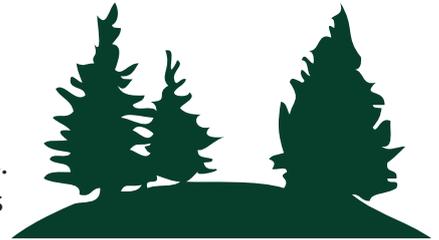


Business Property Relief (BPR) for Commercial Woodlands



You may think your woodlands are ‘commercial’, but will the taxman agree? HM Customs & Revenue may challenge owners who claim Business Property Relief for their occupation of commercial woodlands. **David Gittins**, MA, FCA as woodland taxation adviser to Confor members has prepared the following notes to help you.

Summary of Tax Treatment of Commercial Forestry

The tax treatment of Commercial Forestry is well documented. The tax reliefs available for commercial forestry were listed among the 1042 tax reliefs identified recently by the Office of Tax Simplification.

Income Tax

ITTOIA 2005 s.768 states: “No liability to income tax arises.....in respect of income arising from the commercial occupation of woodlands in the United Kingdom”. Conversely, no tax relief is available for expenditure for commercial woodlands and no capital allowances are available for capital expenditure incurred for forestry purposes.

Capital Gains Tax

TCGA 1992 s.250 states: “consideration for the disposal of trees standing or felled or cut on woodlands managed by the occupier on a commercial basis... shall be excluded from the computation of the gain...” Also s.250(4) and (5) provide that in the computation of the gain so much of the cost and so much of the consideration for the disposal as is attributable to the trees growing on the land shall be excluded.

Inheritance Tax

IHTA 1984 s.105 states that business property relief is available for “property consisting of a business or interest in a business”. The occupation of commercial woodlands is accepted as “relevant business property” and 100% relief can be available.

Value Added Tax

As a business, the occupation of commercially managed forestry can be subject to this tax. In the absence of income or sufficient income to require registration, it is possible to register as an intended trader provided there is a continuing intention to make taxable supplies in due course. VAT on expenditure can therefore be reclaimed.

Commerciality

The concept of “commerciality” is fundamental for the application of the tax treatment and tax reliefs, but the definition of “commercial” is far from definitive. For example, the income tax legislation explains “the occupation of woodlands is commercial if the woodlands are managed on a commercial basis with a view to the realisation of profits”.

HM Revenue & Customs are inclined to challenge the commerciality of a woodlands business on the grounds that the business is being carried on “not for gain” – especially if no income is received for several years – or that it is merely one of holding investments. Neither of these accusations, if proved, would allow the tax reliefs for commercial forestry to be applied.

It is therefore essential that sufficient evidence is available to show that the occupation of the woodlands is on a commercial basis. Such evidence should include as many as possible of the following.

- Accounts on a yearly basis – like any other business.
- A separate bank account in the name of the owner of the business.
- VAT registration of the business or inclusion within a VAT registration in the name of the owner.
- Evidence of active management by a professional forester or experienced woodland manager who makes periodic reference to the owner to decide or discuss what is to be done in the woods.
- Evidence that the management is “with a views to the realisation for profits” and not merely to improve the shooting or biodiversity. The wording of any grant schemes may be important.

MEMBER SERVICES TAXATION HELPLINE



Members may contact David Gittins at:
2 Burston House, Pittville Circus, Cheltenham,
Gloucestershire GL52 2PU
Tel: 01242 262490
Email: gittins.trees@btconnect.com