



## Timber Severance Tax Requirements For Nonresidents

The purpose of this publication is to provide general information regarding severance taxes for nonresident owners of timber to be severed in West Virginia. The publication is meant to be a source of information and guidance and is not a substitute for tax laws or regulations.

Nonresident timber operators must comply with the following before engaging in timber production in West Virginia:

- (1) Obtain a business registration certificate.
- (2) Obtain a forestry license.
- (3) Give the Tax Commissioner written notice of intent to sever timber identified in the notice between thirty and ninety days before the timbering operation begins.
- (4) At the time of notice, prepay severance tax (or post a cash bond or surety bond equal to four percent of the estimated gross value of the timber to be severed. This value may not be less than stumpage value.

**FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL RESULT IN THE FORFEITURE OF THE LICENSE ISSUED BY THE DIVISION OF FORESTRY FOR A PERIOD OF ONE YEAR FOR THE FIRST OFFENSE AND FOR A PERIOD OF TWO YEARS FOR EACH SUBSEQUENT VIOLATION. IN ADDITION TO THE REGULAR SEVERANCE TAX DUE, THERE WILL BE A MONEY PENALTY EQUAL TO FIFTY PERCENT OF THE TIMBER SEVERANCE TAX THAT SHOULD HAVE BEEN PAID.**

### REGISTRATION REQUIREMENTS

Beginning July 1, 1998, every nonresident person who owns or purchases standing timber in West Virginia and either directly, or indirectly, severs that timber is required to obtain a business registration certificate before the timbering operation begins.

### DEFINITION OF NONRESIDENT

The term "nonresident person" means a "person" or "company" that does not have a business location in this state, or during the three months preceding the date the application for business registration certificate is filed did not have a permanent office or any other permanent place of business in this state for the conduct of timbering operations.

### NOTICE OF CONTRACT

Every nonresident person who either directly or through the activity of others severs West Virginia timber which that person owns at the time that it is severed (not the person who acquires or owns the timber immediately after severance), must give the Tax Commissioner written notice of *intent to sever the West Virginia timber identified in the notice*.

**Example 1: If "A," the owner of standing timber, transfers the ownership of standing timber to "B" through a sale contract that calls for severing and removing the cut timber for "B's" own purpose, then "B" is considered the owner of the timber at the time of severance and must fulfill the notification requirement.**

**Example 2: If "X" obtains from "Y" a contract right to harvest certain timber on a 10 acre tract of land and under the contract "Y" continues to own the standing timber until it is severed and "X" owns the timber immediately after it is severed, "X" is required to provide notification to the Tax Commissioner and prepay the 4 percent severance tax or post a cash bond or a corporate security bond.**

This notice must be given at least thirty days before but no more than ninety days before the timbering operation begins. The notification shall include all information required by W.Va. Code § 19-1B-6, and also the estimated gross value of the timber to be severed. W. Va. Code § 19-1B-6 requires that no person may conduct timbering operations or sever trees for sale unless they notify the Director of Forestry of the specific location on which the timbering operations or harvesting of timber are to be conducted. The notification must include:

1. The name and address of the harvester of the timber
2. The name and address of the owner or owners of the property upon which the timber is located
3. The business tax number or social security number of the harvester of the timber
4. An acknowledgment that the harvester of the timber will conduct the harvest according to best management practices
5. The specific topographic location where the timbering operations are to be conducted
6. The approximate dates that the timbering operation will begin and end
7. The approximate acreage over which timbering operations are contemplated
8. The name and address of the owner(s) of the timber to be harvested and, if different, the name and address of the owner(s) of the property upon which the timber is located

9. A sketch map of the proposed logging operation, including haul roads, landings and stream crossings
10. A description of the sediment control practices to be used by the logger during the timber harvesting operation
11. An acknowledgment that the operator will conduct the operations in compliance with the provisions of this article and any applicable rules promulgated pursuant to this article
12. A certification satisfactory to the director that all permits required under state law have been obtained or applied for and that all pertinent requirements for obtaining any permit applied for, but not yet obtained, have been complied with
13. The name or names of the person or persons who will be supervising the timbering operations at the site of the operations and his or her logger certification numbers

### **ANNUAL CREDIT ALLOWANCE**

A five hundred (\$500.00) dollar annual credit is allowed for all timber producers. However, beginning July 1, 1998 this credit can only be deducted on the annual return and not on periodic installment payments.

### **PREPAYMENT OF SEVERANCE TAX BY NONRESIDENT - CASH BOND**

If the nonresident person owns any part of the timber at the time that it is severed (not the person who acquires or owns the timber immediately after severance), they must pay to the Tax Commissioner four percent of the estimated gross value of the timber to be severed as described in the notice. The estimated gross value shall not be less than the actual price paid or to be paid for the stumpage. Within thirty days after the timber is severed, the nonresident person must file with the Tax Commissioner a report reconciling the amount of prepaid severance tax with the amount of severance taxes actually due on the gross value of the timber at the point where the privilege of severing timber ends. If this report shows that additional timber severance taxes are due, that amount must be paid when the report is filed. If the report shows that the amount of timber severance taxes prepaid exceeded the amount actually due, the Tax Commissioner shall refund the difference if all severance tax returns have been paid and all tax, interest and additions to tax have been remitted.

### **SURETY BOND IN LIEU OF PREPAYMENT OF SEVERANCE TAX**

In lieu of the prepayment of timber severance tax, a corporate surety bond in an amount equal to four percent of the estimated gross value of the timber to be severed may be furnished. The surety must be qualified to do business in this state. The bond shall ensure that all timber severance taxes due that are attributable to severance of the identified timber will be paid, including any additions to tax, penalties or interest that may be imposed due to failure to file timely returns.

The surety shall be released from all liability accruing on the bond after sixty days from the date the Tax Commissioner receives the written request, provided that all severance tax has been paid.

### **PENALTY FOR NONCOMPLIANCE**

A nonresident who fails to comply with these requirements shall forfeit the license issued by the Division of Forestry for one year for the first offense and two years for each subsequent violation. In addition, the nonresident must pay a penalty equal to fifty percent of the timber severance tax that was not timely paid. This amount shall be in addition to the severance taxes not timely paid, plus interest and applicable additions to tax.

If a nonresident underestimates the amount of prepaid timber severance taxes by more than twenty-five percent, he may be required to pay a penalty equal to fifty percent of the timber severance tax that was not prepaid or guaranteed by the surety bond. This amount shall be in addition to the amount of timber severance taxes not timely paid plus interest and applicable additions to tax.

### **FORMS FOR REGISTRATION, POSTING OF BONDS AND NOTICE OF CONTRACT**

In order to register with the State Tax Department, Form WV/BRT-801, *West Virginia Application for Registration Certificate* must be completed and submitted to the Tax Commission. The business registration certificate for every business registered in West Virginia is valid for the period July 1st through June 30th. The initial certificate will expire June 30th of that fiscal year. A two-year renewal application for business registration will be mailed prior to the due date of the application. Taxpayers are responsible for renewing their registration annually on or before July 1, regardless of whether they received a form from the Tax Commission.

Bond forms are attached to this publication for use in posting a cash or corporate surety bond. These forms must be submitted to and approved by the State Tax Department before commencing any timber operations in West Virginia. A true copy of the Timbering Operation Notification Form filed with the Division of Forestry must be attached to the bond forms. Bond forms must be mailed to:

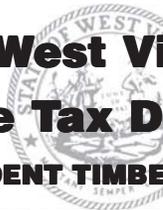
West Virginia State Tax Department  
Internal Auditing Division  
P. O. Box 1826  
Charleston, WV 25327-1826.

West Virginia State Tax Department  
Taxpayer Services Division  
P. O. Box 3784  
Charleston, West Virginia 25337-3784  
Telephone: (304) 558-3333  
Toll free : 1-800-WVA-TAXS (1-800-982-8297)

or visit our web site:

<http://www.state.wv.us/taxdiv>

TDD service for the hearing impaired: 1-800-2TAXTDD (1-800-282-9833)

  
**West Virginia**  
**State Tax Department**  
**NONRESIDENT TIMBER SEVERANCE TAX**  
**PREPAYMENT CASH BOND**

BOND NUMBER \_\_\_\_\_

FEIN OR SOCIAL SECURITY NUMBER: \_\_\_\_\_

BUSINESS NAME: \_\_\_\_\_

OWNER(S) NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_  
\_\_\_\_\_

**Pursuant to W. Va. Code § 11-13A-16a, the above named nonresident is posting a cash prepayment/bond to guarantee payment of the West Virginia Timber Severance Tax with respect to the attached Timber Operation Notification Form filed with the Division of Forestry.**

Estimated gross value of the timber described in the Timber Operation Notification Form filed with the Division of Forestry \$\_\_\_\_\_. The value should not be less than the actual price paid, or to be paid, for the stumpage.

The amount of the cash bond/prepayment must be equal to four percent (4%) of the estimated gross value of the timber described in the Notification for which the bond is being posted. The above named nonresident harvester hereby posts the amount of \$\_\_\_\_\_ as cash bond/prepayment with respect to the described timbering operation and certifies that this amount represents four percent (4%) of the approximate gross value of the timber to be harvested and will be sufficient to cover the timber severance taxes due with respect to the referenced timber operation.

This bond shall be effective from \_\_\_\_\_, 20\_\_\_\_.

In witness whereof the above named nonresident hereby executes this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Authorized Officer or Agent Nonresident)

Acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires \_\_\_\_\_.

Notary Seal

\_\_\_\_\_  
Notary Signature



# West Virginia State Tax Department

## NONRESIDENT TIMBER SEVERANCE TAX SURETY BOND

BOND NUMBER \_\_\_\_\_

**KNOW ALL MEN BY THESE PRESENTS:**

(1) That we, \_\_\_\_\_  
\_\_\_\_\_

As principal, \_\_\_\_\_  
\_\_\_\_\_

(2) and \_\_\_\_\_  
\_\_\_\_\_

(3) a firm and/or a corporation authorized to do business in the State of West Virginia, as Surety, are held and firmly bound unto the State of West Virginia in the just and full sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_) to the payment whereof well and truly to make, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the above bound Principal is a nonresident person within the meaning of Chapter 11, Article 13A, Section 16a, of the Official Code of West Virginia of 1931, as amended, and whereas the Tax Commissioner of the State of West Virginia has required the said Principal to deposit a bond, in accordance with the provisions of Chapter 11, Article 13A, Section 16a of the said Code of West Virginia;

**NOW THEREFORE**, if the said Principal shall in all respects fully comply with the provisions of Chapter 11, Article 13A, Section 16a of the said Code of West Virginia and the rules and regulations adopted and promulgated thereunder, and shall account for and pay over all Timber Severance Taxes and penalties for which the said Principal shall be liable, and shall protect and save harmless the State of West Virginia from any loss arising from the failure of the Principal to pay such Timber Severance Taxes and penalties, for any cause whatsoever, then this obligation to be void; otherwise, to remain in full force and effect.

The Principal hereby waives the secrecy provisions of West Virginia Code 11-10-5(d) and authorizes the Tax Department to release to the surety company information necessary to file a proof of claim concerning any tax liability covered by this bond and accruing during the effective dates of this bond.

(4) This bond shall be effective from the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

**IN WITNESS WHEREOF** the said principal has hereunder set his or its hand affixed his or its seal, and the said surety has caused its corporate name to be signed hereto and its corporate seal to be hereunto affixed by its duly authorized officer or agent and executed this

(5) \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

(8) Principal Corporate Seal (6) \_\_\_\_\_ (Principal) (Seal)

(7) By: \_\_\_\_\_ (Seal)  
Title (Must be President or Vice-President)

(11) Surety Corporate Seal (9) \_\_\_\_\_ (Surety)

(10) By: \_\_\_\_\_

**(Acknowledgment by Principal if Individual or Partnership)**

- (12) STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, to-wit:
- (13) I, \_\_\_\_\_ a Notary Public in and for the
- (14) county and state aforesaid, do hereby certify that \_\_\_\_\_
- (15) whose name is signed to the foregoing writing, bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has  
this day acknowledged the same before me in my said county.
- (16) Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- (17) Notary Seal (18) \_\_\_\_\_  
Notary Public
- My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**(Acknowledgment by Principal if Corporation)**

- (19) STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, to-wit:
- (20) I, \_\_\_\_\_ a Notary Public in and for the
- (21) county and state aforesaid, do hereby certify that \_\_\_\_\_
- (22) who, as \_\_\_\_\_, signed the foregoing writing for \_\_\_\_\_
- (23) \_\_\_\_\_, a corporation,
- (24) bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has this day, in my said county,  
before, me, acknowledged the said writing to be the act and deed of the said corporation.
- (25) Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- (26) Notary Seal (27) \_\_\_\_\_  
Notary Public
- My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**(Acknowledgment by Surety)**

- (28) STATE OF \_\_\_\_\_  
County of \_\_\_\_\_, to-wit:
- (29) I, \_\_\_\_\_ a Notary Public in and for the
- (30) county and state aforesaid, do hereby certify that \_\_\_\_\_
- (31) who, as \_\_\_\_\_, signed the foregoing writing for \_\_\_\_\_
- (32) \_\_\_\_\_, a corporation,
- (33) bearing date the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, has this day, in my said county,  
before, me, acknowledged the said writing to be the act and deed of the said corporation.
- (34) Given under my hand this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.
- (35) Notary Seal (36) \_\_\_\_\_  
Notary Public
- My commission expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

## BOND PREPARATION INSTRUCTIONS

### IF PRINCIPAL IS AN INDIVIDUAL OR PARTNERSHIP:

- ☞ Complete the bond, lines (1) through (8);
- ☞ Have Notary complete the applicable section of acknowledgment titled, Acknowledgment by Principal if Individual or Partnership, on the back of bond.

### IF PRINCIPAL IS A CORPORATION:

- ☞ Complete the bond, line (1) through (8);
- ☞ Have Notary complete the applicable section of acknowledgment titled, Acknowledgment by Principal if Individual or Partnership, on the back of bond;
- ☞ Affix corporate seal as requested on face of bond.

### SURETY:

- ☞ Complete applicable portion of bond;
- ☞ Have notary complete applicable section of acknowledgment titled, Acknowledgment by Surety, on the back of the bond;
- ☞ Attach Power of Attorney to bond if surety signatory is an attorney in fact;
- ☞ Affix raised Surety Seal to bond and to Power of Attorney.

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## LINE NUMBER INSTRUCTIONS

### FACE OF BOND CANNOT CONTAIN WHITE-OUTS OR ALTERATIONS. REVERSE OF BOND MAY CONTAIN WHITE-OUTS OR ALTERATIONS PROVIDING CHANGES ARE INITIALED BY NOTARY.

- (1) Enter name and address of Principal (Specify individual, partnership, or corporation) to be covered by bond.
- (2) Enter name and address of Surety Company issuing bond.
- (3) Enter amount of bond.
- (4) Enter effective date of the bond. (West Virginia Code requires continuation certificate annually on anniversary date).
- (5) Enter execution date of bond (also known as the bearing date of the bond).
- (6) Enter name of the Principal (individual, partnership, or corporation covered by bond).
- (7) If principal is an individual, affix signature. If principal is a corporation, President or Vice-President must sign bond and underline the appropriate title. If bond is to be signed by one other than the President or Vice-President, affix copy of corporate resolutions showing authorization of individual to bind corporation.
- (8) If Principal is a corporation, be sure to affix corporate seal, if not available draw facsimile.
- (9) Enter name of Surety.
- (10) Affix signature and title of person having Power of Attorney to bind Surety.
- (11) Affix corporate seal of Surety.

### ACKNOWLEDGMENT PREPARATION INSTRUCTIONS:

**IF PRINCIPAL IS AN INDIVIDUAL OR PARTNERSHIP, HAVE NOTARY COMPLETE LINES (12) -(18).**

**IF PRINCIPAL IS A CORPORATION HAVE NOTARY COMPLETE LINES (19) - (27).**

**SURETY MUST HAVE NOTARY COMPLETE LINES (28) - (36)**

### ACKNOWLEDGMENT BY PRINCIPAL IF INDIVIDUAL OR PARTNERSHIP

- (12) Enter name of State and County.
- (13) Enter name of Notary Public witnessing transactions.
- (14) Enter name of principal covered by bond if individual or partnership.
- (15) Enter bearing date of bond (also known as execution date). Must be same date entered on line 8 of the bond.
- (16) Notary enters date bond was witnessed. May be same as bearing date or any date thereafter.
- (17) Affix Notary Seal. If notary is located outside the State of West Virginia, seal must be affixed.
- (18) Notary affixes signature here and enters expiration date of appointment.

## ACKNOWLEDGMENT BY PRINCIPAL IF CORPORATION

- (19) Enter name of State and County.
- (20) Enter name of Notary Public witnessing transactions.
- (21) Enter name of Corporate Officer signing bond. (Should be President or Vice-President).
- (22) Enter designate Title of Corporate officer signing bond.
- (23) Enter name of Company or Corporation
- (24) Enter bearing date of bond (also known as execution date). Must be same date entered on line 8 of the bond.
- (25) Notary enters date bond was witnessed. May be same as bearing date or any date thereafter.
- (26) Affix Notary Seal. If notary is located outside the State of West Virginia, seal must be affixed.
- (27) Notary affixes signature here and enters expiration date of appointment.

## ACKNOWLEDGMENT BY SURETY

- (28) Enter name of State and County.
- (29) Enter name of Notary Public witnessing transactions.
- (30) Enter name of person having power of attorney to bind Surety Company.
- (31) Designate title of person binding Surety Company.
- (32) Enter name of Insurance Company (Surety).
- (33) Enter bearing date of bond (also known as execution date). Must be same date entered on line 8 of the bond.
- (34) Notary enters date bond was witnessed. May be same as bearing date or any date thereafter.
- (35) Affix Notary Seal. If Notary is located outside the State of West Virginia, seal must be affixed.
- (36) Notary affixes signature here and enters expiration date of appointment

## POWER OF ATTORNEY INSTRUCTIONS

Power of Attorney for Surety must be attached and it must show that it was in full force and effect on bearing date (execution) indicated on the face of the bond, also the raised corporate seal must be affixed to the Power of Attorney.

-  Name of attorney in fact must be listed (if attorney is a nonresident, bond must be countersigned by West Virginia resident agent).
-  Power of Attorney may not exceed imposed limitations.
-  Certificate date must be the execution date (bearing date) of the bond.
-  Signature of authorizing official must be affixed. (Signature may be facsimile).
-  Raised seal must be affixed.

## MAILING INSTRUCTIONS

All bond forms must be submitted to and approved by the State Tax Department before commencing any timber harvesting activity in West Virginia. Bond forms must be mailed to:

West Virginia State Tax Department  
Internal Auditing Division  
PO Box 1826  
Charleston, West Virginia 25327-1826.