

Form T (Timber)
(Revised Feb. 1954)

TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
NATURAL RESOURCES SECTION

FOREST INDUSTRIES SCHEDULE

Supplemental to the Income Tax Return Form for Taxpayers
Operating, Buying, Leasing, or Selling Timber Lands



For the taxable year ended _____
(State year(s) to which this schedule applies)

Taxpayer _____
(Name)

Address (business) _____

Business _____

This Schedule should be submitted in duplicate (except that only one set of maps is required) attached to, and filed with the Income Tax Return



INSTRUCTIONS TO TAXPAYER

This Schedule should be filled in and filed with the income-tax returns by each taxpayer who has cut standing timber owned, leased, or under contract by him, or who has acquired standing timber by purchase, lease, or otherwise, or who has relinquished standing timber by sale, lease, or otherwise, or who has sold cutover forest land during the taxable year or has elected in its income-tax returns to claim gain or loss from the cutting of its timber in accordance with section 117 (k) (1) as added to the Internal Revenue Code by section 127 of the Revenue Act of 1943. Only those parts of this Schedule should be filled in which are applicable to the property of the taxpayer.

This Schedule Form T (timber) should be filled out as accurately as the records of the taxpayer permit. Frequently it will be found that it does not give sufficient space for the taxpayer to enter the required information. However, this Schedule should be used as an outline in assembling the information required. In making answer on separate sheets it is unnecessary to repeat the question, but each answer should be numbered so as to identify it with the question asked.

A. MAPS

1. If the taxpayer elects in its income-tax return to claim gain or loss from the cutting of its timber under section 117 (k) (1) as covered under items 58 to 65, inclusive, of this Schedule, the furnishing of a map (or maps) is optional with the taxpayer, except that the Commissioner will require maps in individual cases if the information submitted is not clear. Maps furnished should show the name of the taxpayer and the year covered. A scale in which 1 inch represents a distance of one-fourth mile to 2 miles is desirable, and the following standard colors and symbols will be found convenient:

COLORED YELLOW

2. Merchantable timber acquired during the taxable year (whether or not the land under the timber was also acquired). This classification should include areas from which part, but not all, of the merchantable timber had been removed before it was acquired by the taxpayer.

UNCOLORED WITH BLACK HORIZONTAL HATCHING

3. Cut-over land and other land not bearing merchantable timber acquired during the taxable year.

BLACK VERTICAL HATCHING

4. Merchantable timber cut during the taxable year. (If the merchantable timber has been cut clean, the hatching lines should be unbroken; if only part of the merchantable timber has been cut, the hatching lines should be broken.)

RED DIAGONAL HATCHING

5. Merchantable timber or untimbered land sold, or otherwise disposed of, during the taxable year. (In case land, having timber standing upon it, has been sold and the timber has been reserved from sale, such land should not be included in this classification.)

B. PURCHASES

6. For the taxable year, report purchases (or other acquisition, as by trade) of timber or land or both. Each single purchase involving a total consideration of \$2,000 (two thousand dollars) or more should be reported separately, stating month and year of purchase. Purchases for considerations less than \$2,000 (two thousand dollars) may be reported in the aggregate for each timber or land account, omitting to answer item 9 for such aggregates of small purchases. In case of a purchase or lease of timber on a stumpage basis, to be paid for at intervals during the cutting period in accordance with the number of units cut, do not answer items 10 to 14, inclusive, but give instead a brief digest of the principal provisions of the purchase or lease agreement, including the number of years from effective date to date of expiration, minimum cut or payment, and the rate or rates of payment for the different kinds of timber and forest products involved. Small purchases on a stumpage basis completed within the taxable year may be reported in the aggregate. Insert as many additional sheets covering the following outline, items 7 to 16, as may be necessary:

7. Name of block and title of account

8. Location of property (by legal subdivisions, map, or best description possible)-----

9. Name and address of vendor with exact date of purchase -----

10. Amount paid in cash and interest-bearing notes, \$-----

11. Amount paid in other considerations, \$-----

12. Explanation as to nature of other considerations and how value given in 11 was determined -----

13. Total price paid for property, \$-----

14. Allocation of total price as on books:

(a) Land, ----- acres at \$----- \$-----

(b) Saw timber, ----- M feet at \$----- \$-----

(c) Other timber -----, \$----- \$-----

Other items included in purchase:

(d) ----- \$-----

(e) ----- \$-----

Note.--Total of values under 14 (a), (b), (c), (d), and (e) should equal 13.

15. Area acquired in acres of--

(a) Timberland-----

(b) Cut-over land -----

(c) Other surface land -----

(d) Timber rights apart from land-----

Note.--Total of 15 (a), (b), and (c) should equal area reported in 14 (a).

16. Estimated total quantity of timber present upon the date of purchase. (Give this estimate in detail, as made for purposes of the purchase, showing if possible the quantity of each species of saw timber and of other forest products, such as pulpwood, poles, ties, and bark, each measured in the customary units; stating the name of the log rule or other unit of measure used. State whether timber was virgin, or second growth, or whether it had been culled for certain species, or worked for some product such as turpentine.)

(a) On the area cut over in each purchase give the actual log scale cut as compared with the original estimate.

C. PROFIT OR LOSS FROM SALES OF LAND AND/OR TIMBER

17. For the taxable year, report all sales (or other disposition, as by trade) of timber or timberland. Each single sale involving a total consideration of \$2,000 (two thousand dollars) or more should be reported separately. Sales for considerations of less than \$2,000 (two thousand dollars) may be reported in the aggregate for each timber or land account, omitting to answer item 20 for such aggregates of small sales. In case of a sale or lease of timber on a stumpage basis, to be paid for at intervals during the cutting period in accordance with the number of units cut, answer items 21, 25, and 26 for the taxable year only; and instead of answering items 22, 23, and 24, give a brief digest of the principal provisions of the sale or lease agreement, including the number of years from effective

date to date of expiration, minimum cut or payment, and the rate or types of payment for the different kinds of timber and forest products involved. Small sales on a stumpage basis completed within the taxable year may be reported in the aggregate. Insert as many additional sheets covering the following outline, items 18 to 27, as may be necessary:

18. Name of block and title of account -----

19. Location of property (be legal subdivisions, map, or best description possible):

20. Name and address of purchaser with exact date of sale -----

21. Amount received in cash and interest-bearing notes -----

22. Amount received in other considerations -----

23. Explanation as to nature of other considerations and how value given in 22 was determined -----

24. Total amount received for property -----

25. Total cost of property (or value as of March 1, 1913, of any items owned on that date) :

Totals

(a) Land, ----- acres at ----- per acre ----- \$ -----

(b) Saw timber, ----- M feet at ----- per M ----- \$ -----

(c) Other timber ----- at ----- per M ----- \$ -----

Other items included in sale:

(d) ----- \$ -----

(e) Total cost or value ----- \$ -----

(f) Expenses of sale (cruising, marking, selling, etc.) ----- \$ -----

26. Profit or loss (item 24, or item 21 in case of lease, less items 25 (e) and 25 (f))----- \$ -----

27. Estimated total quantity of timber upon the date of sale. (Give this estimate in detail, as made for purposes of the sale, showing if possible the quantity of each species of saw timber and of other forest products, such as pulpwood, poles, ties, and bark, each measured in the customary units, stating the name of the log rule or other unit of measure used. State whether timber was virgin, or second growth, or whether it had been culled for certain species, or worked for some product such as turpentine.)

D. PROFIT OR LOSS FROM SALES OF CUT-OVER LAND

28. For the taxable year, report sales (or other disposition, as by trade) of cut-over lands. If more than one land account is carried, make a separate report for each account, using the following outline, items 29 to 35:

29. Area of land sold, exclusive of installment sales -----

30. Total consideration received (if not in cash and interest-bearing notes, attach explanations) -----

31. Total cost or value as of March 1, 1913

32. Explain how answer to 31 was determined

33. Profit or loss (item 30 less item 31)

34. Installment sales made this taxable year:

(a) Area	(b) Total consideration	(c) Cost or value Mar. 1, 1913	(d) Total profit	(e) Per cent profit (d) ÷ (b)	(f) Payment this year	(g) Profit this year (f) X (e)

35. Installment sales made in prior years:

(a) Year sold	(b) Total profits	(c) Profit reported in prior years	(d) Per cent profit	(e) Payment this year	(f) Profit this year (e) X (d)

E. LOSSES

36. If during the taxable year the taxpayer sustained any losses due to fire, insects, wind, or other causes, and if a deduction on account of such loss is claimed in the income-tax return, give for each timber account separately a statement in proof of the loss, including the data called for in items 37 to 40, inclusive:

37. Cause of loss

38. Location and area of ground on which loss took place

39. Total loss (as deducted in return), \$

40. Explanation in detail of how total loss (39) was determined

F. CAPITAL RETURNABLE THROUGH DEPLETION

41. The data indicated, 42 to 56, inclusive, should be given separately for each timber account covering the changes, if any, which have taken place during the taxable year. Insert as many additional pages of the same form as may be necessary.

Table with 3 columns: Description, (1) Quantity in M feet board measure, log scale or other unit, and (2) Cost or Other Basis (dollars). Rows 42-56 include items like 'Estimated quantity of timber', 'Increase or decrease of quantity of timber', 'Addition for growth', 'Acquired during year', 'Addition to capital during year', 'Total at end of year', 'Quantity of timber cut during year', 'Unit value returnable through depletion', 'Depletion sustained during year', 'Balance at end of year', 'Quantity of timber sold or otherwise disposed of during year', 'Quantity of timber lost by fire or other cause during year', and 'Total reduction in addition to 49 and 51'.

1 Give name of log rule. If M feet, log scale, is not the unit used, state what unit was used and explain the unit of measure.

2 The quantity in M feet, log scale, or other unit remaining at the end of the year should be adjusted for changes in standards of utilization, scattered and/or indefinitely ascertained losses, inaccuracy of the former estimate, or change in the log scale if the log rule now in use differs from the one used as the basis for depletion in prior years. If such a change is made, the basis upon which it is made should be clearly stated.

3 Such an addition should be analyzed to show the items included. Here are included additions resulting from capital expenditures for cruising and reforestation. Expenditures for taxes, administration, protection, interest actually paid, etc., are includible if such expenditures have not been treated as expense deductions in the return.

4 If an election is made to claim gain or loss from the cutting of timber under section 117 (k) (l), as covered under items 58 to 65, inclusive, all timber acquired during the current taxable year as well as timber acquired within 6 months prior to the beginning of the taxable year should be reported separately both as to the quantity cut and the amount of depletion, with the average unit rate applicable to both.

57. If all the timber reported cut (item 49 above) was not manufactured by taxpayer, state quantity of cut timber that was sold as logs, or other cut products, giving names of principal purchasers. _____

58. Did the taxpayer elect in its income-tax return to claim gain or loss from the cutting of its timber in accordance with section 117 (k) (1) as added to the Internal Revenue Code by section 127 of the Revenue Act of 1943? _____ If such election was made, the following information should be furnished: (Yes or no)

59. Gain or loss as reported in the return showing the adjusted basis for depletion and the fair market value claimed by species and unit rates (if claimed on a species basis).

60. The date of acquisition of timber which was cut in taxable year, if acquired subsequent to March 1, 1913, the quantity of timber remaining (adjusted for growth,

correction of estimates, changes in utilization, and change in the log rule used, if any, see question 44 and note thereto) and the adjusted basis at the beginning of the taxable year. State the acreage cutover and the amount of timber cut therefrom during the taxable year, and the log rule or other method used in determining the quantity of timber cut. Where depletion accounts have been kept by separate tracts or purchases, the information should be stated separately for each tract or timber purchase.

In all cases where an average depletion rate based on the average value and/or cost of the timber block has been used in prior years, the adjusted basis referred to in section 117 (k) (1) is the average basis shown in item 48, after adjustment in accordance with item 44 note 2, item 46, and item 47 note 3.

61. Section 117 (k) (1) requires the determination of the fair market value as of the beginning of the taxable year of the timber cut during that year which has been owned by the taxpayer, or upon which he has held a contract right to cut, for a period of more than 6 months prior to the beginning of the taxable year. Accordingly, it is necessary to state in detail the factors with respect to the timber cut which affect its value, such as character, quality and stand per acre, logging conditions and topography, and accessibility to mill or market, etc. (See also sections 29.23 (m) 24 and 25 of regulations 111.) It should be stated whether the timber cut was virgin or second growth or whether it had been culled for certain species, or worked for some product such as turpentine. Also give the quantity, kind and character of timber left per acre for later cutting, if any.

62. Evidence in the form of bona fide, arms-length, transactions in comparable timber as of the basic date should be furnished. Such evidence must be sufficiently detailed to permit of comparison with the timber on which a value is claimed.

If depletion by species or groups, or selective depletion, or depletion for pulpwood, poles, posts or other timber products, is claimed, and if transactions of other parties are furnished, the actual quantity log scale and/or other units of timber cut should be submitted.

63. For all purchases and sales of timber by the taxpayer, and for all other transactions reported, the relevant information called for by items 6 to 27, inclusive, should be furnished.

64. The following additional information should be furnished:

- (a) Description of the log transportation system used, such as truck roads, railroads, drivable streams, etc., and the main topographic features of the area cutover during the year, as they affect logging and transportation conditions. This may be shown on accompanying maps.
- (b) The location of the sawmill, log market, or other point of delivery to the user or buyer should be stated.
- (c) The total log scale and/or other units of timber cut, with a statement as to the number of logs per M, giving the length and diameter of the average log if an average value is claimed, and the same information for each species or group if species or group values are claimed.
- (d) Similar information, as called for under (a), (b) and (c) above, together with supporting maps, should be furnished with respect to the transactions which are relied on to substantiate the values claimed.
- (e) The percentage of rough lumber grades, by species, produced from the timber manufactured during the year or, if the timber is sold in the log, the percentage of log grades, by species, should be stated.

65. Section 117 (k) (1) is restricted to timber owned, or upon which a contract right to cut is held, for more than 6 months prior to the beginning of the taxable year; accordingly scale records of timber cut must be kept so as to show separately the timber cut (a)

which has not been owned for such period and (b) which has been owned for such period. The scale by species of the logs purchased during the year must also be stated and eliminated from the footage on which a value is claimed. In this connection describe the logs by size and quality and give the cost and point of delivery.

G. PHYSICAL PROPERTY

66. Show changes in the physical property accounts during the taxable year, giving first the total or summary, followed by division into different classes, as carried on the books of the taxpayer. The following table may be extended as far as necessary.

	Total	By Classes of Property			
67. Gross cost at beginning of year					
(a) Depreciation reserve -----					
(b) Net cost -----					
68. Additions during year -----					
69. Reductions during year -----					
70. Total before depreciation (67 plus 68 minus 69) -----					
71. Depreciation sustained -----					
72. Balance at end of year -----					

73. Is answer to item 68 the cost of additions in cash and notes? _____ If answer is "No," explain basis for additions reported _____
 (Yes or no)

74. Method of calculating depreciation -----

75. Profit or loss from sale of physical property:

 (a) Items sold -----

 (b) Selling price -----

 (c) Depreciated (net) cost -----

 (d) Profit or loss -----

H. OPERATION

Raw Material Handled		Finished Products Handled	
For each manufacturing operation, state the quantities of raw material handled during the year. State the unit of measure, as 1,000 feet, log scale, cords, linear feet, etc. State what scale was used, and give the name of the log rule used. Use a table similar to the following for each different sort of product.		For each manufacturing operation, state the quantity of lumber handled in 1,000 feet, board measure, lumber tally, during the year; using a table similar to the following. Prepare also a separate similar table for each product not measured in feet-board measure, lumber tally. Do not enter costs or values.	
Product-----	<i>Quantity</i>	Unit of measure-----	<i>Quantity</i>
Unit of measure-----			
Describe unit of measure-----			
Debits		Debits	
76. Inventory at beginning of year-----		87. Lumber inventory at beginning of year-----	
77. Material cut in woods-----		88. Inventory adjustments (increase)-----	
78. Material purchased-----		89. Purchases of lumber-----	
79. Inventory adjustments (see note 1)-----		90. TOTAL DEBITS-----	
80. TOTAL DEBITS-----		Credits	
Credits		91. Lumber inventory at end of year-----	
81. Sold to other operators-----		92. Inventory adjustments (decrease)-----	
82. Losses (see note 2)-----		93. Sales of lumber plus lumber used-----	
83. Inventory adjustments (see note 1)-----		94. Losses of lumber-----	
84. Inventory at end of year-----		95. TOTAL CREDITS-----	
85. TOTAL CREDITS-----		96. Lumber cut during year----- (95 minus 90)	
86. Quantity used during year----- (80 minus 85)		97. Logs sawed during year (same as 86)----- (State in terms of log scale)	
		98. Over run or under run: Quantity of lumber cut (lumber tally) over or under logs sawed, log scale-----	
		99. Over run or under run, percent-----	

NOTE 1.—Enter the correction for ascertained errors in the inventory for the previous year; if the quantity was understated, enter under “debits”; if over stated, enter under “credits.”

NOTE 2.—Include only those losses in quantity due to sinkage, breakage, boomage, etc., sustained in handling from stump to manufacturing plant, or to point of sale, as the case may be.

I. LAND OWNERSHIP

100. Show changes in land accounts as carried on the books. Insert as many additional sheets covering the following outline, items 101 to 112, as may be necessary:

101. Name of account-----	Acres	Total Cost and/or Value (See note 1)	Average Rate per Acre
102. Balance at beginning of year-----			
103. Purchases during year-----			
104. Sales during year-----			
105. Other changes-----			
106. Balance at end of year-----			

Note 1.—State amount of March 1, 1913, appreciation, if included.

107. Show changes during the year in the area of land owned, by classes, for the above account.

	Acres of—		
	(a) Timberland	(b) Cut-over land	(c) Other land
108. Balance at beginning of year -----	-----	-----	-----
109. Purchase during year -----	-----	-----	-----
110. Sales during year -----	-----	-----	-----
111. Cut over during year -----	-----	-----	X X X X
112. Balance at end of year -----	-----	-----	-----

NOTES: Insert area of timberland cut over during year in both 110 (a) and 110 (b).
 112 (a) equals 108 (a) plus 109 (a) minus 110 (a) minus 111 (a).
 112 (b) equals 108 (b) plus 109 (b) minus 110 (b) plus 111 (b).
 112 (c) equals 108 (c) plus 109 (c) minus 110 (c).

JURAT

I swear (or affirm) that the answers to the questions herein, including statements and figures entered in the accompanying schedules and in any additional statements and schedules attached hereto are, to my best knowledge and belief, true and correct in each and every particular.

(Signature of individual or agent)

Sworn to and subscribed before me this ----- day of -----, -----
(Month) (Year)

[SEAL] -----
(Signature)

(Title)

We, the undersigned, general officers of -----
(Name of corporation, partnership, or association)

being severally duly sworn, each for himself deposes and says that the answers to the questions herein, including statements and figures entered in the accompanying schedules and in any additional statements and schedules attached hereto, are, to his best knowledge and belief, true and correct in each and every particular.

(Signature)

(State title)

(Signature)

(State title)

Sworn to and subscribed before me this ----- day of -----, -----
(Month) (Year)

[SEAL] -----
(Signature)

(Title)

Section 117 (k), added to the Internal Revenue Code by section 127 of the Revenue Act of 1943, changes the method of determining taxable income in the case of operating timber owners, and also in the case of disposal of standing timber by the owner thereof under a lease agreement.

Treasury Decision 5394, which amends the regulations to conform to section 117 (k), is reproduced herewith.

(T. D. 5394)

**TITLE 26—INTERNAL REVENUE.—CHAPTER 1, SUBCHAPTER A, PARTS 29, 19, 9, AND 3.—
INCOME TAX**

Regulations 111, 103, 101, 94, 86, 77, 74, 69, 65, 62, 45, 33, and 33 (revised) amended to conform to sections 101 and 127 of the Revenue Act of 1943, relating to gain or loss upon the cutting of timber and upon certain disposal of timber.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington 25, D. C.

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 111 [Part 29, Title 26, Code of Federal Regulations, Cum. Sup.], 103 [Part 19, Title 26, Code of Federal Regulations, 1940 Sup.], 101 [Part 9, Title 26, Code of Federal Regulations, 1939 Sup.], 94 [Part 3, Title 26, Code of Federal Regulations], and Regulations 86, 77, 74, 69, 65, 62, 45, 33, and 33 (revised) to sections 101 and 127 of the Revenue Act of 1943 (Public Law 235, Seventy-eighth Congress), enacted February 25, 1944, such regulations are amended as follows:

REGULATIONS 111

PARAGRAPH 1. Section 29.113 (a) (14) —1 is amended by inserting at the end of the second paragraph the following new sentence:

However, see sections 117 (k) (1) and 117 (k) (2) with respect to the determination of loss upon timber which under the provisions of those sections is considered to be sold or exchanged.

PAR. 2. There is inserted immediately preceding section 29.117—1 the following:

**SEC. 127. GAIN OR LOSS UPON THE CUTTING OF TIMBER. (REVENUE ACT OF
OF 1943, TITLE I.)**

(a) IN GENERAL.—Section 117 (relating to capital gains and losses) is amended by inserting at the end thereof the following new subsection:

“(k) GAIN OR LOSS UPON THE CUTTING OF TIMBER.—

“(1) If the taxpayer so elects upon his return for a taxable year, the cutting of timber (for sale or for use in the taxpayer's trade or business) during such year by the taxpayer who owns, or has a contract right to cut, such timber (providing he has owned such timber or has held such contract right for a period of more than 6 months prior to the beginning of such year) shall be considered as a sale or exchange of such timber cut during such year. In case such election has been made, gain or loss to the taxpayer shall be recognized in an amount equal to the difference between the adjusted basis for depletion of such timber in the hands of the taxpayer and the fair market value of such timber. Such fair market value shall be the fair market value as of the first day of the taxable year in which such timber is cut, and shall thereafter be considered as the cost of such cut timber to the taxpayer for all purposes for which such cost is a necessary factor. If a taxpayer makes an election under this paragraph such election shall apply with respect to all timber which is owned by the taxpayer or which the taxpayer has a contract right to cut and shall be binding upon the taxpayer for the taxable year for which the election is made and for all subsequent years, unless the Commissioner, on showing of undue hardship, permits the taxpayer to revoke his election; such revocation, however, shall preclude any further elections under this paragraph except with the consent of the Commissioner.

“(2) In the case of the disposal of timber (held for more than 6 months prior to such disposal) by the owner thereof under any form or type of contract by virtue of which the owner retains an economic interest in such timber, the difference between the amount received for such timber and the adjusted depletion basis thereof shall be considered as though it were a gain or loss, as the case may be, upon the sale of such timber.”

(b) TECHNICAL AMENDMENT.—Section 117 (j) (1) (relating to gains and losses from involuntary conversion and from the sale or exchange of certain property used in the trade or business) is amended by inserting at the end thereof the following: “Such term also includes timber with respect to which subsection (k) (1) or (2) is applicable.”

(c) EFFECTIVE DATE.—A provision having the effect of section 117 (k) (2) of the Internal Revenue Code inserted by the amendment made by subsection (a) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after February 28, 1913. The amendment made by subsection (b) shall be effective as if it were made by section 151 of the Revenue Act of 1942.

SEC. 101. TAXABLE YEARS TO WHICH AMENDMENTS APPLICABLE. (REVENUE ACT OF 1943, TITLE I.)

Except as otherwise expressly provided, the amendments made by this title shall be applicable only with respect to taxable years beginning after December 31, 1943.

PAR. 3. Section 29.117–7 is amended as follows:

(A) By changing the first paragraph after the heading to read as follows:

Section 117 (j) provides that the recognized gains and losses

(a) from the sale, exchange, or involuntary conversion of property used in the trade or business of the taxpayer at the time of the sale, exchange, or involuntary conversion, held for more than 6 months, which is

- (1) of a character subject to the allowance for depreciation provided in section 23 (1), or
- (2) real property,

provided that such property is not of a kind which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or is not held by the taxpayer primarily for sale to customers in the ordinary course of trade or business, and

(b) from the involuntary conversion of capital assets held for more than 6 months, and

(c) from timber held for more than 6 months which is considered to have been sold under the provisions of section 117 (k) (2), and with respect to taxable years beginning after December 31, 1943, from timber owned or held under a contract right to cut for more than 6 months prior to the beginning of the taxable year which is considered to have been sold or exchanged under the provisions of section 117 (k) (1), regardless of whether such timber would be properly includible in the inventory of the taxpayer if on hand at the close of the taxable year or whether such timber was held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business,

shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the aggregate of such gains exceeds the aggregate of such losses. If the aggregate of such gains does not exceed the aggregate of such losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets.

(B) By changing the first sentence of the fourth paragraph to read as follows:

Section 117 (j) does not apply to gains and losses on the sale, exchange, or involuntary conversion of any property which would properly be includible in the inventory of the taxpayer if on hand at the close of the taxable year, or which is held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business, but not including as such property timber which is considered to have been sold or exchanged as provided in section 117 (k) (1) or which has been sold as provided in section 117 (k) (2).

PAR. 4. There is inserted immediately following section 29.117—7 the following new section:

SEC. 29.177–8. GAIN OR LOSS UPON THE CUTTING AND DISPOSAL OF TIMBER.—*(a) Gain or loss upon the cutting of timber.—*(1) *Election to consider cutting as a sale or exchange.—* With respect to a taxable year beginning after December 31, 1943, a taxpayer who has owned, or has held a contract right to cut, timber for a period of more than 6 months prior to the beginning of such taxable year may elect under section 117 (k) (1) to consider the cutting of such timber during such year for sale or for use in the taxpayer's trade or business as a sale or exchange of the timber so cut. Such election must be made by the taxpayer in its income tax return for the taxable year, and cannot be made thereafter. The election shall take the form of a computation in the return under the provisions of section 117(k) (1) and section 117(j).

The election provided by section 117 (k) (1) need not be made with respect to the first taxable year of the taxpayer beginning after December 31, 1943, to which the provisions of such section are applicable. Such election may be made for any taxable year beginning after December 31, 1943, to which the provisions of section 117 (k) (1) are applicable.

The election made under the provisions of section 117 (k) (1) shall be applicable with respect to all timber which was owned by the taxpayer or which the taxpayer had a contract right to cut, and the cutting of timber, whether or not actually sold or exchanged, shall be considered to be a sale or exchange, except that timber which is not cut for sale or for use in the taxpayers trade or business and timber which was held for a period of not more than 6 months prior to the beginning of the taxable year shall not be considered to have been sold or exchanged upon the cutting thereof. If an election has been made under the provisions of section 117 (k) (1), such election shall be binding upon the taxpayer not only for the taxable year for which the election is made but also for all subsequent taxable years, unless the Commissioner on showing by the taxpayer of undue hardship permits the taxpayer to revoke his election for such subsequent taxable years. Such election shall apply with respect to all timber which the taxpayer has owned, or has had a contract right to cut, for a period of more than 6 months prior to the beginning of a subsequent taxable year and which was cut for sale or for use in the taxpayer's trade or business, whether such timber

or contract right was acquired prior or subsequent to the election. If the taxpayer has revoked his election, such revocation shall preclude any further elections by the taxpayer under section 117 (k) (1), except with the consent of the Commissioner.

(2) *Computation of gain or loss.*—If the cutting of timber is considered as a sale or exchange pursuant to an election made under the provisions of section 117 (k) (1), gain or loss shall be recognized to the taxpayer in an amount equal to the difference between the adjusted basis for depletion in the hands of the taxpayer of the timber which has been cut during the taxable year and the fair market value of such timber as of the 1st day of the taxable year in which such timber is cut. The adjusted basis for depletion of such cut timber shall be based upon the number of units of timber cut during the taxable year which are considered to be sold or exchanged and upon the depletion unit of the timber in the timber account or accounts pertaining to the timber cut, and shall be computed in the same manner as is provided in section 29.23 (m) –21 with respect to the computation of the allowance for depletion.

The fair market value of the timber as of the 1st day of the taxable year in which such timber is cut shall be determined, subject to approval or revision by the Commissioner upon examination of the taxpayer's return, by the taxpayer electing to apply the provisions of section 117 (k) (1) in the light of the most reliable and accurate information available with reference to the condition of the property as it existed at that date, regardless of all subsequent changes, such as changes in surrounding circumstances, in methods of exploitation, in degree of utilization, etc. The value sought will be the selling price, assuming a transfer between a willing seller and a willing buyer as of that particular day. Due consideration will be given to factors and the principles involved in the determination of the fair market value of timber as described in section 29.23 (m) –25.

The fair market value as of the beginning of the taxable year of the timber cut during such year shall be considered to be the cost of the timber which was cut, in lieu of the actual cost or other basis of such timber, for all purposes for which such cost is a necessary factor. Thus if the products of the timber cut during a taxable year were sold during such year, the fair market value as of the beginning of such taxable year of the timber cut during the year shall be used in computing the depletion unit and the allowance for depletion as provided in section 29.23 (m) –21. This is also the rule in case the products of the timber cut during one taxable year with respect to which an election has been made under section 117 (k) (1) are sold during a subsequent taxable year, whether or not the election provided in section 117 (k) (1) is applicable with respect to such subsequent year. If the products of the timber cut during a taxable year with respect to which an election under section 117 (k) (1) was made were not sold during such year and are included in inventory at the close of such year, the fair market value as of the beginning of the year of the timber cut during the year shall be used in lieu of the actual cost of such timber in computing the closing inventory for such year and the opening inventory for the succeeding year. With respect to the costs applicable in the determination of the amount of such inventories there shall be included the fair market value of the timber cut, the costs of cutting, logging, and all expenses incident to the cost of converting the standing timber into the products in inventory. See section 29.22 (c) –3. The fact that the fair market value as of the 1st day of the taxable year in which the timber is cut is deemed to be the cost of such timber shall not preclude the taxpayer from computing its inventories upon the basis of cost or market, whichever is lower, if such is the method used by the taxpayer. Nor shall it preclude the taxpayer from computing its inventories under the elective method provided by section 22(d) if such section is applicable to, and has been elected by, the taxpayer.

For any taxable year beginning after December 31, 1943, for which the cutting of timber is considered to be a sale or exchange of such timber under section 117 (k) (1), the timber so cut shall be considered as property used in the trade or business for the purposes of section 117 (j) along with other property of the taxpayer used in the trade or business as defined in section 117 (j) (1). Whether the gain or loss considered to have resulted from the cutting of timber will be considered to be gain or loss resulting from the sale or exchange of capital assets held for more than 6 months depends upon the application of section 117 (j) to the taxpayer for the taxable year. See section 29.177–7.

In case the products of the timber are sold after cutting, either in the form of logs or lumber or in the form of a manufactured product, the income from such actual sale shall be considered ordinary income. In determining the cost of the products so sold, the cost of the timber shall be computed pursuant to the provisions of section 117 (k) (1).

(b) *Gain or loss upon the disposal of timber under cutting contract.*—If a taxpayer disposes of timber under any form or type of contract whereby he retains an economic interest in such timber, the disposal under the contract shall be considered to be a sale of such timber. The difference between the amounts received for the timber in any taxable year and the adjusted basis for depletion of the timber with respect to which the amounts were so received shall be considered to be a gain or loss upon the sale of such timber for such year. If the taxpayer owned the timber for a period of more than 6 months prior to the date of such contract, for the purposes of section 117 (j) such timber shall be considered to be property used in the trade or business for the taxable year for which it is considered to have been sold, along with other property of the taxpayer used in the trade or business as defined in section 117 (j) (1). Whether gain or loss resulting from the disposition of the timber which is considered to have been sold will be deemed to be gain or loss resulting from the sale of a capital asset held for more than 6 months will depend upon the application of section 117 (j) in the case of the taxpayer.

REGULATIONS 103

PAR. 5. Section 19.113 (a) (14) –1 is amended by inserting at the end of the second paragraph the following new sentence:

However, see section 117 (k) (2) with respect to the determination of loss upon timber which under the provisions of that section is considered to be sold.

PAR. 6. There is inserted immediately preceding section 19.117-6, the following:

SEC. 127. GAIN OR LOSS UPON THE CUTTING OF TIMBER. (REVENUE ACT OF 1943, TITLE I.)

(a) IN GENERAL.—Section 117 (relating to capital gains and losses) is amended by inserting at the end thereof the following new subsection:

“(k) GAIN OR LOSS UPON THE CUTTING OF TIMBER.—

* * * * *
“(2) In the case of the disposal of timber (held for more than 6 months prior to such disposal) by the owner thereof under any form or type of contract by virtue of which the owner retains an economic interest in such timber, the difference between the amount received for such timber and the adjusted depletion basis thereof shall be considered as though it were a gain or loss, as the case may be, upon the sale of such timber.”

* * * * *

(c) EFFECTIVE DATE.—A provision having the effect of section 117 (k) (2) of the Internal Revenue Code inserted by the amendment made by subsection (a) shall be deemed to be included in the revenue laws respectively applicable to taxable years beginning after February 28, 1913. * * *

PAR. 7. There is inserted immediately following section 19.117-7, as added by Treasury Decision 5217, approved January 19, 1943 [C. B. 1943, 314], the following new section:

SEC. 19.117-8. GAIN OR LOSS UPON THE DISPOSAL OF THE TIMBER UNDER CUTTING CONTRACT.—If a taxpayer disposes of timber under any form or type of contract whereby he retains an economic interest in such timber, the disposal under the contract shall be considered to be a sale of such timber. The difference between the amounts received for the timber in any taxable year and the adjusted basis for depletion of the timber with respect to which the amounts were so received shall be considered to be a gain or loss upon the sale of such timber for such year. The holding period of such timber shall be measured by reference to the date of the contract of disposition.

REGULATIONS 101 AND PRIOR INCOME TAX REGULATIONS.

PAR. 8. Regulations 101 and prior income tax regulations applicable to taxable years beginning after February 28, 1913, are amended by incorporating therein a provision having the effect of section 117 (k) (2) and provisions having the effect of section 19.117-8 of Regulations 103 and the amendment to section 19.113 (a) (14)-1 of Regulations 103 made by this Treasury decision to the extent necessary to accord with that portion of section 127 of the Revenue Act of 1943 relating to section 117 (k) (2) of the Internal Revenue Code.

(This Treasury decision is issued under the authority of section 62 of the Internal Revenue Code (53 Stat. 32; 26 U. S. C. 62) and corresponding provisions of prior internal revenue laws, and sections 101 and 127 of the Revenue Act of 1943 (Public Law 235, Seventy-eighth Congress), enacted February 25, 1944.)

HAROLD N. GRAVES,
Acting Commissioner of Internal Revenue.

Approved July 27, 1944.
HERBERT E. GASTON,
Acting Secretary of the Treasury.

(Filed with the Division of the Federal Register, July 28, 1944, 10:56 a. m.)