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# UK FORESTRY TAXATION SUMMARY

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**MAY 2019**

The information contained in this document is intended as a general summary prepared in accordance with Gresham House Asset Management's current understanding of UK tax laws and should be used only as a guide and does not constitute legal or tax advice. **GRESHAM HOUSE ASSET MANAGEMENT LIMITED DOES NOT PROVIDE TAXATION ADVICE.** Prospective investors are advised to consult their own professional advisers in relation to the financial, legal, tax, National Insurance Contribution liabilities and other implications of investment in UK forestry which will vary in relation to their own particular circumstances.

Investment in commercial forestry is currently subject to favourable taxation treatment in the UK. Under current UK tax law, there is no liability to income tax, corporation tax or capital gains tax (CGT) arising in relation to growing timber. As a consequence, the majority of the income arising in relation to a UK forestry investment is anticipated to be free of tax.

Commercial forestry should qualify for 100% relief from inheritance tax (IHT), through Business Property Relief (BPR), once held for two years.

**Prospective investors should be aware that, any change in the level and/or basis of taxation, in tax reliefs or in HMRC or Revenue Scotland practices, may adversely affect the value of UK forestry investments and returns to investors.**



Income generated from commercial forestry is exempt from both income tax and corporation tax.

The increase in the value of timber is exempt from capital gains tax.

## INCOME TAX & CORPORATION TAX

### Tax-free income

Income arising from commercial forestry is exempt from both income tax and corporation tax. It is thus of particular advantage to higher rate taxpayers.

No tax is payable on income generated from a timber crop or on the sale of an entire plantation (Income Tax (Trading and Other Income) Act 2005, s11, s768; Corporation Tax Act 2009, s37, s980).

No tax relief is available on development costs or interest payments.

Income arising from property revenue such as sporting, letting woodlands or renewable energy leases, is subject to income tax.

## CAPITAL GAINS TAX (CGT)

### Tax-free growth

The increase in the value of growing timber is exempt from CGT (s250, Taxation of Capital Gains Act (TCGA) 1992).

On sale of land or a partnership interest in land, any gain in the value of this land from the date of acquisition will be subject to CGT.

Entrepreneurs' Relief may be available on a chargeable gain arising on a disposal, however availability will depend on the specific facts of each case. If available, this reduces the CGT rate to 10% on the taxpayer's first £10 million of taxable gains arising from qualifying business assets (TCGA 1992).

### Roll-over relief

Where a chargeable gain has arisen on the sale of a qualifying business asset, it is possible to benefit from roll-over relief from any CGT due by investing the sale proceeds into another qualifying business asset and thus defer the CGT due (s158(1) (b) TCGA 1992). The land element of a forestry investment is a qualifying business asset.

It can be possible to secure 100% roll-over relief by acquiring land for afforestation.

### Hold-over relief

When making a lifetime transfer of a forestry asset, any chargeable gain arising on the land element of this asset can be held-over. Thus the chargeable gain is deferred until a subsequent sale by the donee (subject to certain conditions, under s165(9) TCGA 1992).

## INHERITANCE TAX (IHT)

### On death

Forestry which is managed commercially qualifies for 100% BPR once held for two years, (Inheritance Tax Act 1984 (IHTA), s105 and s106). If held at death, there is no IHT payable on the total value of the investment including both land and trees.

If the owner dies before completing the full two-year qualifying period for 100% BPR:

- If the forest is bequeathed to a spouse then the spouse's two-year qualifying period is treated as starting at the date of the original purchase of the forest (s108 IHTA 1984);
- or
- On a bequest to any other person then any IHT due may be paid in ten annual instalments, interest free (s227 IHTA 1984).

### On lifetime transfers

The lifetime transfer of assets which qualify for 100% BPR, such as forestry, may provide a safeguard against any potential change of legislation in the future.

If the donor survives for seven years after a lifetime transfer, there would be no liability to IHT.

For the estate to benefit from 100% BPR in the event of a lifetime transfer becoming liable to tax, due to the death of the donor within seven years of making the gift:

- The donee must still own the asset and it must still qualify for BPR at the date of death (s1139(A) IHTA 1984);
- or
- If the donee has sold the asset they must have reinvested all the proceeds of sale into another qualifying business asset within 36 months of the sale (s113A and s113B IHTA 1984).

If this condition is not fulfilled, the donee and/or the donor's estate will be assessed for IHT. However, provided the donee is due to pay the tax, this may be paid in ten annual instalments, interest free.

On an exempt lifetime transfer between spouses no IHT applies (s181(1) IHTA 1984). However, for the transferee the two-year qualifying period for BPR will begin on the date of the transfer.

### In relation to trusts

Forestry which qualifies for 100% BPR can be settled into a trust by individuals without incurring an IHT charge. Hold-over relief under the TCGA 1992 s260 can be used to defer any gain for CGT purposes. Where forestry, which qualifies for BPR, is held in a trust no IHT liability arises at the ten-year anniversary charge date on the total value of the asset (IHTA 1984 s66 and s103).

**All commercial forestry benefits from 100% IHT relief once held for two years.**



Forestry offers considerable investment flexibility. Investments can be carefully targeted to meet set investment objectives. These include regular tax-free income from mature and semi mature plantations, to capital growth over a given period of time to meet known future commitments. This can be achieved by acquiring the appropriate age class plantation.

All of this can be accomplished within an environment which provides 100% IHT relief, allowing for flexibility in financial planning within a family.

## Gresham House Asset Management Limited

Glebe Barn  
Great Barrington  
Burford  
Oxon  
OX18 4US

T: 01451 844655

E: [admin@greshamhouse.com](mailto:admin@greshamhouse.com)

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