

# *Timber Income Tax*

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# **Timber Aspects Of Social Security Tax**

## **Chapter 13**

# Timber Aspects Of Social Security Tax

- General Considerations
- Timber Income
- CRP and Other Cost-Share Payments

# General Considerations

- A self-employment (SE) tax is imposed at a rate of 15.3% for 1991 and later years --12.4% is for Social Security (OASDI), and the 2.9% rate is for Medicare which increases by 0.9 % by 2013 under the 2010 legislation
- The 12.4% is levied on an indexed self-employment income threshold. The 2.9% is levied on entire amount of income after 1994.
- See p 13.1

# Timber Income

- Timber sale receipts reported as ordinary income are subject to the self-employment tax if taxpayer is a business – i.e., a sole proprietor or a partner in a partnership with respect to timber ownership
- Timber sale receipts qualifying and reported as capital gains are not subject to the self-employment tax
- See p 13.1

# Other Cost-Share Payments

- Cost-share payments for Federal programs and state forestry cost-share for reforestation are subject to SE tax if not excluded from income under IRC §126 as discussed above
- Incentive payments for reforestation under CRP are excludable under IRC §175 for full time farmers
- See p 13.1

# CRP Payments

- The IRS position is that CRP annual rental payments are subject to the SE tax for participants who materially participate in farm operations. Persons who do not participate are not subject to the SE tax
- But in 1998, the Tax Court overruled the IRS holding that program payments were rentals from real estate and not subject to SE tax
- Begins on p 13.1

# CRP Payments

## Continued

- In 2000, the 6<sup>th</sup> Circuit Court of Appeals reversed the Tax Court holding that CRP annual payments are not rent since the Government does not occupy the land
- The 2008 Energy Act provided that CRP rental payments made after 2007 are not treated as SE income if received by a taxpayer receiving Social Security retirement or disability payments
- See p 13.2