



## Taxation of Woodlands and Forestry in Ireland

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## Introduction

We have often been told that money doesn't grow on trees, but given the rise in the popularity of trees as a trading or investment asset and the favourable tax treatment applicable to trees under Irish tax legislation, one might have to revisit that assertion! In this article John O'Reilly details the practicalities facing Irish forest owners today, and Anne Hogan discusses the tax treatment of forests and woodlands in Ireland under various tax heads.

## High-Level Forest Statistics

As of 2022, the total area of forest in Ireland was estimated to be 808,848 ha, or 11.6% of the total land area (Government of Ireland, *Ireland's National Forest Inventory 2022 – Main Findings* (Dublin: 2023)), with forest cover estimated to be at its highest level in more than 350 years. Of the total forest area, 397,364 ha, or 49.1%, is in public ownership, mainly owned by Coillte, but a very significant quantum, 411,484 ha, is in private ownership. The term "private" captures forests owned by institutional investors, funds, and private woodland owners, and equates to a very substantial area of timber of significant monetary value.

The national forest estate comprises 69.4% conifers – primarily spruce, be it Sitka spruce or Norway spruce – and 30.6% broadleaves, mainly ash (currently being decimated by ash dieback disease), oak, birch, alder and sycamore, plus other, minor species.

The private forest estate divides into two broad categories:

- grant-aided, 288,497 ha; and
- non-grant-aided, 122,987 ha.

Although a significant proportion of the private non-grant-aided forest estate would have been present before 1980, and this forest type would be located mainly on larger land holdings and within estates, a noteworthy statistic is that 288,497 ha has been planted by private owners for commercial purposes, driven by financial incentives provided by the State. Since 1980, 23,859 individual private forest owners have received grant aid to establish their forests.

The age distribution of the forest estate is still relatively young, but based on current management strategies, sawmill demand and timber prices, sizable areas of woodland are felled once they reach their late 20s and 30s, and Fig. 1 below indicates that significant quantities of timber will come to market over the next decade. Having planted large areas in the 1980s and 1990s, private woodland owners will now start to realise the significant value tied up in their forest assets.

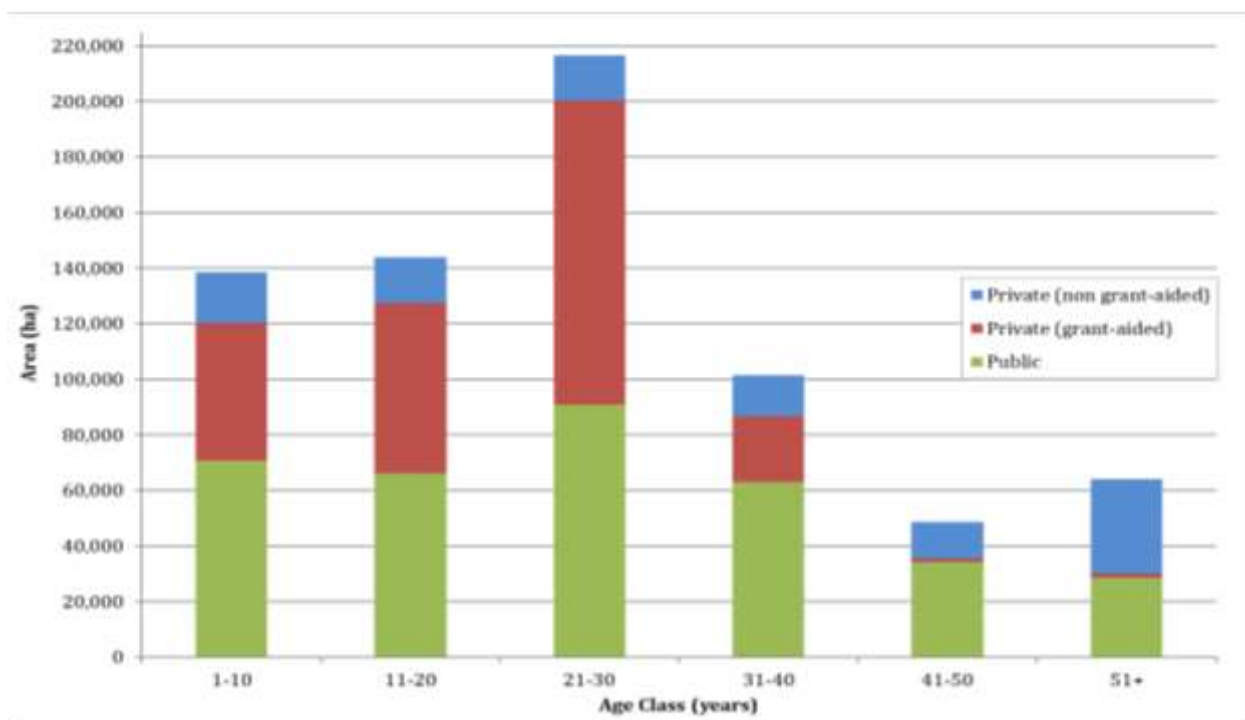


Fig. 1: Forest age-class distribution by ownership (source: *Ireland's National Forest Inventory 2022*).

## Realisation of Value: Sale of Timber

Forests provide revenue to their owners after harvesting events, and timber harvesting (in an Irish context) falls into two main categories:

- thinning, which is the progressive removal of a percentage of the standing timber, giving the remaining stems more space and room to accrue volume and value; and
- clearfelling, which is the complete felling of the mature crop at the end of its predetermined rotation.

Irish forest owners tend to manage their crops primarily based on a clearfell system, but many are moving toward a management system, commonly used in Continental forestry, called continuous cover forestry

(CCF). This management system avoids blanket clearfelling in favour of a more long-term strategy of continually removing a percentage of the standing crop over time. CCF is considered to be less environmentally impactful than clearfelling.

Across the maturing private forest estate, forest managers, on behalf of forest owners, bring timber that is ready to harvest to market, selling same to the sawmilling/harvesting sector, normally as a standing sale. Forest managers supervise operations and charge the forest owner accordingly, with the revenue from the timber sale being realised by the woodland owner as income. Private forest owners then benefit from the income tax exemption, with individuals ultimately paying only USC and PRSI (this is discussed further below).

Profitability for the forest owner depends on the price achieved for the standing timber, and this can vary across forest stands. At a high level, Irish timber prices are influenced by:

- domestic demand, driven by the construction sector;
- demand in the UK, our largest export market; and
- the supply of timber from Scandinavia, primarily Sweden (if Scandinavian timber is moving to the US, influenced by US demand, US interest rates and the impact of hurricanes/tornadoes, then the UK market is open to Irish supply and prices lift. If the Scandinavian nations are focused on exporting to the UK, this tends to drive down the price achieved for sawn material and, accordingly, drives down standing log prices).

At a forest level, timber prices are influenced by:

- the quality of the land planted and the yield of the crop (referred to as yield class, a measure of the productivity of a forest in cubic metres);
- species, with the sawmilling sector favouring Sitka spruce;
- access to the stand of timber (whether there is a forest road);
- the scale of operations (larger harvest events achieve better prices);
- timber quality (whether the stand has been well managed); and
- haulage costs.

Accordingly, prices achieved by forest owners can vary dramatically, and forest owners should to be aware of this variance.

## **Realisation of Value: Sale of a Forest**

A forest owner can also realise the value of their asset by selling their forest. In essence, selling a forest consists of two distinct parts:

- sale of the standing timber and

- sale of the underlying land.

The market for Irish forests is currently “brisk”, with numerous institutional investors, funds, family offices and high-net-worth individuals looking to acquire maturing forest assets. A natural, and indeed global, progression in forest ownership is the migration of forest assets from multiple smaller private forest owners to consolidated ownership at a fund/institutional level.

Forestry is considered an attractive investment by multiple investors because:

- It provides risk-adjusted returns, offering investors the opportunity to achieve an attractive, low-risk, long-term, positive, real return.
- It is a tax-efficient investment, depending on the jurisdiction (with Ireland offering favourable tax incentives, as discussed below).
- It allows for diversification of an investment portfolio into an asset-backed commodity.
- Forestry has historically delivered strong returns with a low risk-to-return ratio.
- Biological growth is not impacted by external economic factors, in that a forest continues to grow and put on volume, and therefore value, no matter what the economic climate is.
- Unlike other commodities, forests do not have to be harvested if prices are poor; they can be “stored on the stump”, awaiting a price uplift.
- Risks can be minimised by effective management.
- Risk discount rates can be adjusted downwards as the asset matures (reduced risk).

As a reasonable percentage of the private forest estate in Ireland is of suitable scale, and is classed as being highly productive, the current market for the appropriate forest asset is strong.

Investors tend to prefer forests that are:

- are coniferous (not broadleaf, owing to the length of the rotation to clearfell);
- are planted with spruce (preferably, Sitka spruce);
- are of scale;
- have good access, with no environmental restrictions; and
- are of good timber quality.

Accordingly, not all forests are of interest to the larger institutional investor, and offers can vary significantly.

When valuing standing timber for a forest sale, the most common method is to calculate the net present value (NPV) of the crop. To determine, first, the future value of the timber, the valuer will need to understand the growth pattern of the forest, determining the future timber volume at the projected time of harvest, as well as the future price that will be paid for the timber. Once future value is determined, this value can then

be discounted over a predetermined period, at a selected discount rate, to calculate the NPV of the crop (discount rates that are used to value Irish forests tend to vary from 3.5% to 7%).

The value of the land on which the forest sits is impacted by the Forestry Act 2014, which requires that the land be replanted after felling and that it ultimately remains in a perpetual cycle of forest rotations. It should also be noted that when establishing a crop of trees in the second or subsequent rotations after clearfell, no grant assistance is available from the Forest Service to cover establishment costs, and the land needs to be replanted at the owner's cost. These two factors lead to valuations of planted forest land that are in the range of €750 per acre for low-yielding peaty soils to €2,000 per acre for productive mineral soils.

When private forest owners sell their forest as a going concern, the timber will benefit from capital gains tax (CGT) exemptions while the underlying land will be subject to CGT (discussed further below). In practice, the low value attributed to the land does not lead to significant CGT liabilities, and the real value of any forest is in the value of the timber.

It should be noted that investors provide the option to acquire the standing timber alone, not acquiring the land. In this case the focus is on acquiring the harvesting rights to forests that are 18 years of age and older. This will suit forest owners who do not want to sell their land or who simply cannot sell the land, based on how the forest is integrated into their overall farm holding. The option allows forest owners to cash in on the future value of their forest, converting future value into current cash-flow.

Over the next decade large quantities of timber will be harvested and many forest owners will decide to sell their forest as a going concern. Understanding value and the potential tax liabilities is essential. The structure of the forestry industry in Ireland and the various ways in which an income or gain can be derived from this type of asset have been detailed above. Forestry is seen as one of the most important tools in addressing our nation's carbon footprint, and consequently this is an industry that benefits from favourable tax treatment. The issues to be considered in relation to the taxation of forestry and woodlands under various tax heads are discussed in more detail below.

## **Income Tax**

Section 232 TCA 1997 provides that profits from the commercial occupation of woodlands in the State are exempt from income tax and corporation tax. The woodland must be managed on a commercial basis with a view to profit. This is not defined, but it is understood that the forest owner must be able to demonstrate that they have received advice from a qualified forester/adviser. Consideration would also be given to time spent on the management of the woodlands, labour input, capital works, scale of woodlands etc.

A distinction is drawn between the activities of "tree farming" or "market gardening" as opposed to silviculture. Silviculture is the science and art of growing and cultivating forest.

The forest owners must ensure that they are occupying the land in order to avail of the exemption. Occupation is defined in the legislation as “having the use of that land” and does not equate to mere ownership of the land.

The claim for the tax exemption must be made annually on the exemption section of the tax return. Details of all relevant profits, gains and losses must also be included in the annual return of income to Revenue, in the section relating to exempt income. The normal taxation rules that apply in computing profits, gains and losses still apply to the calculations, albeit that no tax arises on the profit.

- The “badges of trade” should be used to determine whether the activity constitutes a trade. A trade will use generally accepted accounting principles (GAAP) to compute its Case I profits. Under these principles, profits are allocated as the value of the stock increases each year, meaning that profits are spread over the growth of the woodlands.
- Where the level of activity is not sufficient to constitute a trade, the appropriate basis of assessment is Case IV, and profits are treated as arising in the year in which they are realised.

This income tax exemption is no longer considered to be a “specified relief” for the purposes of the high-income earner restriction after an amendment was introduced by Finance Act 2015. This followed representations from the agricultural sector and the Department of Agriculture, Food and the Marine to the effect that woodlands income and gains, by their nature, are erratic rather than arising in a steady stream over a period. It was acknowledged that there can be years with no income or gains while the crop is growing, followed by a year in which the crop is harvested and the income is generated. The application of the high-earner restriction was potentially distorting output and production, with farmers not willing to generate sufficient income to bring them within the scope of the restriction, and for that reason the exemption was removed from the list of specified reliefs.

Table 1 summarises some of the types of income that can arise from holding woodlands and whether the income is considered taxable or exempt under s232. As a rule of thumb, Revenue takes the view that the wood should be capable of use as timber to be considered to fall within the exemption.

Table 1: Forestry activities and their exemption from income tax under s232 TCA 1997.

Type of activity giving rise to income	Exempt from tax under s232 TCA 1997?
Felling trees and selling hewn timber (timber converted from a log to lumber)	Yes
Planting and harvesting Christmas trees	Yes
Thinnings/foliage created as a by-product of managing woodlands on a commercial basis by removing branches and foliage to ensure	Yes



optimum growth of the tree

Sale of thinnings/foliage of holly, eucalyptus, viburnum etc. as a crop that is harvested from the plants, as opposed to harvesting the plants themselves No

Sale of other trees, shrubs or bushes that are more akin to the cultivation of plants or a nursery No

Selling standing timber – allowing other parties on to the land to fell the trees while retaining ownership of the land on which the trees grow Yes

Selling timber products Portion referable to occupation of woodlands exempt; income referable to timber-processing activities taxable

Planting grant and forestry premium income received from the occupation of woodlands Yes

Compensation proceeds for damage to woodlands leading to loss of profits, e.g. storm damage Yes

Sale of land with standing timber held as a capital asset No  
Not an income transaction – subject to CGT. A separate CGT exemption may apply to the proceeds referable to the standing timber (discussed below)

Sale of land and standing timber held as a trading asset, i.e. the sale of established woodlands held as trading stock. Profit from the sale of the woodland, as opposed to occupation of the woodland on a commercial basis. No

Losses incurred in the occupation of woodlands managed on a commercial basis with a view to the realisation of profits may not be claimed as an allowable loss for offset against other income in the year under s381 TCA 1997.



## **Pay-Related Social Insurance**

For an individual, the profit from forestry for each year is fully liable to PRSI, typically at the S rate of 4%.

## **Universal Social Charge**

Similarly, for an individual, forestry profits are liable to the progressive rate of USC, depending on the level of income.

## **Distributions from Exempt Profits**

Section 140 TCA 1997 extends the exemption under s232 to dividends or other distributions made by a company that are made out of exempt profits from woodlands. As is the case with the exemption under s232, the exemption under s140 applies to income and corporation tax only and does not extend to USC or PRSI for individuals. The high-income earner restriction still applies to this dividend income where the recipient is an individual (even though income under s232 was removed from the list of specified reliefs).

## **Capital Gains Tax**

As mentioned above, profits from the sale of land with standing timber do not fall within the exemption of s232 TCA 1997, as this is a capital transaction and not an income transaction. If an individual is disposing of woodland and the disposal is within the scope of CGT (i.e. it is a normal disposal and not part of a trade), then s564 TCA 1997 applies. Section 564 specifically provides that proceeds should be apportioned and that no account should be taken of either the cost of the trees or the value associated with the trees. If a company is disposing of woodland and the disposal is within the scope of CGT, then CGT applies to the full proceeds, i.e. both the land and the standing timber, albeit that the sale of the timber on its own would be considered an income transaction.

Section 564 TCA 1997 provides that, in the case of individuals, the value of the standing timber is not taken into account for CGT purposes. It is important to note that this CGT exemption for the disposal of the crop of trees is not available to a company.

The underlying land is still a chargeable asset, and any proceeds referable to the land will be subject to CGT as normal. As mentioned above, in practice, the land on which woodlands are planted will usually have a low value owing to the existence of the long-term crop growing on it and the cost of reclaiming the land for other agricultural use should the trees be removed.

Interestingly, although the cost referable to the trees must be excluded, there is no explicit requirement that the incidental costs of disposal be excluded or apportioned between the consideration in respect of the timber (which is being excluded from the computation) and the consideration in respect of the land (which is

taxable). There is, therefore, a view that the entire incidental costs of disposal would remain deductible against the taxable land element, notwithstanding the fact that a major part of the disposal consideration may be excluded from the CGT computation.

## Use of Valuers

In reality, a sale of land together with the trees will usually be made for an overall agreed price without the contract's specifying how the proceeds are to be split between the land and the trees. This then necessitates the engagement of an independent valuer to assist the taxpayer in ascertaining what consideration is referable to the trees (and therefore exempt from CGT) and what consideration is referable to the underlying land (and subject to CGT).

This matter has been the subject of a recent Tax Appeals Commission decision, 108TACD2023, where Revenue challenged the split included by the taxpayer in their tax returns on the basis that it was Revenue's view that the trees were overvalued.

Section 544(5) TCA 1997 (Interpretation and general) provides:

“For the purposes of any computation under this Chapter of a gain accruing on a disposal, any necessary apportionment shall be made of any consideration or of any expenditure, and the method of apportionment adopted shall, subject to this Chapter, be such method as appears to the inspector or on appeal the Appeal Commissioners to be just and reasonable.”

The importance of engaging a credible valuer to determine what is “just and reasonable” was highlighted in this case, with the taxpayer's calling four different valuers as witnesses while Revenue engaged only one valuer to act as witness. Two of the taxpayer's witnesses were qualified foresters. The requirements to be fulfilled to be a registered forester are detailed on the website of the Department of Agriculture, Food and the Marine. In this tax appeal the foresters explained that the standard models used to value woodlands are the Irish Dynamic Yield Model and the British Forestry Commission Yield Model. The expert witnesses outlined the fact that valuing trees is a scientific and fiscal exercise and that, although valuations can also occur through the use of the transaction method, there are not enough transactions taking place in Ireland to achieve an accurate result with this method. In making her decision, the Appeal Commissioner considered it relevant that some of the lands did not have felling licences and it was unlikely that such a licence would be available until the trees reached a certain age. For that reason, it was accepted that, in valuing the trees, “some element of future value of the growth of the tree must be relevant in any sale/purchase”, and it was not just the market value of the trees if they were all felled and sold at the date of disposal of the land and trees that was relevant. The Appeal Commissioner found that:

“the valuation of the trees is based on *inter alia* location, size, surroundings, condition, current use, zoning and planning, existing accommodation, services, title/tenure, the value of wood/timber, the property being well managed with grants and premia available”.

Given the technical nature of forestry valuation, it is clear that a taxpayer must ensure that they engage a valuer with appropriate expertise in the valuation of woodlands for the purposes of the split required by s564, and not just a regular auctioneer or estate agent who does not specialise in this area. Thought should also be given to agreeing at the time of purchase the split of consideration between the land and the trees between the purchaser and vendor (in the case of a third-party, unconnected sale) and reciting the agreed split in the contract to avoid challenges from Revenue on the consideration allocation. Given the complexity of the matter, it may still, however, be necessary to engage a forester or another independent expert to assist with the split at that stage also.

## **Capital Sum Derived from an Asset**

In another tax appeal, 01TACD2017, the taxpayer received a payment from an energy company in respect of the grant of a series of rights allowing the energy company to erect electricity pylons and a 100kV line on the taxpayer's lands. The appellant's lands were under forestry, and the taxpayer agreed that an area of forest would be cleared to make way for the pylons. The taxpayer contended that part of the consideration received was attributable to the disposal of trees growing on the land and, consequently, sought to claim an exemption from CGT for that part of the proceeds, pursuant to s564 TCA 1997. The Appeal Commissioner found in that case that the payment represented a capital sum for the use or exploitation of an asset in accordance with s535(2)(a)(iv) TCA 1997 and that this was the appropriate taxing provision on the basis that there was no disposal of woodland for the purposes of s564. The land must therefore be fully alienated from the vendor for the exemption under s564 to apply.

## **Capital Acquisitions Tax**

The parent-to-child tax-free exemption for gifts and inheritances was increased to €400,000 under section 99 Finance Act, 2024, with tax at 33% applying to the market value of assets received above this value. Given current land and property prices, this exemption threshold is still relatively low, even after the recent increase from €335,000. This means that the availability of a relief such as agricultural relief (which allows a 90% discount on the market value to arrive at the taxable value of an asset transferred) becomes very important. The agricultural property to which agricultural relief can apply includes "agricultural land, pasture and woodland situate in a Member State [or in the United Kingdom] and crops, trees and underwood growing on such land". Woodland trees qualify for CAT agricultural relief if growing on the land, but this does not apply if the trees or underwood have been harvested or are cut down.

In general, to qualify for agricultural relief, under the "farmer asset test" 80% of the recipient's assets must be in agricultural and forestry property on receipt of the benefit. In addition, the recipient must also meet the "active farmer test". These tests do not apply to the timber growing on the land but do apply to the land itself. There are changes to the farmer test introduced in the Finance Act 2024, but these are subject to Ministerial Order, and as currently drafted, do not change the application of agricultural relief to woodlands as outlined above.

The six-year clawback provisions do not apply to the subsequent disposal of trees or underwood by the beneficiary. In circumstances where the land is retained, the forestry land must continue to be managed on a commercial basis for at least six years after the receipt of the gift or inheritance.

In the event that agricultural relief does not apply, it may be possible to claim business relief on the basis that forestry or woodland business is not considered by Revenue to be in the nature of the making or holding of investments. Similarly to agricultural relief, where business relief applies, a 90% discount is allowed on market value to arrive at the taxable value of a gift or inheritance.

## **Value-Added Tax**

Commercial forestry activities are regarded as farming for VAT purposes. Most private forest owners are not VAT registered but can add 4.8% (increasing to 5.1% from 1 January 2025) to the sale price of their timber to compensate them for being unable to recover VAT inputs.

An unregistered forest owner may be able to recover VAT on buildings and roads under the Repayments to Unregistered Farmers Scheme.

Alternatively, forest owners can waive their VAT exemption and charge VAT on all outputs, as well as recover VAT on all inputs. The sale of timber or the sale of forest and land is subject to the standard VAT rate of 23%, except for firewood and kindling, for which the rate is 13.5%. Forestry services such as planting and felling are liable to VAT at 13.5%.

## **Stamp Duty**

Unlike crops that must be sown every year, trees are generally regarded as *fructus naturales*, which are generally treated as part of the land. The effect of this is that where land is sold with trees on it, the consideration for/value of the trees is treated as part of the consideration for/value of the land and is stampable accordingly.

Stamp duty applies to all transfers and purchases of forestry land at a rate of 7.5%. The only exception is the transfer of forestry land between spouses and between group related companies, which are exempt from stamp duty.

Standing timber (i.e. growing timber) in a commercial woodland is, however, exempt from stamp duty if the growing timber accounts for 75% of the land area, but the underlying land is still liable to stamp duty. Similar to the position with regard to the CGT exemption, in the event of an acquisition of land and standing timber a professional valuation will therefore be required of the land separate from the crop to arrive at the amount of the consideration liable to duty. Where the purchaser is obtaining a valuation for stamp duty purposes and the vendor is obtaining a valuation for CGT purposes, it is important that both parties ensure consistency between the two valuations. .No Stamp Duty applies to assets passing under Will but in the event that a gift

of forestry is made the value attributable to standing timber will again be exempt such that an independent valuation will be needed to apportion value between the land and the standing timber.

Young trained farmer relief and consanguinity relief do not apply to the transfer of woodlands

## Relevant Contracts Tax

Individuals or companies operating in forestry must also be cognisant of any relevant RCT obligations in their activities. Section 530A(1)(b)(iii) TCA 1997 provides that a person who carries on a business that includes the processing of wood from thinned or felled trees, or who supplies thinned or felled trees for such processing, may be a “principal” for the purposes of RCT.

Forestry operations for the purposes of RCT means operations of any of the following descriptions:

- (a) the thinning, lopping or felling of trees in woods, forests or other plantations;
- (b) the planting of trees in woods, forests or other plantations;
- (c) the maintenance of woods, forests and plantations and the preparation of land, including woods or forests that have been harvested, for planting;
- (d) the haulage or removal of thinned, lopped or felled trees;
- (e) the processing (including cutting or preserving) of wood from thinned, lopped or felled trees in sawmills or other like premises; and
- (f) the haulage for hire of materials, machinery or plant for use, whether used or not, in any of the operations referred to in paragraphs (a) to (e).

## Conclusion

It is clear that forestry and woodlands continue to be a very lucrative investment from a commercial point of view while attracting favourable tax treatment in Ireland. It would therefore appear that there may at least be scope to make money grow “from” trees if not actually “on” trees!



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