

Forestry: Tax Update

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Agenda

- Income Tax
- Relevant Contracts Tax
- Capital Gains Tax
- Stamp Duty
- Gift & Inheritance Taxes
- Value Added Tax





Income Tax



Income Tax Exemption Conditions

- Profits/Gains
- From OCCUPATION of woodlands
- Managed on a COMMERCIAL basis
- With a **view to realisation of profit**
- Must be included in Annual Tax Return



EXEMPT

Christmas Trees

- UK position – Case Law
- Woodlands implies production of timber
- Christmas Trees implies “Nursery”
- Nursery not woodlands
- Irish position to date
 - *Christmas Trees Qualify for Exemption*



Woodlands Tax Exemption

- Not strictly correct
- Profits liable to PRSI
- Profits liable to Universal Social Charge



Reducing Exposure to USC & PRSI on Woodland Income



- Replanting – Replanting of trees is a revenue expense *Wilson-Wright v Connolly* (1976)
- Cost of thinning etc.
- Insurance

Relevant Contracts Tax



Relevant Contracts Tax & Forestry

- Forestry Operations
- Obligation to deduct tax from sub-contractors
- 0%, 20%, 35%
- Who is the principle contractor?



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Capital Gains Tax

Capital Gains Tax

- Sale of trees exempt for individuals
- Beware of compensation cases, e.g. ESB lines, TAC case 2017
 - *Esb had right to erect a pylon*
 - *Case lost on basis that there was no disposal of underlying lands.*
- Sale of land and trees
 - *Trees exempt*
 - *Land taxable*

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Stamp Duty

Stamp Duty

- Land liable to Stamp Duty
- Trees not liable to Stamp Duty – “growing on substantial part of the land” -75%. May need a separate deed for forestry land to qualify
- Necessary to split the cost
- 7.5% rate
- Agreement between vendor/purchaser
 - *Purchaser’s stamp duty exemption amount*
 - *Seller’s capital gains tax trees exempt amount*

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Gift & Inheritance Taxes

Gift & Inheritance Taxes

- Trees **growing on the land** qualifies as “agricultural property”.
- Agricultural property qualifies for “Agricultural Relief”
- Agricultural Relief allows 90% write-down in value subject to asset test.
- Trees qualify for “Agricultural Relief” **without asset test** but not Active Farmer Test.
- Trees with market value of €1m
 - *Taxable value €100K*



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Gift & Inheritance Taxes

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Gift & Inheritance Tax

Business Relief

- If cant meet asset test for agricultural relief on underlying land – could look at business relief.
 - Forestry established 5 years before transfer
 - Must continue business of forestry for 6 years afterwards.



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Value Added Tax

Value Added Tax



- Forestry deemed to be “farming activity”
- “Farming Activity” of vat unregistered farmer qualifies for 4.8% flat rate refund.
- “Normal” farming activity carried on by a “normal” farmer – the farmer can remain vat unregistered.
- “Normal farmer” – a person who engages in agricultural production on land he owns or occupies and whose turnover from non-agricultural activities does not exceed €37,500 per annum.
- Being forced to register
 - *Carrying on another vatable business e.g. pub etc.*

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VAT Refunds: Unregistered Farmer



- VAT 58
- Vat refund on capital costs
- Forestry is farming
- Vat refund on fencing and roadways- new not repairs!
- Invoice must be in the name of the farmer

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VAT: Inclusive/Exclusive Pricing

	VAT Inclusive	VAT Exclusive
Cash to farmer	100,000	104,800
VAT (4.8%)	4,580	4,800
Cost to merchant	95,420	100,000

- It is vitally important to speak with the merchant prior to the deal being struck.
- For vat unregistered farmer the difference is €4,800 on each €100,000 sale.

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VAT Rates: VAT Registered Farmer

- Timber Sales 23%
 - *For both cut or standing timber (including Christmas trees)*
- Firewood 13.5%
- Forest and Land 23%



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