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 DOCNUM 2012-0461021E5
 REFDATE 121102
 SUBJECT Timber Resource Property or Timber Limit
 SECTION 13(21); 1100(1)(e)

Please note that the following document, although believed to be correct at the time of issue, may not represent the current position of the CRA. Prenez note que ce document, bien qu'exact au moment émis, peut ne pas représenter la position actuelle de l'ARC.

PRINCIPAL ISSUES: Is the licence granted to the taxpayer a timber resource property or a timber limit?
 POSITION: Appears to be a timber resource property.
 REASONS: Appears that the licence can be renewed.

XXXXXXXXXXXX

2012-046102
 L. Zannese
 (613) 941-0782

November 2, 2012

Dear XXXXXXXXXXXX:

Re: Woodlot Licence

We are writing in response to your letter dated August 27, 2012 in which you enclosed a copy of a woodlot licence entered into between yourself, XXXXXXXXXXXX and the Province of British Columbia. You have requested our views as to whether this licence is a timber resource property or a timber limit.

OUR COMMENTS

Written confirmation of the income tax implications of particular transactions is given by this Directorate only where the transactions are proposed and are the subject of an advance income tax ruling request, as described in Information Circular 70-6R5. The review of fact situations involving specific taxpayers and transactions or events that have already taken place is the responsibility of the local tax services office where the taxpayer resides. Although we cannot provide you with a definitive answer as to how this licence will be classified for federal income tax purposes, we are willing to provide you with some general comments that we hope will be helpful.

Timber Resource Property and Timber Limits

A timber resource property is defined in subsection 13(21) of the Income Tax Act (the "Act"). It can generally be described as a right or licence to cut or remove timber from a limit or area in Canada (an "original right") if that original right was acquired by the taxpayer after May 6, 1974 and, at the time of the acquisition of the original right, the taxpayer may reasonably be regarded as having acquired, directly or indirectly the right to:

- * extend or renew the original right, or
- * acquire another such right or licence in substitution,

or the taxpayer may reasonably expect, at the time of acquisition of the original right, to be able to extend or renew that right or to acquire another right or licence in substitution in the ordinary course of events. Any right or licence acquired after May 6, 1974 as an extension, renewal or substitution, or as one of a series of extensions, renewals or substitutions, for the original right, is also a timber resource property even if the original right or licence was acquired before May 7, 1974.

A timber limit is not specifically referred to in the Act. The term is used in paragraph 1100(1)(e) of the Income Tax Regulations where reference is made to "a property, other than a timber resource property, that is a timber limit or a right to cut timber from a limit." Thus, a timber limit is frequently identified as a right to cut timber that does not qualify as a timber resource property. That is most often the case where the right was acquired before May 7, 1974 and it has not been renewed or replaced since that date. As well, timber limits are created where the right to cut timber cannot reasonably be regarded as being a right that is renewable or replaceable. For example, if a taxpayer acquires ownership of land on which there is standing timber (for example, freehold timberlands), the property is a timber limit since the taxpayer's right to cut would be perpetual, rather than renewable.

Woodlot Licence and the Forest Act of British Columbia

According to the documentation that you provided us, a woodlot licence has been granted to you and XXXXXXXXXX with respect to Crown land pursuant to the provisions of the Forest Act of British Columbia. The licence has a term of XXXXXXXXXX years.

It is our understanding that your licence is renewable in the sense that the Forest Act requires that another such licence be offered to you as a replacement during the term of your current licence. Generally, it is our view, that such a licence would constitute a timber resource property. However, whether any particular licence or contract is a timber resource property or a timber limit can only be determined by the Compliance Programs Branch once all the facts and documents have been reviewed.

Yours truly,

Fiona Harrison, C.A.
Manager
Resources Section
Reorganizations Division
Income Tax Rulings Directorate
Legislative Policy and Regulatory Affairs Branch