

VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

CHAPTER 170

An Act to amend and reenact §§ 58.1-1601, 58.1-1602, 58.1-1604, 58.1-1605, 58.1-1612, and 58.1-1617 of the Code of Virginia and to repeal §§ 58.1-1613, 58.1-1614, and 58.1-1622 of the Code of Virginia, relating to the forest products tax.

[H 1724]

Approved March 16, 2015

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-1601, 58.1-1602, 58.1-1604, 58.1-1605, 58.1-1612, and 58.1-1617 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-1601. Definitions.

As used in this chapter, unless the context clearly shows otherwise, ~~the term or phrase:~~

"Fixed place of business" means a mill, plant, yard, or other location at which occurs a regular and continuous course of dealing. The use of portable machinery or equipment alone at the place of severance of forest products does not constitute a fixed place of business.

"F.o.b. loading out point" means loaded on a railroad car, loaded on a barge or boat, or delivered to place of use by truck.

"Forest product" ~~includes all types of forest products;~~ means wood, derived from trees severed in Virginia for commercial purposes, of any type or form, including but is not limited to logs, timber, pulpwood, excelsior wood, chemical wood, woodchips, biomass chips, fuel chips, mulch, bolts, billets, crossties, switch ties, poles, piles, fuel wood, posts, all cooperage products, tanbark, mine ties, mine props, and all other types of forest products used in mines.

"Manufacturer" means the person who: (i) operates a sawmill for the sawing of logs into rough lumber in its various sizes and forms; (ii) operates a cooperage mill, veneer mill, excelsior mill, paper mill, chipmill, chemical plant or other operation for the processing of forest products into products other than lumber; (iii) purchases from the person who severs crossties, switch ties, mine ties, mine props, and other forest products used in connection with mining, piles or poles, except fish net poles; or (iv) severs posts, fuel wood, fish net poles and similar products any person that for commercial purposes at a fixed place of business (i) processes forest products into various sizes and forms, including chips; (ii) processes forest products into other products; (iii) uses or consumes forest products; or (iv) stores forest products for sale or shipment out of state.

"Shipper" means any person in this Commonwealth ~~who~~ that sells or ships outside the Commonwealth by railroad, truck, barge, boat, or ~~by~~ any other means of transportation any forest product in an unmanufactured condition, whether as owner, lessee, woodyard operator, agent, or contractor;

"Severer" means any person ~~who~~ in this Commonwealth that fells, cuts, or otherwise separates timber or any other such forest product from the soil.

§ 58.1-1602. Levy of tax for forest conservation.

A. To provide further for the conservation of the natural resources of the Commonwealth by the protection and development of forest resources and reforestation of forest lands, there is hereby levied, in addition to all other taxes imposed, a forest products tax *on all forest products*. The tax shall be paid by every person engaged in this Commonwealth in business as a manufacturer or shipper of forest products for sale, profit, or commercial use *once on any forest product. Unless the tax has previously been paid by a severer, the tax shall be paid by the first manufacturer using, consuming, processing, or storing the forest products for sale or shipment out-of-state. No manufacturer shall be liable for the tax if the manufacturer has received proper documentation from a severer that the tax has been paid as provided in subsection B. A severer that sells or delivers forest products to any person that is not a manufacturer registered for the forest products tax shall be liable for the tax. A signed agreement, bill of sale, or invoice between the severer and a manufacturer stating that the manufacturer is registered and liable for the tax on any forest products sold or delivered to the manufacturer shall relieve the severer of liability for the tax on such forest products.*

B. Each manufacturer purchasing or receiving forest products upon which the tax imposed by this chapter has been paid shall obtain written documentation of the payment, such as a signed agreement, bill of sale, or invoice, from the severer showing or including (i) the severer's name, address, and Virginia forest products tax registration number; (ii) the date of sale or delivery; (iii) a description of the products sold or delivered; and (iv) a statement that the Virginia forest products tax has been paid with regard to the forest products sold or delivered.

C. Any out-of-state manufacturer may register to pay the forest products tax and shall be liable for the tax until, upon his request or otherwise, his registration is terminated by the Department.

§ 58.1-1604. Tax rates.

The tax hereby imposed shall be assessed at the following rates:

1. On pine lumber in its various sizes and forms, including railroad switch ties, bridge timber, and dimension stock, the rate per 1000 board feet measure shall be \$1.15; or at the election of the taxpayer, 20 cents per ton of logs received.
2. On hardwood, cypress and all other species of lumber the rate per 1000 board feet measure shall be 22 1/2c; or at the election of the taxpayer, 4 cents per ton of logs received.
3. On timber sold as logs and not converted into lumber or other products in the Commonwealth, the rate per 1000 feet log scale, International 1/4" Kerf Rule, shall be \$1.15 on pine; and 22 1/2 cents on other species; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
4. On logs to be converted into veneer the rate per 1000 board feet log scale, International 1/4" Kerf Rule, shall be \$1.15 for pine and 22 1/2 cents for other species; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
5. On pulpwood, excelsior wood, chemical wood, bolts or billets, fuel wood, tanbark, and other products customarily sold by the cord, the rate per standard cord of 128 cubic feet shall be 47 1/2 cents for pine, 11 1/4 cents per cord on all other species; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
6. On chips ~~manufactured from roundwood and customarily sold by the pound, the rate per 100 pounds shall be 0.986 cents for pine, and 0.234 cents for other species~~ *and mulch, including products such as biomass chips and fuel chips, the rate shall be \$0.20 per ton for pine, \$0.04 per ton for other species, and \$0.10 per ton for loads consisting of both pine and other species.*
7. On railroad crossties the rate per piece shall be 3 8/10 cents on pine, and one cent on all other species; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
8. On posts, mine ties, mine props, round mine collars, and other types of timber used in connection with mining and ordinarily sold by the piece, the rate per 100 pieces shall be as follows: 38 cents for pine, and 9 cents for other species, where each piece is 4' or less in length; 61 3/4 cents for pine and 14 1/4 cents for other species, where each piece is more than 4' but not over 8' in length; and 76 cents for pine and 18 cents for other species, where each piece is more than 8' in length. If the taxpayer so elects, he may pay the taxes due on the above forest products at the rate of \$1.045 for pine and 24 3/4 cents for other species, per 1000 lineal feet; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
9. On piling and poles of all types the rate shall equal 2.31 percent of invoice value f.o.b. loading out point; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
10. On keg staves the rate per standard 400-inch bundle shall be 3 8/10 cents for pine and 1 1/2 cents for other species; the rate per 100 keg heads shall be 11 5/10 cents on pine and 4 1/2 cents for other species; and on tight cooperage, 4 1/2 cents per 100 staves and 9 cents per 100 heads; or at the election of the taxpayer, 20 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
11. On any other type of forest product not herein enumerated, severed or separated from the soil, the Commissioner shall determine a fair unit tax rate, based on the cubic foot wood volume relationship between the product and the cubic foot volume of 1000 feet board measure of pine when the product is pine, or on the unit rate of cedar or hardwood lumber when the product is a species other than pine.

§ 58.1-1605. Alternative for rates.

On or before November 1, in the last year of each biennium, the State Forester shall submit to the Governor a report of the total revenues collected from the forest products tax for the immediately preceding two years. If the General Assembly fails to appropriate for such next biennium from the general fund for the reforestation of timberland activity a sum which equals or exceeds such revenues, the tax hereby imposed shall, beginning on July 1 of such next biennium, be at the rates set forth below. Such rates shall remain in effect until an appropriation from the general fund for any biennium equals or exceeds the revenues actually collected from this tax for the immediately preceding biennium at the rates imposed by § 58.1-1604.

1. On pine lumber in its various sizes and forms, including railroad switch ties, bridge timber, and dimension stock the rate per 1000 board feet measure shall be 15c; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received.
2. On hardwood, cypress, and all other species of lumber the rate per 1000 board feet measure shall be 22 1/2c; or at the election of the taxpayer, 4 cents per ton of logs received.
3. On timber sold as logs and not converted into lumber or other products in this Commonwealth, the rate per 1000 log feet scale, International 1/4" Kerf Rule, shall be 15 cents on pine and 22 1/2 cents on other species; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.
4. On logs to be converted into veneer the rate per 1000 board feet log scale, International 1/4" Kerf

Rule, shall be 15 cents for pine, and 22 1/2 cents for other species; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

5. On pulpwood, excelsior wood, chemical wood, bolts or billets, fuel wood, tanbark, and other products customarily sold by the cord, the rate per standard cord of 128 cubic feet shall be 7 1/2 cents for pine and 11 1/4 cents per cord on all other species; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

6. On chips ~~manufactured from roundwood and customarily sold by the pound, the rate per 100 pounds shall be 0.156 cents for pine and 0.234 cents for other species and mulch, including products such as biomass chips and fuel chips, the rate shall be \$0.026 per ton for pine, \$0.04 per ton for other species, and \$0.03 per ton for loads consisting of both pine and other species.~~

7. On railroad crossties, the rate shall be one-half cent per piece on species of pine and one cent per piece on all other species; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

8. On posts, mine ties, mine props, round mine collars, and other types of timber used in connection with mining and ordinarily sold by the piece, the rate per 100 pieces shall be as follows: 6 cents for pine and 9 cents for other species, where each piece is 4' or less in length; 9 3/4 cents for pine and 14 1/4 cents for other species, where each piece is more than 4' in length but not over 8' in length; and 12 cents for pine and 18 cents for other species, where each piece is more than 8' in length. If the taxpayer so elects, he may pay the taxes due on the abovementioned forest products at the rate of 16 1/2 cents per 1000 lineal feet for pine and 24 3/4 cents for other species; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

9. On piling and poles of all types the rate shall equal two-sevenths of one percent of invoice value f.o.b. loading out point; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

10. On keg staves the rate per standard 400-inch bundle shall be 1 1/2/c; the rate per 100 keg heads shall be 4 1/2/c; and on tight cooperage, 4 1/2 cents per 100 staves and 9 cents per 100 heads; or at the election of the taxpayer, 2 6/10 cents per ton of pine logs received; and 4 cents per ton of logs of other species received.

11. On any other type of forest product not herein enumerated, severed or separated from the soil the Commissioner shall determine a fair unit tax rate, based on the cubic foot wood volume relationship between the product and the cubic foot volume of 1000 board feet measure of pine lumber when the product is pine or on the unit rate of hardwood lumber when the product is a species other than pine.

§ 58.1-1612. Returns to be filed by manufacturer and severers; time of payment of tax.

Every manufacturer *or severer liable for the forest products tax*, within ~~thirty~~ 30 days after the expiration of each quarter, expiring respectively on the last day of March, June, September, and December of each year, shall file with the Department a return on forms prescribed by the Department showing:

1. The kinds and gross quantity of forest products ~~manufactured~~ *severed, used, consumed, processed, or stored during the preceding quarter upon which the person is liable for the tax;*
2. The county or counties in which such products were severed from the soil;
3. The gross quantity of forest products severed from soil outside this Commonwealth; and
4. Other reasonable and necessary information pertaining thereto as the Department may require for the proper enforcement of the provisions of this chapter.

At the time of rendering such quarterly returns, the manufacturer *or severer liable for the tax* shall pay to the Department the forest products tax ~~imposed by this chapter, with respect to~~ on all forest products severed from the soil in this Commonwealth and embraced in such return.

§ 58.1-1617. Records to be kept.

It shall be the duty of every manufacturer ~~in this Commonwealth and of every shipper who shall ship forest products out of this Commonwealth in an unmanufactured condition,~~ and severer to keep and preserve records and other such books or accounts as may be necessary to determine the amount of tax for which it is liable, under the provisions of this chapter. Such records shall be organized so that the forest products handled are grouped into classifications ~~which~~ *that* conform to the various tax rates levied by this chapter. Such records and books shall be kept and preserved for a period of three years; and shall be open for examination at any time by the Department or its duly authorized agents.

2. That §§ 58.1-1613, 58.1-1614, and 58.1-1622 of the Code of Virginia are repealed.