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Oregon Private Timberland Owners Not Paying Fair Share of Federal Income Taxes

by Andy Kerr¹

Abstract

The owners of 7.9 million acres of private timberlands in Oregon pay far less than their fair share of federal income taxes. Private timberland owners receive extremely favorable treatment under federal income tax rules. Preferential income tax treatment for private timberland owners means most have more money after “paying” their federal income taxes—that is, the effective tax rate is negative. As federal logging levels have declined, log values have increased. Part of this windfall should be captured to pay the federal government’s fair share of replacing declining federal timber payments to counties.

Introduction

According to the Oregon Forest Resources Institute, there are 10,601,000 acres of private timberland in Oregon. Of these acres, 5,933,000 are part of holdings of 5,000 or more acres, while 4,668,000 are in holdings of less than 5,000 acres.²

The Oregon Department of Revenue reports 7,860,974 acres of private timberlands in the counties’ property tax base.³ Each level of government taxes timber or timberland differently. Counties collect *property* taxes,⁴ the State of Oregon collects *timber* taxes,⁵ and the federal (and state) government collects *income* taxes. This paper focuses on federal income taxes. The

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² Oregon Forest Resources Institute, *Oregon Forest Facts and Figures, 2011*, http://oregonforests.org/sites/default/files/publications/pdf/OR_Facts_Figures_2011_web.pdf.

³ Oregon Department of Revenue, 2011. *Oregon Property Tax Statistics: Fiscal Year 2010–11*,. 150-303-405 (Rev. 8-11), <http://www.oregon.gov/dor/STATS/docs/303-405-11/303-405-11.pdf?ga=t>

⁴ Kerr, Andy. 2012. Oregon Private Timberland Owners Not Paying Fair Share of County Property Taxes. Larch Occasional Paper #16. The Larch Company, Ashland, OR. Available at www.andykerr.net/downloads.

⁵ Kerr, Andy. 2012. Oregon Private Timberland Owners Not Paying Fair Share of State Timber Taxes. Larch Occasional Paper #16. The Larch Company, Ashland, OR. Available at www.andykerr.net/downloads

amounts “collected” are very low in comparison to amounts collected from most other federal taxpayers.

Federal Income Taxes

The treatment of income and expenses from private timberlands in the federal tax code is very favorable to private timberland owners. In a perverse twist, taxable events mean more—not less—profit. University of Texas law professor Calvin H. Johnson, an expert in timber taxes, notes:

Under current law the combination of tax preferences for timber means that timber investments are subject to less than zero tax.⁶

In other words, investing in timber is either profitable or more profitable *after* the federal taxes are “paid.”

Timber is a high-yield, long-term investment that is subject to a negative tax rate under current law. The primary benefits of investment in timber are deferral of tax until the timber is harvested, capital gains rates (now 15 percent) for profit from cutting or selling timber, seven-year amortization for reforestation costs, and immediate deduction of annual silviculture costs.⁷

In addition, the effective tax rate of the timber industry (owning trees and also converting them into products) is generally lower than for other major industries. Of the 100 industries surveyed by New York University Professor Aswath Damodaran, Paper/Forest Products had the fourteenth lowest effective tax rate at 7.70 percent (see Appendix C).⁸ The second lowest—R.E.I.T at 0.72 percent—is also highlighted as many timberland firms have restructured themselves as real estate investment trusts for this obvious reason.⁹ The professor estimated the average effective tax rate for the 7,036 firms surveyed to be 14.07 percent. For comparison, the nominal corporate federal income tax rate is 35 percent.¹⁰

Conclusions and Recommendations

Oregon private timberland owners do not pay their fair and just share of federal income taxes and have seen both their property values and timber values rise significantly as logging on federal public forestlands has decreased, while counties have seen their share of federal timber receipts plummet.

⁶ Calvin H. Johnson, “Timber!” in *Tax Notes* (November 16, 2009), 801–804.

⁷ Ibid.

⁸ Aswath Damodaran, Musings on Markets, January 28, 2011, <http://aswathdamodaran.blogspot.com/2011/01/tax-policy.html>.

⁹ Industrial private timberlands are also increasingly organized for tax purposes as limited liability companies (LLCs), which have similar tax advantages and are managed by timber investment management organizations (TIMOs). See http://www.timbertax.org/publications/fs/TIMO_REIT_Paper_PDC.pdf.

¹⁰ Catherine Rampell, “Winners and Losers Under the US Corporate Tax Code,” *New York Times*, January 27, 2011, <http://economix.blogs.nytimes.com/2011/01/27/winners-and-losers-under-the-u-s-corporate-tax-code>.

Federal tax policies for timber investments should be reformed so that taxes are actually paid on profits. A portion of this current windfall to private timberland owners should be captured by the federal government to pay its fair share of making up for declines in federal timber receipts to counties.¹¹

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Additional Resources

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- State of Oregon Legislative Revenue Office. *2012 Oregon Public Finance: Basic Facts* (Research Report #1-2, January 2012). http://www.leg.state.or.us/comm/lro/2012_publications_reports/Basic_Facts_2012.pdf.

¹¹ Randi Spivak, “Shared Responsibility: The Conservation Community’s Recommendations to Equitably Resolve the O&C County Funding Controversy,” Coast Range Association, Cascadia Wildlands, Geos Institute, Klamath-Siskiyou Wildlands Center, Oregon Wild Sierra Club, and The Larch Company, 2011. Available at www.andykerr.net/downloads.

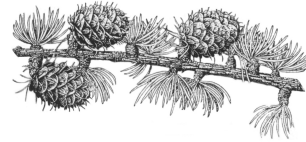
Appendix A

Effective Tax Rates By US Industries¹²

Industry Name	Effective Tax Rate	Industry Name	Effective Tax Rate
Advertising	13.01%	Aerospace/Defense	20.05%
Air Transport	17.63%	Apparel	16.54%
Auto & Truck	13.25%	Auto Parts	12.09%
Bank	17.50%	Bank (Canadian)	14.94%
Bank (Midwest)	20.65%	Beverage	12.12%
Biotechnology	4.46%	Building Materials	14.56%
Cable TV	21.86%	Canadian Energy	26.99%
Chemical (Basic)	21.59%	Chemical (Diversified)	20.84%
Chemical (Specialty)	12.86%	Coal	13.15%
Computer Software/Svcs	10.12%	Computers/Peripherals	8.65%
Diversified Co.	18.93%	Drug	5.62%
E-Commerce	13.50%	Educational Services	24.06%
Electric Util. (Central)	32.27%	Electric Utility (East)	33.77%
Electric Utility (West)	32.45%	Electrical Equipment	14.07%
Electronics	10.63%	Entertainment	11.78%
Entertainment Tech	6.28%	Environmental	14.27%
Financial Svcs. (Div.)	16.53%	Food Processing	17.29%
Foreign Electronics	10.71%	Funeral Services	24.34%
Furn/Home Furnishings	17.48%	Healthcare Information	17.80%
Heavy Construction	33.76%	Homebuilding	1.42%
Hotel/Gaming	12.93%	Household Products	24.87%
Human Resources	23.63%	Industrial Services	17.89%
Information Services	19.37%	Insurance (Life)	22.47%
Insurance (Prop/Cas.)	15.68%	Internet	5.94%
Investment Co.	0.00%	Investment Co. (Foreign)	2.10%
Machinery	20.41%	Manuf. Housing/RV	14.80%
Maritime	9.70%	Medical Services	18.84%
Medical Supplies	11.24%	Metal Fabricating	18.10%
Metals & Mining (Div.)	7.41%	Natural Gas (Div.)	25.01%
Natural Gas Utility	24.87%	Newspaper	27.26%
Office Equip/Supplies	22.62%	Oil/Gas Distribution	7.15%
Oilfield Services/Equip.	22.05%	Packaging & Container	18.18%
Paper/Forest Products	7.70%	Petroleum (Integrated)	33.00%
Petroleum (Producing)	11.27%	Pharmacy Services	24.36%
Power	7.00%	Precious Metals	8.41%
Precision Instrument	10.50%	Property Management	9.03%
Public/Private Equity	0.80%	Publishing	15.54%
R.E.I.T.	0.72%	Railroad	27.39%
Recreation	16.86%	Reinsurance	4.17%
Restaurant	19.86%	Retail (Special Lines)	18.49%
Retail Automotive	32.68%	Retail Building Supply	27.05%
Retail Store	18.42%	Retail/Wholesale Food	30.39%
Securities Brokerage	20.49%	Semiconductor	10.85%
Semiconductor Equip	16.66%	Shoe	22.11%
Steel (General)	22.29%	Steel (Integrated)	22.94%
Telecom. Equipment	13.79%	Telecom. Services	12.80%
Thrift	11.90%	Tobacco	26.03%
Toiletries/Cosmetics	26.27%	Trucking	30.87%
Utility (Foreign)	12.11%	Water Utility	31.16%
Wireless Networking	9.92%	Total Market	14.07%

¹² <http://www.stern.nyu.edu/~adamodar/pc/archives/dbtfund09.xls>.

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