Good Morning PLC Members,

At a recent FRA forum, the Sales Tax Division of Maine Revenue Services provided a presentation on sales tax exemptions for logging operations. This was an identical presentation to the one that MRS provided to the PLC membership back in September via webinar.

At the forum, the Sales Tax Division made a couple of comments regarding sales tax exemptions which were counter to our current understanding. The comments pertained to the equipment utilized for chipping operations and round wood processing and the tax exemption for fuel used in that equipment.

During the presentation, the representative from Maine Revenue Services stated the following: the fuel used in all equipment for both chipping and processing operations, including that which is used for severance (harvesting) and yarding, is 95% tax exempt, as long as that equipment is used more than 50% of the time in processing and chipping production.

After following up with Maine Revenue Services to discuss these statements and ensure accuracy, we received the following response, which corrects their statements at the forum:

Mr. Doran,

Mr. Beaulieu and I have discussed your concerns. I apologize if the information I provided about manufacturing during the presentation was not clear. It was a brief overview near the end of the evening. I hope this helps to clarify.

From a tax law perspective, wood harvesters are primarily engaged in harvesting of forest products. In the sales tax law, commercial wood harvesting is defined as severance and yarding of trees for sale or for processing into logs, pulpwood, bolt wood, wood chips, stud wood, poles, pilings, biomass or fuel wood or other products commonly known as forest products.

There are two exemptions that relate to the wood harvesting activities. The first is for depreciable machinery and equipment and associated repair parts used directly and primarily (more than 50% of the time during the first two years after being placed in service by the purchaser) in the wood harvesting operations. This exemption does not cover supply or consumable items like lubricants or fuel. The second is for electricity used in either wood harvesting or support operations, like a machine shop used to repair the wood harvesting equipment.

Wood harvesters may also be engaged in manufacturing. The term used in the sales tax law is “production”. This activity is separate and distinct from the harvesting operation and would not begin until after the timber has been harvested and brought to the yard or other staging area.

Production occurs when raw materials are converted into a new form or composition and that new product is sold as tangible property. The example of production provided during the presentation was a chipping operation. The exemptions for production include: 1) depreciable machinery and equipment used directly and primarily in production, 2) items that
are consumed and destroyed in the production process, and 3) items that are an ingredient or component part of the finished product. In addition, those engaged in production qualify for a 95% sales tax exemption on fuel and electricity used at the production facility.

In a chipping operation, the chipper and the machine that loads the chipper are part of the manufacturing process provided they are used more than 50% of the time to produce a new product that is sold as tangible property. If the landowner wants the area cleaned and the chips are left behind or used by the landowner, the chipper is not engaged in production because the chips were not sold. If the chipper is used more than 50% of the time in production, it would qualify for sales tax exemption. If the piece of equipment feeding the chipper is used more than 50% of the time for that purpose, it also qualifies for the sales tax exemption. In addition, the fuel used in both pieces of equipment would qualify for the 95% sales tax exemption.


Feel free to contact me in the future if you have additional questions.

Sara Lewis, Deputy Director
Sales, Fuel and Special Tax Division
Maine Revenue Service
207.624.9608
Please visit our web page at [www.maine.gov/revenue](http://www.maine.gov/revenue)

I thought would share this information to ensure compliance with the current sales tax provisions for wood harvesting and chipping operations.

Please let me know if you have any questions.

Best,

Dana

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From: Dana Doran [mailto:executivedirector@maineloggers.com]
Sent: Thursday, January 22, 2015 11:01 AM
To: Beaulieu, Peter B.
Cc: Lewis, Sara J.
Subject: RE: Commercial Harvesting Sales Tax Questions

Peter,
Thank you for getting back to me.

At this point, I think there is some confusion and mixed messages from Ms. Lewis in her presentation, January 8, 2015, and the information that you have provided me by email. Please see my original email from earlier this month.

Perhaps myself and a few of our members misinterpreted what Ms. Lewis stated? If we did, that is clearly my fault.

However, what we thought we heard regarding yarding for chipping operations as well as processing logs for mill specifications, and the tax treatment for fuel thereof, is counter to what you have responded with in your email.
Just so this is clear, could you please discuss this with Ms. Lewis and give me a final interpretation based upon statute that clears this up? I certainly don’t want to send out information that is counter to statute and we want to make sure that all of our members are following the law.

Thank you in advance.

Best,

Dana

Dana Doran
Executive Director
Professional Logging Contractors of Maine
106 Sewall St.
P.O. Box 1036
Augusta, ME 04332
(207) 688-8195 (office)
(207) 441-3621 (mobile)
executivedirector@maineloggers.com
www.maineloggers.com

From: Beaulieu, Peter B. [mailto:Peter.B.Beaulieu@maine.gov]
Sent: Wednesday, January 21, 2015 4:09 PM
To: executivedirector@maineloggers.com
Cc: Lewis, Sara J.
Subject: RE: Commercial Harvesting Sales Tax Questions

Dana:
The entire yarding activity would not be “used to feed chipping operations”. Besides the chipper itself, only the fuel used in the equipment that actually loads the chipper would qualify.

I don’t have an answer to your second question. You’re really asking why wood harvesting was excluded from production in the first place. And to answer that I would need to know the legislature’s intent. The fact that it is an exclusion would confirm that without the exclusion, wood harvesting would be production. The definition of “production” was enacted in 1977 and the exclusion for wood harvesting was in the original language.

Peter

From: Dana Doran [mailto:executivedirector@maineloggers.com]
Sent: Tuesday, January 20, 2015 12:27 PM
To: Beaulieu, Peter B.
Cc: Lewis, Sara J.
Subject: RE: Commercial Harvesting Sales Tax Questions

Hi Peter,
Thank you for getting back to me.

In reviewing your response, fuel for yarding is exempt if the yarding is used to feed chipping operations, more than 50% of the time. However, it is not exempt if the equipment is used to feed chipping operations less than 50% of the time.
Is this correct?

Also, I understand that yarding and severance are explicitly excluded in statute currently. And maybe you cannot answer this because it is based upon interpretation rather than law. However, why wouldn’t severance and yarding to manufacturing specifications be considered part of the manufacturing process?

Feel free to call my cell phone if that would be easier to discuss this.

Best,

Dana

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Augusta, ME 04332
(207) 688-8195 (office)
(207) 441-3621 (mobile)
executivedirector@maineloggers.com
www.maineloggers.com

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From: Beaulieu, Peter B. [mailto:Peter.B.Beaulieu@maine.gov]
Sent: Tuesday, January 20, 2015 11:59 AM
To: executivedirector@maineloggers.com
Cc: Lewis, Sara J.
Subject: RE: Commercial Harvesting Sales Tax Questions

Dana: Sorry for my delay in responding.

1) Correct, however the exemption is only for fuel, not supplies.
2) No. Wood harvesting is specifically excluded from the definition of “production” (i.e., manufacturing); the main reason why wood harvesters needed the new exemption in Section 2013. The entire wood harvesting operation (severance and yarding) doesn’t qualify for any production exemptions. (“Yarding” means “the hauling of felled trees to the landing or temporary storage site at which they are loaded onto trucks for transport on a public or private way, and does not include loading the felled trees onto the trucks. Yarding includes slashing, delimming, bucking and staging, whether performed in the yard or at the site where the trees were harvested.” See Rule 323.

Peter B. Beaulieu, Director
Sales, Fuel and Special Tax Division
Maine Revenue Services

Confidentiality Notice
The information contained in this message may be privileged and confidential and any unauthorized review, use, disclosure or distribution subject to legal penalties. If you have received this communication in error, please notify us immediately by replying to the message and deleting the original and all copies from your computer. Thank you, Maine Revenue Services.
Good Morning Peter,

I attended a presentation that Sara Lewis provided to the Forest Resources Association monthly forum in Bangor last evening. Ms. Lewis did a great job with her presentation.

Two questions were posed last night to Ms. Lewis by members of my organization which, if true, would have a tremendous impact to our industry. I would like to inform our membership of Ms. Lewis’ interpretation, but before I do, I if I thought I would ensure accuracy before presuming anything.

The two questions were as follows:

1) In the case of wood chipping operations, if the equipment used for the chipping process, whether it be the actual chipper or the machinery used to feed the chipper (crane, grapple skidder, feller buncher), is utilized more than 50% of the time for value added manufacturing (i.e.) chipping operations, is the fuel used for this equipment 95% tax exempt? Ms. Lewis said that as long as it can be determined that the equipment is used 50% or more of the time specifically for feeding the chipper, then the fuel, and I assume supplies for maintaining the equipment, will be 95% tax exempt.

2) Can the fuel used in equipment utilized for processing logs, where the logs are processed to meet manufacturer specifications, be 95% exempt from sales tax? Ms. Lewis said that processing is considered to be adding value to a raw product, in this case trees that were severed from the stump, therefore, the fuel, lubricants, electricity, etc. should be 95% tax exempt. If this is truly the case, where would the line be drawn for fuel, lubricants, etc. for processing? Would it be limited to a delimber/processor, or would this lend itself all the way back to the equipment used for felling since the felling is integral to adding value for manufacturing?

Please get back to me at your convenience so I can be sure that my interpretation to members is correct.

Best,

Dana

Dana Doran
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