

# UNDERSTAND STUMPAGE OBLIGATIONS AND PROTECT YOURSELF FROM LIABILITY

By Jessica McLachlin

**B**C's forestry sector is an important contributor to the provincial economy, supporting 140 communities around the province and providing over 61,000 direct jobs. In 2015-16, forestry contributed about \$812 million in direct revenue to the provincial budget, making it the largest contributor of natural resource revenue.

The Ministry of Finance strives to treat operators fairly and consistently in fulfilling its mandate to manage forestry revenue, so that all British Columbians benefit from this shared natural resource. The Ministry's goal is always to encourage voluntary compliance with the *Forest Act*, but there are tools that the Ministry may fall back on when voluntary compliance is not possible.

## Section 130: Improving collection and debt recovery

Section 130 of the *Forest Act* provides a collection tool that may be used when attempts to come to an agreement on the repayment of debt have failed or when additional security is required. The legislation provides that the provincial government may obtain a certificate for recovery of a debt that carries the same force and effect as an order of the court.

Once the certificate is registered, the province can pursue collection against an individual or company through a writ of seizure and sale. A certificate also allows for registration of liens in the Personal Property Registry and with the Land Title Office (Land Title and Sur-

vey Authority BC). The certificate can be registered against the licence holder and any third parties that are deemed to be liable for stumpage under the *Forest Act*.

## Section 131: Supporting recovery efforts

Under Section 131 of the *Forest Act*, third parties may be liable for unpaid stumpage on timber purchased from a seller. As buyers are ultimately benefiting from the timber, they are responsible for reporting transactions within 10 days and paying any unpaid stumpage.

Fair and equitable collection practices mean that the Ministry first pursues the licence holder for unpaid stumpage. The licence holder is the party who entered into the agreement and is firstly liable for unpaid stumpage.




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In instances where a licensee fails to pay their debt, the Ministry may pursue third parties that acquired or dealt with the timber, in addition to the licensee. In this case, a third party would be given an opportunity to provide proof of payment. Otherwise, the same tools and legislation used to collect from licensees can be used against a third party.

**eTaxBC: Minimizing risk**

The government will streamline the collection of forestry revenues by granting Forest Revenue Accounts access to eTaxBC. eTaxBC is an online portal forestry clients will use to access and update their account information, correspond securely with government and make payments online.

This system will also offer protection for forestry clients concerned about liability from unpaid stumpage. Third par-

ties will be able to grant clients account access to pay on their behalf. The system will also allow clients or third parties to target specific invoices and amounts. This information will be recorded and the payment transaction will identify who has made the payment and how much was paid.

If eTaxBC is chosen as a payment method, the ability to allow a third party to pay on your behalf will ensure the provincial government is paid directly. The process of paying directly is the only way a liability under section 131 can be discharged. Using eTaxBC also has the potential to minimize the need for payment holdbacks between the licence holder and the third party, protecting both the client and the third party.

In order to use this service, you will need to enrol for access to your forest revenue account, even if you already

have an eTaxBC account for taxes you pay (e.g. PST, Logging Tax). As we approach implementation into our new system, information about enrolment for eTaxBC will be mailed out.

**Information can protect you**

Licensees and third parties should understand their obligations under the *Forest Act* with respect to the timber licence and their obligations under sections 130 and 131 of the *Forest Act*. Doing so can help minimize third party collection. All parties should know who they are conducting business with, ask questions and know both the licensee's and the timber's history. If necessary, agreements should be put in writing.▲

For more information visit <http://www2.gov.bc.ca/gov/content/taxes/natural-resource-taxes/forestry/stumpage>.

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