
Forestry as Business or Investment: What does it matter?

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January 30, 2025



Acknowledgment/Disclaimer

This material is based upon work supported by the U.S. Department of Agriculture, under agreement number FSA21CPT0012032. Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture. In addition, any reference to specific brands or types of products or services does not constitute or imply an endorsement by the U.S. Department of Agriculture for those products or services.



Tax and Financial Education Project



- USDA-FSA Funded Project
- Tax related educational materials:
 - Beginning Farmers/Ranchers
 - Commercial Farmers/Ranchers
 - Socially Disadvantaged Farmers/Ranchers
 - Landowners
 - Others

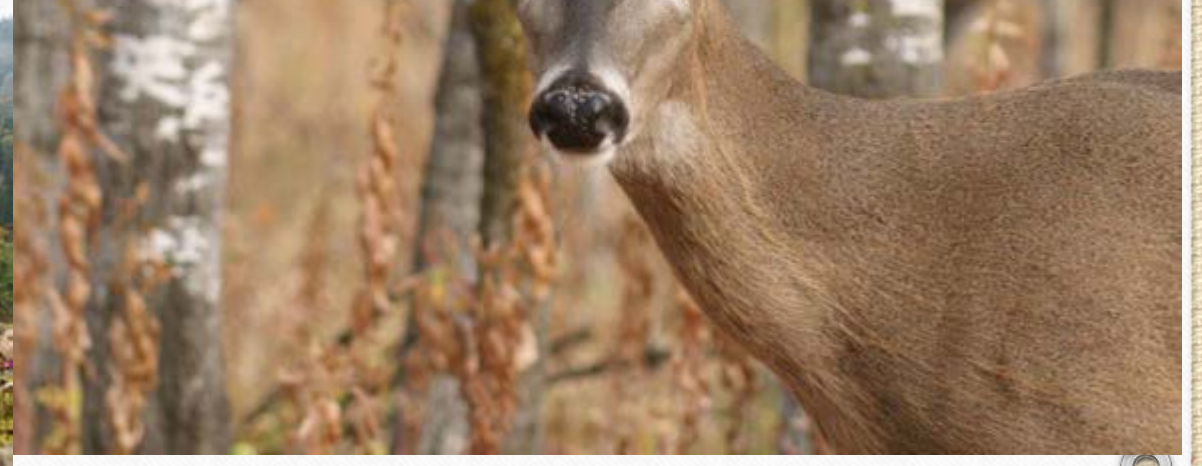
RURAL TAX EDUCATION

RuralTax.org

RuralTax.org



- Website hosted by Utah State University
- Material developed, managed, and owned by the **National Farm Income Tax Committee**
- Informational Material on Ag, Timber, and Rural tax topics include but not limited to:
 - Disaster/Weather Losses
 - Treatment of Government Payments
 - Farm Losses and Hobby Rules
 - Self-Employment Taxes
 - Estate and Gift Taxes
 - Like Kind Exchanges
 - Depreciation
 - Etc...





Think about your goals....

- Now describe it
 - Revenue?
 - Habitat?
 - Recreation?

Classification of Activity

Business

Investment

Personal

Hobby

Personal Use

- Property owned primarily for recreation or personal residence
- No/minimal profit motivation (just covering the bills)





Investment

- Motivated by profit
- Lacking frequent income production

Business

- Profit motivation
- Regular & continuous activity
- Indicators:
 - Carried on for livelihood or profit
 - Regular transactions
 - Time spent working

Business or Investment?



NO HARD AND
FAST RULES



PROFIT NOW VS
LATER



OTHER INCOME?
YOU WORK OR
MONEY WORKS?



FACTS &
CIRCUMSTANCES



HOBBY

Not engaged in for profit

Presumption of Profit Motive

- Profit in three out of five tax years
- Do not need to make a profit to be operating a trade or business
 - Do need to show profit motive
 - Management plan!
- Failure allows IRS to question

Hobby Test

- Conducted in businesslike manner
- Expertise of taxpayer or advisor
- Time & effort expended
- Expectation of appreciation in value
- Success in other activities
- History of income & losses
- Amount of occasional profits earned
- Financial status
- Elements of personal pleasure

Facts &
Circumstances!

The factors

- Businesslike manner

- Profit
- Separate checking accounts
- Records
- Business plan
- Legal entity?

- Expertise of taxpayer or advisor

- Take classes
- Seek professional assistance (and do it)

The factors

- Time & effort expended

- Document
- Appropriate for profit

- Expectation of appreciation in value

- Value of land?
- Growth in timber
 - Quantity
 - Quality

The factors

- Success in other activities

- Have you done this before?
- Done anything similar?
- Dissimilar?

- History of income & loss

- Losses at beginning?
- Production timeline for income
- Losses beyond control (fire, ice?)
- Records

The factors

- Amount of occasional profits

- Large gains?
- Small recurring losses?
- Reasonable expectation of large future gain?

- Financial status

- Other sources of personal income?
- Smell test – losses to offset income
- Your why

The factors

- Elements of personal pleasure

- Would you keep doing this even if you never make money?
- Fun outweighing the effort and gain?
- This test is tough for forestry

- Facts & Circumstances

- Not any one factor decides
- Preponderance of evidence
- How does this compare to normal?

Why does
it matter?



Ability to deduct expenses



Treatment of Income



Handling of losses

Passive vs Active Business

- A business is considered “passive activity” if taxpayer doesn’t materially participate
 - See Pub 925
 - More than 500 hours during tax year
 - Substantially all the participation during year
 - More than 100 hours and as least as much as anyone else
 - Significant participation (total of multiple activities)
 - Facts & circumstances

Passive vs Active Business

- Income:
 - Passive: subject to NIIT
 - Active: not subject to NIIT
- Net losses:
 - Passive: carried forward (must offset with passive income)
 - Active: fully deductible in year incurred

Deducting Expenses



Businesses deduct all “ordinary and necessary” expenses incurred for production or collection of income



Investors deduct expenses associated with production of income

Currently: suspension of miscellaneous itemized restricts deductions. Can still deduct property tax, will capitalize other expenses as carrying expenses



Personal Use: no deduction for expenses



Hobby: no deduction for expenses

Treatment of Income

- Income from timber sales sold “on the stump” qualify for capital gains
 - Businesses:
 - §631(b) sale on Form 4797
 - Personal use, investment, hobby:
 - lump sum sale § 1221, on Schedule D
 - Pay-as-cut sale §1231 under 631(b), Form 4797

Treatment of Income

- Income from sale of logs is ordinary unless elect § 631(a)
 - Businesses:
 - Gain from growing timber: Form 4797
 - Gain from selling logs: Schedule C
 - Personal:
 - Ordinary income, non-self-employment

Handling of Losses

Operating Losses

- Investment: allowed
- Personal: not deductible
- Hobby: not deductible

Casualty Losses

- Investment: treated as business-use
- Personal: limited to federal disaster areas with reduction of \$100 per and 10% of AGI

Handling of Losses

Operating Losses

- Business Active: allowed
- Passive: carried forward

Casualty Losses

- Business: deductible

Legal Structure

- Defines who owns the land
- Has tax implications
- Determines liability

- No one right answer!
- Get professional advice



Burden of
proof on
YOU!

Documentation!

Often not black
and white

Does it pass the smell test

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