

Tax Implication of the Southeastern Disaster Tax Relief Act of 2011

Timber Tax Provisions

Companion bills, S. 1205 and H.R. 2321, *Southeastern Disaster Tax Relief Act of 2011*, were introduced in Congress in June 2011.

The bills contain two timber tax provisions (using the same tax relief for Hurricane Katrina, Rita and Wilma of 2005):

➤ **Reforestation**

For small timber producers, reforestation tax deduction in the qualified Southeastern disaster area is proposed to be increased to \$20,000 (instead of the general \$10,000 under the current law) per property per year.

- ✓ *Southeastern area*: area in Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, Oklahoma, and Tennessee that's declared a major disaster by the President due to severe storms, tornados, or flooding
- ✓ *Small timber producers* means owning 500 acres or less of timber land

➤ **Net operating loss** (deductions exceeds income)

Net operating loss from timber in the Southeastern disaster area would be eligible for a 5-year carryback (instead of the normal 2-year carryback) (treated as farming loss that is allowed a 5-year carryback)

- ✓ A loss carryback generally means quicker tax refund when taxpayer paid taxes in the previous tax years

Taxpayers with more than 500 acres of timber, publicly traded corporations and REITs would not qualify for both provisions.

Effective Date: the provisions terminate on January 1, 2014.

Status: The two bills were referred to the committees in June 2011.

The bills contain a typo (on Line 10, Page 10): "paragraph (5)(A)(ii)(I)" should be "paragraph (5)(A)(ii)(II)", concerning the termination dates for the provisions. Paragraph (5)(A)(ii)(I) is already amended on Line 6-7 of Page 10 of the proposed bills.

Detailed Analysis

Reforestation

Background: the current law allows a tax deduction of up to \$10,000 of reforestation

expenditure per qualified timber property per year if married filing joint returns (\$5,000 for married filing separate returns); excess over \$10,000 may be deducted ("amortized") over 84-month (7-year) (Tax Code Section 194).

Proposed Law: the bills propose to increase the reforestation deduction to be \$20,000 per-year per qualified timber property. To qualify, 1) commercial (for profit) timber production is required and 2) owning 500 acres or less of timber land. Publicly traded corporations and REITs would not qualify.

Timber Net Operating Loss

Background: Under the current tax law, a farming net operating loss can be applied to the previous 5 years (as opposed to the general 2 years). However, this does not apply to timber (as the current law excludes timber from the definition of farming).

Proposed Law: timber net operating loss from the Southeastern disaster area would be treated as farming loss that is eligible for a 5-year carryback.

Effective Dates: the provisions will be effective from the applicable disaster dates (in the period after April 13 and before June 17, 2011) to January 1, 2014.

Disclaimer: This analysis only provides information for understanding proposed timber tax laws. It does not involve any policy making or advocacy.