

status. Actually, this began in 1944, not 1943. The legislation was passed in 1943; it did not become effective until 1944.

It should also be pointed out that although the lower long-term capital gain rates were eliminated by the 1986 Tax Reform Act, this was not just for timber as the authors state, but for all capital gains, regardless of source. Additionally, this did not become effective for some taxpayers until 1988.

In the third paragraph under the income tax discussion, mention of the Section 179 deduction needs clarification. This deduction is only available to NIPF owners who operate as a business, not to those who file as investors who are probably in the majority.

In the last paragraph under the income tax discussion, the double taxation of “C” corporations is mentioned as a tax disadvantage that contributed to divestiture of timberland by integrated firms. Another very important tax reason not mentioned is the loss of the corporate differential long-term capital gain rate (applicable to “C” corporation timber income) that occurred with enactment of the 1986 Tax Reform Act. The authors also make no mention of timber real estate investment trusts (REITs). A substantial acreage of the forestland formerly owned by forest product firms is now in the hands of REITs, which have a significant tax ad-

vantage over “C” corporations. REITs have no double taxation and taxes are paid at noncorporate rates, which includes the lower long-term capital gain rate.

In the estate and gift tax discussion some clarifications are needed as well. The current \$3.5 million federal estate tax exemption applies to taxable value, not gross value. With respect to the marital deduction, the deduction is a 100% deduction, both for estate and gift tax purposes. Also, the recipient spouse takes the deduction in estate tax cases; the donor spouse (not the donee spouse as stated by the authors) takes the deduction in gift tax cases. With respect to the gift tax annual exclusion, the total is not capped at \$13,000/\$26,000 as inferred by the authors—the cap is \$13,000/\$26,000 per donee. It should additionally be pointed out that the \$1 million one-time lifetime gift tax exemption does not stand alone. Any portion that is used by the donor will reduce the estate tax exemption by the same amount upon the donor’s death.

With respect to special use valuation, the term “maximum benefit” used by the authors needs to be explained. First, it is now \$1,000,000, not \$960,000. And second, it does not represent maximum tax savings, but rather maximum reduction of estate gross value. Because of the onerous and restrictive requirements (including the fact

that specially valued standing timber cannot be harvested for 10 years), very few forest properties can or do qualify.

At the beginning of the article, the authors state that their purpose is to “evaluate the major ways of taxing forestland owners in terms of the three principles of good taxation.” A major shortcoming of the article is that nowhere is this done in their discussions except perhaps obliquely in a few places. More in-depth evaluations of these principles in terms of forest taxation can be found in a number of places. These include, among others, Gregory’s *Forest Resource Economics* and *Forest Resource Management* by Duerr, Teeguarden, Christensen, and Guttenberg.

The US Forest Service’s current and past roles in the tax arena are well delineated and discussed by the authors. The limits of US Forest Service advocacy are also well set out. It should be noted, however, that the US Forest Service did, at infrequent times during the 1960s and 1970s, evaluate proposed tax policy and legislative changes, and provide information needs to tax policymakers. I know—I was involved in most of these efforts. However, in all probability, I suspect that the US Forest Service’s present forest taxation role will continue as is.

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RESPONSE

Forest Taxation—Who Will Speak for the Landowner?

Tamara Cushing

In Dr. Seuss’ story “The Lorax” he asks, “Who will speak for the trees?” We might ask a similar question, “Who will speak for the forest owners?” With so many parties fighting for tax legislation that benefits them, how can we make sure policymakers hear forest landowners?

A couple of years ago, I had the pleasure of meeting with property tax assessors to discuss the methods being used to determine assessed values of timberland throughout the state. The conversation occurred because a very vocal landowner in the state was upset with his assessment and had appealed to the state tax assessment board claiming an arbitrary assessment. In this particular state, assessors have suggested guidelines to follow when determining assessed value.

Exploration of the issue resulted in the discovery that there was no consistency in how forestland was assessed. Some assessors viewed it as “wasteland” while others felt that “dirt” was important and therefore should all be worth at least \$500 an acre. During this conversation I attempted to inform the assessors about the state law that stated that forestland was to be assessed based on its use value. After further explanation, one assessor asked, “So this is all about protecting green space?”

Before I left the meeting, we realized that to the assessors, it boiled down to the fact that one person making noise over an issue isn’t going to cut it. Because the assessors had only heard one person complain, the issue must not exist. How can we help them understand the importance of maintaining land in forestry and how taxes work against that? I forgot to mention, those assessors were elected officials. The almighty vote. The assessors felt that by giving forest landowners a break, someone else (read, “another voter,” or, should I say, “lots of other voters”) was going to pay more.

Yes, this is about protecting green space. How can landowners continue to own land in forestry? What can tax policy do to encourage land management and discourage conversion? We, as foresters, talk amongst ourselves. We have made our voice heard at a national level, but how can our voice be louder? We need to come across as a

unified voice. The US Forest Service, through its activities related to taxes, amplifies our unified voice.

The US Forest Service has been a strong supporter of research in taxation matters that affect forestland. A survey of the literature on taxation produced in the past 20 years would highlight this support. Many of the projects included US Forest Service personnel or were funded by the US Forest Service. This support will need to continue because tax laws and policies are constantly evolving. As our demographics continue to change, so does the impact of these tax policies on landowners. The only way for us to inform policymakers is to have credible research on impact. Past research highlights shortcomings in current laws as well as laws that are working as intended.

The US Forest Service has also been a major source of information on taxation. Landowners and foresters can find a multitude of publications and workshops that are at least partially funded (if not completely funded) by the US Forest Service. Not every state has an extension agent or even a university faculty member with an interest in taxation, so the US Forest Service provides a critical resource for many forest owners who need help with tax issues.

In August of each year, timber tax researchers and educators descend on Washington, DC, for a meeting hosted by the US Forest Service to network and collaborate on timber tax issues. The Internal Revenue Service (IRS) also attends this meeting, listening to concerns that are voiced by profes-

sionals from around the country. While the IRS doesn't give any interpretation at this meeting, it is a great opportunity for them to hear our interpretation, as well as problems that are encountered by foresters, appraisers, educators, and landowners.

Where the US Forest Service can be strongest in this arena is as an unbiased source of information regarding tax impacts. Through collaborations with university faculty, they should continue pursuing answers to questions regarding taxation on forestland. These studies provide information crucial to the policymaking process. The role of conducting research and informing policy seems to go hand-in-hand where taxes are concerned.

Advocating policy is an entirely different direction. In many cases, well-conducted tax research will highlight problems with the tax code and direct advocacy will not be necessary. Past surveys have indicated landowner problems with specific tax policies. It isn't always necessary to advocate when study results point out the issue. Having the US Forest Service included as an investigator (or funding source) for a study provides some validity to the study in the public's eye, as well as providing a more public venue for the results.

It will be critical for the US Forest Service to maintain its education role. With budgets tight everywhere, landowners are starting to ask more questions regarding tax treatment of forest transactions. Who isn't looking a little closer at their own income tax return and property tax bills? Landowners are becoming more educated and are search-

ing out information on common tax questions. I've been asking landowners for topics for future presentations and the common theme has been tax information!

I could probably spend all my work hours focused just on taxation. This is the case in many states. Unfortunately, it is not common to find someone who can devote all their working hours to forest taxation. The US Forest Service can help fill that gap. They need to continue to conduct taxation workshops for landowners. It is also important that the US Forest Service conduct trainings of forestry, accounting, and legal personnel. Training these professionals will benefit our forest owners.

The bottom line is we are all working on this together and need to continue to do so. US Forest Service support (whether financial or intellectual) is crucial. The history of the US Forest Service's involvement in the taxation issue has put the agency in the position of the place to go for information on taxation of forests. As an organization recognized throughout the country, that is as it should be. Educators and researchers will continue to seek the support of the US Forest Service. The end result is that studies can be conducted nationally and the results have credibility. The US Forest Service is the glue holding all our tax efforts together and helping our voice be heard.

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RESPONSE

Moving beyond Tradition

William L. Hoover

The US Forest Service (USFS) has played a significant role in tax policy and implementation since the publication of Fred R. Fairchild's seminal "Forest Taxation in the United States" (Fairchild 1935). The next major involvement was the publication of Ellis T. Williams' "The Small Timber Owner and His Federal Income Tax" (Williams 1953). This publication established a working relationship with the Internal Revenue Service (IRS) to improve compliance with the Internal Revenue Code (IRC) and increase use of the timber tax provisions authorized by the US Congress in furtherance of policy goals. The Fairchild report has never been equaled in compre-

hensiveness and impact. Williams' work has been continued with an ongoing series of handbook revisions reviewed by the IRS that provide updated compliance information for woodland owners and tax professionals. The National Timber Tax Website (NTTW 2009) modernized and expanded the provision of current compliance information, but is not a replacement for the handbook, because the IRS doesn't review NTTW postings. These historical roles should continue, but, as noted in Kimbell et al.'s discussion paper, an expanded policy role other than unbiased research is debatable (Kimbell et al. 2010).

As an internal document, the authors apparently didn't feel it necessary to clearly state upfront the policy goals to be advanced by involvement in tax policy and compliance. The introduction focuses on competitive after-tax returns on investments. This is, of course, critical to that portion of the timber estate owned and managed purely for financial return, but is weakly correlated with the portion of the estate held as a family lifestyle investment. The underlying