



## **Canadian Forest Products Ltd.**

*and affiliated companies*

July 15, 2008

David Messier  
Advisory Panel on Canada's System of International Taxation Submission  
333 Laurier Avenue West, 15th Floor  
Ottawa ON K1A 0G5

Dear Mr. Messier:

### **Canfor Corporation Submission to the Advisory Panel on Canada's System of International Taxation**

Canfor Corporation ("Canfor") is pleased to have the opportunity to provide input to the Advisory Panel on Canada's System of International Taxation.

Canfor is a leading Canadian integrated forest products company based in Vancouver, British Columbia with interests in over 32 facilities in British Columbia, Alberta, Quebec, Washington State and North and South Carolina. Canfor is the largest producer of softwood lumber in Canada, and also produces oriented strand board (OSB), plywood, remanufactured lumber products and specialized wood products. Canfor also owns a 50.2% interest in Canfor Pulp Limited Partnership, one of the largest producers of northern softwood kraft pulp in Canada and a leading producer of high-performance kraft paper.

### **Issues**

Canfor's key issues with respect to Canada's system of international taxation are as follows:

#### **1. Interest Deductibility of Foreign Affiliate Financing**

The new rules restricting interest deductibility when a double-dip financing structure is used puts Canadian corporations at a competitive disadvantage relative to foreign corporations that are not subject to such restrictions.

Canfor suggests that the interest deduction limitation be eliminated on double-dip structures where the interest deduction arises from borrowings made in Canada from a Canadian bank. This would increase the global competitiveness of Canadian companies, and would be fiscally neutral to the Canadian tax system.

#### **2. Regulation 105**

Regulation 105 is a provision that requires withholding of income tax on payments made to non-residents for services performed in Canada. Regulation 105 poses an administrative burden for Canfor and many other Canadian corporations. It takes a significant amount of effort training staff when to withhold tax, communicating to non-residents as to why tax is being withheld, and preparing tax filings.

Most non-residents performing services in Canada are not subject to Canadian tax, but must go through a cumbersome process to recover the taxes withheld. The existing waiver provisions are ineffective in providing relief from withholding, as the application period to obtain a waiver is generally longer than the time period that the services are required by the non-resident. For example, if manufacturing equipment is in need of repair and requires the service of a non-resident, a waiver cannot be obtained prior to the services being performed.

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Regulation 105 withholding is intended to provide security for tax that may later be assessed. However, Canada Revenue Agency auditors regularly audit corporations more than 3 years after the end of the year to determine whether the company has been in full compliance with Regulation 105. Any tax not withheld results in double taxation, as the Regulation 105 withholding must be paid when uncovered on audit, but the non-resident cannot obtain a refund of the taxes paid since it did not file a Canadian tax return within the 3-year required filing period.

Canfor would like to see the withholding tax requirements under Regulation 105 be replaced with a simpler reporting system similar to the one used in the U.S. In the U.S., a non-resident simply files a one-page form (W8-BEN) with the payer prior to payment in order to claim the reduced treaty rate of withholding. Or, at a minimum, the waiver process should be improved, and Regulation 105 audits should be held within the 3-year filing period of the non-resident.

### **3. Foreign Exchange Losses on Debt Repayments**

Canfor is one of many Canadian corporations that borrow money in U.S. dollars as a natural hedge against its U.S. dollar accounts receivable balances. When debt repayments are made, the foreign exchange gain or loss results in a capital gain or loss for income tax purposes. When capital gains are realized, the taxable portion of the gain (50%) is included in the computation of taxable income for the year. However, when a capital loss is realized, the loss can only be used to offset capital gains. Companies can go very long periods without realizing a capital gain as they generally only result on the sale of appreciated capital property or on repayments of foreign currency denominated loans. As a result, realized capital losses arising on the repayment of U.S. dollar loans can create losses that may not become deductible for tax purposes for many years, if ever.

Canfor believes that a more equitable treatment of foreign exchange losses would be for the taxable capital loss to be deductible in the current year in the computation of net income for income tax purposes, similar to the treatment of allowable business investment losses.

Yours truly,

**CANADIAN FOREST PRODUCTS LTD.**



Harry Jussinoja  
Director, Taxation