



**American
Forest & Paper
Association**

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Extend TREE Act Provisions

The American Forest & Paper Association (AF&PA) is the national trade association of the forest products industry and advances public policies that promote a strong and sustainable U.S. forest products industry in the global marketplace. The industry is an integral part of our nation's green job base and generates approximately 6 percent of the total annual U.S. manufacturing GDP.

AF&PA's member companies make pulp, paper, packaging and wood products, and own forest land. Our companies make essential products from renewable and recyclable resources that sustain the environment. Nationwide, the U.S. forest products industry:

- *Employs approximately one million workers — on par with the nation's automotive and plastics industries.*
- *Provides green jobs that reduce greenhouse gases by sustaining the forests that absorb carbon dioxide; making the paper and wood products that store it indefinitely; generating and using more renewable energy than anyone else—28.5 million megawatt hours annually, enough to power 2.7 million homes; and recycling paper to avoid methane emissions and reduce waste.*
- *Is among the top ten manufacturing sector employers in 48 states.*
- *Is a significant taxpayer, paying approximately \$7 billion annually in federal, state, and local taxes.*



The 2008 Farm Bill, the Food, Conservation, and Energy Act of 2008 (P.L. 110-234), included a temporary enactment of timber tax provisions collectively known as the Timber Revitalization and Economic Enhancement (TREE) Act. The TREE Act was intended to correct the competitive imbalance imposed by the U.S. tax system relative to the more favorable rules for timber investments in most competing nations. By reducing the cost disadvantage faced by timber growers here in the United States, the TREE Act provisions help reverse the trend of decreasing U.S. competitiveness in the forest products industry.

However, the TREE Act provisions are temporary in nature and must be extended to prevent a return to decreasing U.S. competitiveness and to encourage growth in this vital American industry. The TREE Act rate reduction provision is currently operative for exactly one year from the date of enactment of May 22, 2008 (for one taxable year beginning after the date of enactment in the case of timber REIT provisions). As a result, for many timber growers, the provision will sunset less than six months into 2009, unlike many expiring provisions which will expire at the end of 2009. To enhance American timber competitiveness, the TREE Act provision that expires in May 2009 should be extended through 2009 and then all TREE Act provisions enacted last year should be made permanent.

The TREE Act provides two primary benefits to enhance American timber competitiveness. First, the bill provides an alternative maximum tax rate of 15 percent for gain on qualified timber harvest by a corporation. This applies to all C corporations including the many small companies that make up the timber industry. Qualified timber gain is gain from the sale or exchange of timber held for at least 15 years.

Second, the TREE Act provides for modernization of REIT rules for timber property. Many of the rules under which timber REITs are required to operate are impractical and do not reflect many common practices in the timber industry. These REIT modernization provisions:

- Clarify that gains from the sale of timber held for less than one year is qualifying income
- Provide that mineral royalty income is qualifying income
- Change the taxable REIT subsidiary asset test for timber REITs from 20 percent to 25 percent (later made permanent by the housing bill)
- Make changes to the safe harbors for timber property sales (some of which were later made permanent by the housing bill)

Some of the Farm Bill REIT provisions were made permanent by the subsequently-enacted Housing and Economic Recovery Act of 2008 (P.L. 110-289) including the 25 percent subsidiary asset test and the change to the holding period safe harbor. These housing bill changes were for all REITs and not just timber REITs. However, the TREE Act provisions for timber REITs clarifying that qualifying income includes both timber held for less than one year as well as mineral royalty income and certain safe harbors will sunset and should be extended as well.

Extending the TREE Act provisions will promote U.S. competitiveness and encourage growth in the forest products industry.