

New IRS Regulation on Timber Sales
Form 1099-S Now Required for Lump-Sum Timber Sales

Dr. Linda Wang, National Timber Tax Specialist, USDA Forest Service

Form 1099-S (Proceeds from Real Estate Transactions) is now required for reporting *lump sum sales* or exchanges of standing timber, effective for sales after May 28, 2009¹. A copy of the form or its substitute must also be furnished to the timber seller.

This is not a tax form the timber owners file and attach to their returns; instead, timber owners use the timber sale information on 1099 to file their tax return.

Background. Prior to this new regulation, only pay-as-cut type of timber sales were subject to Form 1099 reporting². This new regulation ends the practice of not filing Form 1099 for lump-sum timber sales.

The IRS cited two reasons for such mandatory reporting³:

- First, the IRS “has found some taxpayers under-reporting income from lump-sum or outright sales of timber.”
- Second, the IRS said the disparate treatment of lump-sum and pay-as-cut timber transactions is not sound tax administration.

Who must issue 1099. A real estate “reporting person” must file and issue the form. The “reporting person” is:

- (1) the person (including any attorney or title company) responsible for closing the transaction,
- (2) the mortgage lender,
- (3) the transferor/seller's broker,
- (4) the transferee/buyer's broker, or
- (5) *the transferee/buyer*²

In standing timber sale transactions, *timber buyers (“the transferee/buyer”)* are likely to be responsible for filing this form when closing person, mortgage lender, and broker are absent. Timber buyers are typically the logging operators or mills.

Information on Form 1099-S. The following information is required:

- (1) *The seller’s* name, address, and *taxpayer identification number* (TIN);
- (2) A general description of the real estate transferred (including full address and/or legal description);
- (3) The date of closing;
- (4) *the gross proceeds*;

- (5) property or service received or is to be received by the seller as part of the consideration;
- (6) The filer's name, address, and TIN;

Filing deadlines.

- File *Copy A of this form with the IRS* by March 1, 2010⁴.
- Furnish *Copy B of this form to the seller* by February 16, 2010.
- If you file electronically, the due date is March 31, 2010.
- To file electronically, you must have software that generates a file according to the IRS specifications⁵.

¹ Treasury Decision 9450, May 29, 2009, in the Federal Register and Code Sec. 6045(e)(2) and Reg. §1.6045-4(e)

² Sec. 6050N

³ IRS proposed regulation REG-155669-04, November 29, 2007

⁴ See IRS 2009 Form 1099-S

⁵ See IRS Publication 1220, Specifications for Filing Forms 1098, 1099, 3921, 3922, 5498, and W-2G Electronically

⁶ See IRS 2009 Form 1099-S

Article Reprint, with permission from the original publisher the Forestry Source, the newspaper of the Society of American Foresters