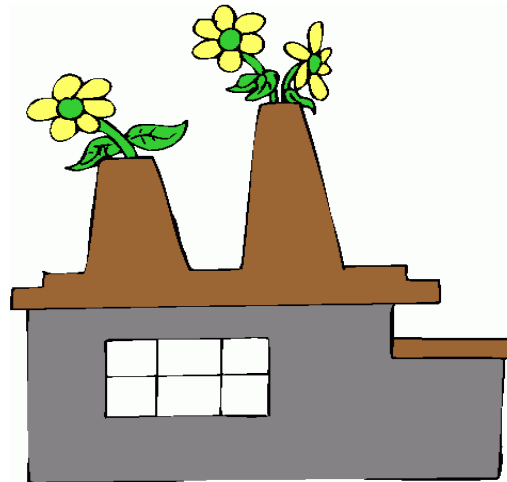


Severer Cuts Trees into Firewood for Sale

Current Tax Treatment

Severer = Manufacturer for posts, fuel wood, and fish net poles and is liable for the tax

Scenario #2 – Current Tax

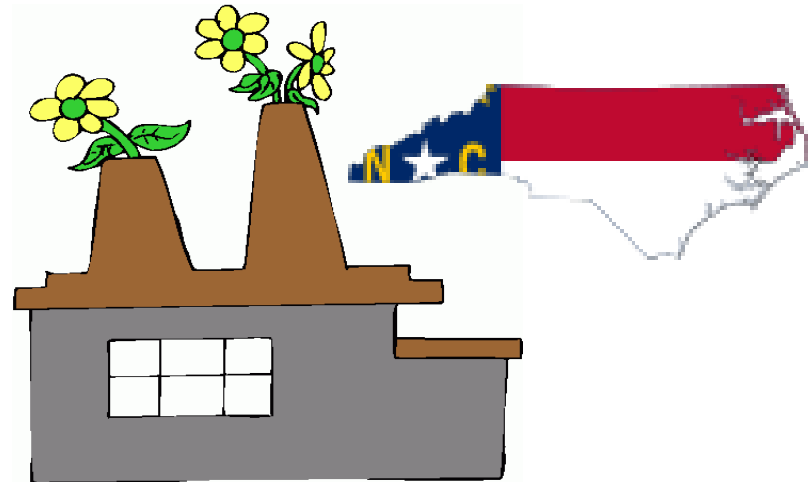


Severer Cuts Trees for Sale to a Paper Mill in Virginia

Current Tax Treatment

Paper Mill = Manufacturer and is Liable for the Forest Products Tax

Scenario #3 – Current Tax



Severer Cuts Trees for Sale to a Paper Mill in North Carolina

Current Tax Treatment

Severer = Shipper and is Liable for the Tax

Scenario #3 – Current Tax Cont.



Severer Cuts Trees for Sale to a Paper Mill in North Carolina

What if the Paper Mill Pays the Tax?

- Severer is still liable for the tax
- Paper Mill may receive a refund for overpayment of tax

Scenario #4 – Current Tax



Severer Cuts and Chips Trees with a Portable Chipper for Sale to a Paper Mill in Virginia

Current Tax Treatment

Severer = Manufacturer (Chipper) and is Liable for the Tax

Scenario #5 – Current Tax



Severer Cuts Trees for Sale as Fuel Wood to a Biomass Plant in Virginia

Current Tax Treatment

Severer = Manufacturer and is Liable for the Tax (Scenario #1)

Scenario #6 – Current Tax



Severer Cuts and Chips Trees with a Portable Chipper for Sale as Fuel Wood to a Biomass Plant in Virginia

Current Tax Treatment

Severer = Manufacturer (Chipper) and is Liable for the Tax
(Same as Scenario #4)

Scenario #7 – Current Tax



Severer Cuts Trees for Sale to a Biomass Plant in Virginia and the Biomass Plant Chips the Trees to Use as Fuel Wood

Current Tax Treatment

Biomass Plant = Manufacturer (Chipper) and is Liable for the Tax

Proposal



Objectives of the Proposal

- Represent current industry practices
- Avoid unintended consequences
- No loss in tax revenues
- Have the tax paid by commercial businesses
 - Taxpayers with fixed places of businesses
 - Not in-woods processors

Background

- **Imposed on Forest Products Severed from Land in Virginia**
 - Same Exemptions as current tax
 - Due when forest products are severed, shipped, used, consumed, processed, or sold

Background Cont.

- **Levied on First Manufacturer**
 - A “Manufacturer” is a person who for commercial purposes at a **fixed place of business**:
 - Processes forest products into various sizes and forms, including chips,
 - Processes forest products into other products, or
 - Uses or consumes forest products
 - Manufacturers without nexus with Virginia may register and pay the tax’ but are not required to be registered
 - If the manufacturer is registered for the tax, the manufacturer is liable for the tax on taxable transactions

Background Cont.

- Manufacturer is not liable for the tax if:
 - Paid by the severer, shipper, or seller of the forest products, and
 - Proper documentation is received
- If no manufacturer, or the manufacturer is not registered for the tax, then the tax is levied on the severer, shipper, or seller

Scenario #1 – Proposal

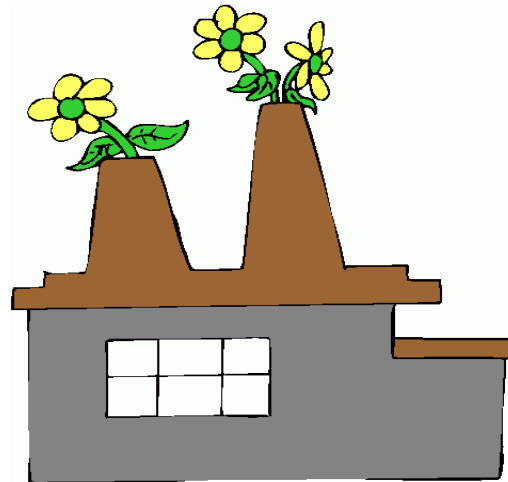


Severer Cuts Trees into Firewood for Sale

Proposed Treatment

As there is no manufacturer, the severer is Liable for the tax when the Forest Products are Sold

Scenario #2 – Proposal



Severer Cuts Trees for Sale to a Paper Mill in Virginia

Proposed Treatment

Paper Mill = First Manufacturer and is Liable for the tax when the Forest Products are Processed

Scenario #3 – Proposal



Severer Cuts Trees for Sale to a Paper Mill in North Carolina

Proposed Treatment

If Paper Mill is Registered for the Tax = First Manufacturer and is Liable for the Forest Products Tax when the Forest Products are Processed

If Paper Mill is Not Registered for the Tax = Severer is a Shipper and is Liable for the Forest Products Tax when the Forest Products are Shipped

Scenario #3 – Proposal Cont.



Severer Cuts Trees for Sale to a Paper Mill in North Carolina

What if the Paper Mill is Registered for the Tax and the Severer/Shipper Pays the Tax Anyway?

Paper Mill is Not Liable for the Tax if Received Proper Documentation that the Shipper Paid the Tax

Scenario #4 – Proposal



Severer Cuts and Chips Trees with a Portable Chipper for Sale to a Paper Mill in Virginia

Proposed Treatment

- Severer is Not a Manufacturer as No Fixed Place of Business
- Paper Mill = First Manufacturer and is Liable for tax when the Forest Products are Processed

Scenario #5 – Proposal



Severer Cuts Trees for Sale as Fuel Wood to a Biomass Plant in Virginia

Proposed Treatment

Biomass Plant = First Manufacturer and is Liable for the Forest Products Tax when the Forest Products are Used or Consumed

Scenario #6 – Proposal



Severer Cuts Trees and Chips Trees with a Portable Chipper for Sale as Fuel Wood to a Biomass Plant in Virginia

Proposed Treatment

- Severer is Not a Manufacturer as No Fixed Place of Business
- Biomass Plant= First Manufacturer and is Liable for the tax when the Forest Products are Used or Consumed

Scenario #7 – Proposal



Severer Cuts Trees for Sale to a Biomass Plant in Virginia and the Biomass Plant Chips the Trees to Use as Fuel Wood

Proposed Treatment

Biomass Plant = First Manufacturer and is Liable for the tax when the Forest Products are Processed

Alternatives?



Concerns?

Next Steps