IT 235 - Timber industry workers - contract tree fellers

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TAXATION RULING NO. IT 235

TIMBER INDUSTRY WORKERS - CONTRACT TREE FELLERS

F.O.I. EMBARGO: May be released

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F.O.I. INDEX DETAIL REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1103077	TIMBER INDUSTRY	6(1)
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	PROVISIONAL TAX	

PREAMBLE The following advice issued concerning the treatment to be given to the remuneration of workers in the timber felling industry.

RULING 2. Two main categories of workers were identified, the principal contractor and the timber fellers.

(1) PRINCIPAL CONTRACTORS

3. Where a person contracts with a mill to supply timber and the contract requires that person, or a person engaged by him, to cut, snig and haul the timber, that person is considered to be carrying on a business and as such, his income from that activity will be subject to provisional tax. In most cases, it is envisaged that he will be carrying on a business of primary production as defined in section 6 of the Income Tax Assessment Act and thus the averaging provisions of that Act will apply to that income. Voluntary income tax instalment deductions should not be accepted in lieu of provisional tax.

(2) TIMBER FELLERS

4. Where workers are engaged to fell trees and cut them into log lengths and the equipment they provide is limited to chain saws, saws and axes etc. and a vehicle to transport the equipment, it is considered that the remuneration to those workers falls within the definition of salary or wages. The contracts are substantially for the labour of the person who may be hired or fired by the mill management or the principal contractor and their duties are controlled in a way characteristic of a master and servant relationship. The situation is not influenced by piece-work rates or the fact that they may be required to provide and maintain the tools of their trade. As the workers are considered to be employees of the principal contractor or the mill, they are not carrying on a business and consequently, the averaging provisions will not

apply to the income received. Further, as the remuneration is salary or wages, income tax instalment deductions are required to be made in accordance with the schedule of standard deductions.

5. An examination of returns lodged by taxpayers in this category indicates that the calculation of tax instalment deductions on 90 per cent of the gross payments would be appropriate where the timber cutter is required to provide and maintain his own chain saws etc. Where the cutter is also required to provide his own motor vehicle to transport his equipment to the work site, the instalment deductions should be based on an amount equal to 80 per cent of the gross payments. It is considered that these variations will be appropriate in the majority of cases but where a particular taxpayer necessarily incurs expenses significantly greater than those generally provided for, he is of course, at liberty to apply for a variation appropriate to his circumstances. Any such application should be considered on its own merits.

COMMISSIONER OF TAXATION