March 21, 2015

Senator Orrin Hatch
Chairman, Finance Committee

Senator Ron Wyden
Finance Committee, Ranking Member

Dear Senator Hatch and Senator Wyden:

Title: Graduated Capital Gains Rate for Long-term Certified Forests

The purpose of this submission is to recommend a policy that links the long-term management of private forests to a graduated capital gains rate that is applied when timber is harvested.

Background

Under current tax law, net proceeds from selling timber can be taxed two ways:

1) A person sells standing trees and generally the income qualifies as a long-term capital gain; or
2) A person sells to a mill (most common in Oregon when a logger is hired to do the work), with the net proceeds considered both a capital gain and ordinary income.

Logging expenses, timber basis and depletion also come into play. Needless to say, figuring the tax burden is complicated. Currently, some people pay capital gains from 0% to 10%, most people pay a 15% rate, and a few pay the 20% maximum on capital gains.

Long-term Good Forest Management

Only 19% of America's 22 million family woodland owners have a management plan.

When private landowners manage their forests by following acceptable sustainability standards for longer periods of time, the public accrues several benefits.

For example, soils are stabilized, clean air and water is provided, wildlife habitat improves, wood biomass increases and carbon is sequestered, and forestland conversion to other land uses is less common.

Recommendation

1) De-couple the capital gain rate from the length of time the asset is held; then,

2) Assign capital gain rates to the length of time the land and its resources are managed under a certified management plan.

Private forestlands certified and managed for longer periods of time would qualify for graduated capital gains tax brackets. For example:

Years Certified	Capital Gain
0-1	20%
1-5	15%
5-10	10%
10-20	5%
20+	3%

Certification

Third-party audited forest certification is the voluntary regulatory vehicle that assures legislators, policy makers and the public that forestlands are well managed, for all values. The Forest Stewardship Council (FSC), Sustainable Forestry Initiative (SFI), and American Tree Farm System (ATFS) are three existing certification organizations that focus on good forest management standards.

Exemption for Forest Restoration

Exemptions need to be made for disasters and or for newly acquired lands that need restoration.

Natural disasters caused by disease, insects, wind, floods, or fire damage many forest ecosystems.

Poorly managed forests are often bought by new owners. These lands may have been harvested unsustainably, or invasive species or unsuited tree species may need to be removed.

Benefits to Our Aging Family Woodland Owner Population

Unnoticed to most, yet mirroring the aging Baby Boom generation, woodland owners are growing old (yours truly included). A graduated capital gain tax rate can reward this generation of owners *and* encourage a legacy of good management by future generations.

Roadblocks

Those who may be concerned about a graduated capital gains rate are:

Persons interested in short-term land and timber speculation;
Some Real Estate Investment Trusts (REITs);
People who enjoy denigrating certification programs;
Capacity of existing certification programs to meet new demand; or
Landowners without a certified management plan.

Sincerely,

Scott Hayes, Forester
Arbor House Tree Farm
Forest Grove, Oregon
[redacted]