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[American Timber Supply and Manufacturing Incentives Act] [Loose]

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NEWS

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DEFAZIO INTRODUCES NEW BILL TO SLOW LOG EXPORTS

WASHINGTON, D.C. -- Legislation to eliminate log export tax subsidies and create a new tax incentive for domestic lumber manufacturing was introduced today by Rep. Peter DeFazio (D-Ore.).

"This bill will accomplish my goal of cutting log exports without using the 100-pound sledgehammer of regulations and quotas," DeFazio said. "Special interests are fighting tooth and nail to keep their log export tax breaks; I mean to put an end to it."

DeFazio's plan combines and improves on two bills that he introduced last year with Rep. Jolene Unsoeld, (D-Wash.) and Rep. Pete Stark (D-Calif.). The two-pronged plan would eliminate tax breaks available to log export companies who use Foreign Sales Corporations, and use the savings to reduce the capital gains tax rate on timber sold to domestic manufacturers by up to 30 percent.

According to DeFazio, his proposal will cut subsidies for log export companies by about $80 million a year, while giving Northwest timber growers a new incentive to sell their logs to American mills.

DeFazio's bill was introduced as the House Ways and Means Committee prepares to consider President Clinton's tax proposals. DeFazio said he was concerned that the committee would adopt an amendment expected to be offered by Rep. Mike Kopetski that would lower the tax on timber capital gains for all tree growers, even those who export their logs. Kopetski proposes paying for his bill with the savings gained by eliminating the foreign sales corporation tax break for log exports.

"It's a sweet deal for the Pacific Northwest's log exporters: use the money from one log export subsidy, which the President already said he opposes, to pay for a new and more expansive subsidy for raw log exports," DeFazio said. "But my bottom line is simple: The U.S. taxpayer should not be asked to subsidize log -- and JOB -- exports."

According to revenue estimates prepared by the bipartisan Joint Committee on Taxation, tax breaks available to log exporters using foreign sales corporations cost the U.S. taxpayer an average of $80 million each year. DeFazio said the Kopetski amendment would create a new tax break for log exporters worth about $35 million a year.

DeFazio's bill is supported by the National Association of Home Builders, the United Brotherhood of Carpenters and Joiners, the Western Forest Industries Assocation, and the Northwest Independent Forest Manufacturers.

Sen. Max Baucus, D-Mont., is expected to introduce similar legislation in the U.S. Senate.

-30-

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Member's Original Signature

May 6, 1993

103D CONGRESS
1ST SESSION

IN THE HOUSE OF REPRESENTATIVES

Mr. DeFAZIO introduced the following bill; which was referred to ________

A BILL

To amend the Internal Revenue Code of 1986 to provide incentives for domestic timber production and manufacturing, and to deny the benefits of certain export subsidies in the case of exports of unprocessed timber.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'American Timber Supply and Manufacturing Incentives Act'.

SEC. 2. INVESTMENT INCENTIVE FOR DOMESTIC TIMBER PRODUCTION.

(a) In General . - Part I of subchapter P of chapter 1 of the Internal Revenue C ode of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

'SEC. 1202. INVESTMENT INCENTIVE FOR DOMESTIC TIMBER PRODUCTION.

'(a) In General . - At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amo unt equal to the qualified percentage of such gain.

'(b) Qualified Timber Gain . - For purposes of this section -

'(1) In general . - The term 'qualified timber gain' means the lesser of -

'(A) the net capital gain for the taxable year, or

'(B) the net capital gain for the taxable year determined by taking into account only gains and losses from qualified timber.

'(2) Qualified timber . - The term 'qualified timber' means any timber with respect to which the taxpayer has provided assurances (which are satisfactory to the Secretary) that substantially all of the processing of the timber will occur within the United States.

'(c) Qualified Percentage . - For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 30 percent) determined by multiplying-

'(1) 2 percent, by

'(2) the number of years in the holding period of the taxpayer with respect to the timber.

'(d) Estates and Trusts . - In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.'

(b) Coordination With Existing Limitations . -

(1) Subsection (h) of section 1 of such Code (relating to maximum capital gains rate) is amended by inserting after 'net capital gain' each place it appears the following; '(other than qualified timber gain with respect to which an election is made under section 1202)'.

(2) Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended by inserting after 'net capital gain' each place it appears the following: '(other than qualified timber gain with respect to which an election is made under section 1202)'.

(c) Allowance of Deduction in Computing Adjusted Gross Income. - Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by adding at the end the following new paragraph:

'(14) Investment incentive for domestic timber production. - The deduction allowed by section 1202.'

(d) Conforming Amendment . - The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

'Sec. 1202. Investment incentive for domestic timber production.'

(e) Effective Date . - The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act.

SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) Determination of Material Participation . - Subsection (h) of section 469 of the Internal Revenue Code of 1986 (defining material participation) is amended by adding at the end the following new paragraph:

'(6) Treatment of timber activities . -

'(A) In general . - A taxpayer shall be treated as materially participating in any timber activity for a taxable year if -

'(i) the taxpayer's participation in the activity for such year constitutes substantially all of the participation in the activity of all individuals for such year, other than individuals -

'(I) who are not owners of interests in the activity,

'(II) who are retained and compensated directly by the taxpayer, and

'(III) whose activities are subject to the oversight, supervision, and control of the taxpayer, or

'(ii) based on all of the facts and circumstances, the taxpayer participates in the activity on a regular, continuous, and substantial basis during such year, except that for purposes of this clause -

'(I) the taxpayer shall not be required to participate in the activity for any minimum period of time during such ye ar, and

'(II) the performance of services by individuals who are not owners of interests in the activity shall not be considered if the services are routinely provided by individuals specializing in such services and such services are subject to the oversight, supervision, and control of the taxpayer.

'(B) Partners and s corporation shareholders . - Subject to paragraph (2), the determination of whether a partner or S corporation shareholder shall be treated as materially participating in any timber activity of the partnership or S corporation shall be based upon the combined participation of all of the partners or shareholders in the activity.

'(C) Timber activity . - For purposes of this paragraph, the term 'timber activity' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.'

(b) Effective Date . - The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SECTION 4. DENIAL OF CERTAIN EXPORT SUBSIDIES.

(a) Foreign Sales Corporations. - Paragraph (2) of section 927(a) of the Internal Revenue Code of 1986 (relating to exclusion of certain property) is amended by striking 'or' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ', or', and by adding at the end thereof the following:

'(E) any unprocessed timber.

For purposes of subparagraph (E), the term 'unprocessed timber' has the same meaning as that given to it in the Customs and Trade Act of 1990, *104 STAT. 629*.'

(b) Domestic International Sales Corporations. - Paragraph (2) of section 993(c) of such Code (relating to exclusion of certain property) is amended by striking 'or' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ', or', and by adding after subparagraph (D) the following:

'(E) any unprocessed timber.

For purposes of subparagraph (E), the term 'unprocessed timber' has the same meaning as that given to it in the Customs and Trade Act of 1990, *104 STAT. 629.*'

(c) Title-Passage Rule. - Subsection (b) of section 865 of such Code (relating to source rules for personal property sales) is amended by adding at the end thereof the following: 'Notwithstanding the preceding sentence, any income from the sale of any unprocessed timber which is a softwood and was cut from an area in the United States shall be sourced in the United States and the rules of sections 862(a)(6) and 863(b) shall not apply to any such income. For purposes of the preceding sentence, the term 'unprocessed timber' has the same meaning as that given to it in the Customs and Trade Act of 1990, *104 STAT. 629.*'

(d) Elimination of Deferral. - Subsection (d) of section 954 of such Code is amended by adding at the end thereof the following new paragraph:

'(4) Special rule for certain timber products. - For purposes of subsection (a)(2), the term 'foreign base company sales income' includes any income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with -

'(A) the sale of any unprocessed timber referred to in section 865(b), or

'(B) the milling of any such timber outside the United States.

Subpart G shall not apply to any amount treated as subpart F income by reason of this paragraph.'

(e) Effective Date. - The amendments made by this section shall apply to sales, exchanges, or other dispositions after the date of the enactment of this Act.