



Mr. Dave Mayer

March 30, 1987

Ken McManigal

Revenue and Taxation Section 38115 - Timber Owner

This is in response to your recent inquiry as to whom the timber owner is for timber yield tax purposes where a person enters upon the timberland of another and harvests timber but is prevented from removing the timber and, thus, does not receive any proceeds from any sale of the timber.

The same question was raised In the Matter of the Petition of William T. Rice, copy of Decision and Recommendation attached, wherein Mr. Rice harvested timber from timberlands of others but did not remove the timber. As indicated in Analysis and Conclusion 1 beginning with page 8 thereof, "harvest" as used in section 38115 means "cuts" or "fells", and the person cutting or felling the timber is liable for applicable timber yield taxes. In enacting the "harvesting without authorization" provision of section 38115, the Legislature did not distinguish between instances in which persons who cut or felled timber did or did not remove the timber or condition liability for applicable timber yield taxes thereupon.

Pages 1-6 of the Decision and Recommendation relate to Analysis and Conclusion 1.

JKM/rz

Attachment

cc: Mr. Gordon P. Adelman
Mr. Robert Gustafson
Mr. Paul Crebbin
Mr. Earle Gutman
Legal

0552H

June 29, 1978

Attention: _____

Dear Mr. _____:

This is in further response to your January 13, 1978, letter to the Humboldt County Tax collector and is intended to supplement our March 20, 1978, letter to you.

As indicated in our July 15, 1977, letter to Mr. _____-, attorneys at Law, concerning the application of States. 1976, Ch. 176/AB 1258 to timber operations on Indian reservations, Indians logging timber on Indian reservations are not liable for the timber yield tax. Such would be the case also where Indian organizations or associations comprised entirely of Indians are logging timber on reservations.

As to who constitutes an "Indian", our definition of "Indian" now is any person of Indian descent who is entitled to receive services as an Indian from the United States Department of the Interior. An "Indian organization" includes Indian tribes and tribal organizations: partnerships, all of whose members are Indians, and corporations organized under tribal authority and wholly owned by Indians. "Indian organization" does not include other corporations, including other corporations wholly owned by Indians.

The last paragraph of the first page and the first two paragraphs of the second page of our March 20, 1978, letter remain unchanged.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:fp

Cc: Mandich, Clark & Barker
Attorneys at Law

Bcc: Mr. Abram F. Goldman
Mr. Walter R. Senini
Mr. Jack F. Eisenlauer
Mr. Paul Crebbin
Legal Section