

Woodlands relief

Synopsis: Conditions woodlands for relief.

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There is a specific relief for transfers of woodlands on death. Woodlands relief is a relief from inheritance tax available on the transfer of woodlands on death. It is only available if all the conditions for the relief are satisfied.

Woodland is any land on which trees or underwood are growing so may include wooded parkland, strips of land with trees lining roads, or tree belts.

For transfers before 6 April 2024, the woodlands must be situated in the EEA, Channel Islands and Isle of Man (prior to 22 April 2009 it was restricted to United Kingdom, Channel Islands and Isle of Man).

For transfers from 6 April 2024, the geographical scope of woodlands relief is restricted to property located in the UK only. This means property located in the Channel Islands, the Isle of Man, the EU, Norway, Iceland and Liechtenstein will be treated the same as other property located outside the UK.

This will have effect in relation to...

- transfers of value made on or after 6 April 2024;
- occasions on or after 6 April 2024 on which tax falls to be charged under Chapter 3 of Part 3 of IHTA 1984.

Woodlands can qualify for business relief if they are run on a commercial basis. Woodlands which are ancillary to farming are not eligible for woodlands relief, but may qualify for agricultural relief or business relief.

Where the relief applies, an election may be made to exclude the value of the timber (that is, the trees and underwood but not the underlying land) from the deceased's estate. If, however, the timber is subsequently disposed of (whether by gift, sale or otherwise) before the next death on which it is transferred, inheritance tax is charged on the sale proceeds or value of the timber at the time of disposal.

Relief is available if...

- An election is made within two years of the death, although HMRC has discretion to accept late elections;

and

- The deceased was the beneficial owner of the woodlands for at least five years immediately before death or became beneficially entitled to it otherwise than for a consideration in money or money's worth, for example by gift or inheritance.

Woodlands relief is not available for outright lifetime transfers, for transfers by close companies or for woodlands held on discretionary trust. Relief is available where woodlands are comprised in a gift with reservation and treated as part of the donor's estate on death.

For woodlands held by a partnership, the relief can be claimed on the death of a partner if the terms of the partnership are such that they were the beneficial owner of a share of the woodlands.

Tax charge on subsequent disposal

Where woodlands relief has been given and the timber is later sold, given away or otherwise disposed of before the land on which it was growing is transferred again on another death, a tax charge arises unless the disposal was to the owner's spouse or civil partner.

A disposal of an interest in the timber is treated for this purpose as disposal of the timber itself. Once the timber has been transferred again on another death no tax is chargeable on later disposals by reference to the first death – Section 126 IHTA 1984.

Amount of the charge

If the disposal is a sale for full consideration in money or money's worth, tax is charged on the net proceeds of sale. In other cases, it is charged on the net value of the timber at the time of the disposal – Section 127 IHTA 1984. In calculating the net sale proceeds or value, certain expenses may be deducted. These are the expenses of disposal and of replanting within three years of the disposal, so far as they are not allowable for income tax.

The three-year time limit for replanting expenses may be extended at the discretion of HMRC – Section 130(2) IHTA 1984. In practice, the time limit will be extended if replanting was delayed by circumstances outside the owner's control. Replanting expenses which are not allowable in one disposal may be carried forward to future disposals.

Rate of tax

The rate of tax chargeable on the disposal is found by treating the taxable amount as the top slice of the deceased's estate.

For this purpose, the deceased's estate includes any sale proceeds or value charged to tax on previous disposals since the death – Section 128 IHTA 1984. But if tax on timber has been deferred and the rates of tax are reduced before the timber is disposed of, the tax chargeable on a disposal is calculated on the scale applicable at the date of disposal - Paragraph 4 Schedule 2 IHTA 1984.

Persons liable

If the disposal is a sale, the tax is payable by the person who is entitled to the sale proceeds. Otherwise, it is payable by the person who would have been entitled to

the proceeds if the disposal had been a sale - normally the donor – Section 208 IHTA 1984.

An account of the relevant timber should be delivered within six months of the end of the month in which the disposal occurred - Section 216(7) IHTA 1984.

Relief from charges on subsequent lifetime transfers

Where woodlands relief has been given and the subsequent disposal is liable to tax as a chargeable lifetime transfer, there are two charges to tax - one by reference to death and one on the lifetime transfer itself. But the tax payable by reference to the death is deducted in calculating the amount of the chargeable lifetime transfer – Section 129 IHTA 1984.

Payment of tax

If tax is charged on a disposal by reference to the death, the tax is due six months after the end of the month in which the disposal occurs – Section 226(4) IHTA 1984.

Business relief

Woodlands forming part of a business may qualify for business relief on a transfer during lifetime or on death if the ordinary conditions for that relief are satisfied. Where an election is made for woodlands relief for the timber itself, business relief may be due on the value attributable to the rest of the business including land on which the trees are growing.

Business relief also extends to the deferred charge on disposals following an election for relief under Section 125(2) IHTA 1984 on the previous owner's death provided that business relief would have been available on the death if the election for deferment had not been made – Section 127(2) IHTA 1984.