

# Woodlot Income Tax and Estate Planning

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## Topics Covered

- ▶ Types of woodlots for income tax purposes
  - ▶ Non-commercial
  - ▶ Commercial
  - ▶ Farming
- ▶ Taxation of woodlots
  - ▶ Capital gain
  - ▶ Business income
- ▶ Estate planning
  - ▶ Woodlot tax liability on death
  - ▶ Capital gains deduction
  - ▶ Transfer of your woodlot during your lifetime
- ▶ Other considerations



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## Types of woodlots

- ▶ Woodlot
  - ▶ Treed area of land
- ▶ Commercial
  - ▶ intention to sell or resell wood
  - ▶ reasonable expectation of profit
- ▶ Non-commercial
  - ▶ not operated as a commercial woodlot

This determines how revenue is taxed by CRA



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**If Commercial, is it a Farm?**

- ▶ **Farming**
  - ▶ Planting, nurturing, and harvesting trees.
  - ▶ Examples: Christmas trees, sugar woods
- ▶ **Non-farming**
  - ▶ Example - logging



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**Taxation of woodlots**

Capital gain - non-commercial

- ▶ Harvesting wood is **not** principal activity
- ▶ Conditions for a capital gain on sale of timber
  - ▶ No intention to sell timber or land,
  - ▶ Isolated sale,
  - ▶ Timber sold at a fixed price, and
  - ▶ Removed over a short period of time.



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**Taxation of woodlots**

Capital gain - non-commercial

- ▶ Capital gains also result from the disposition of land
  - ▶ Sale or gift
  - ▶ Change in beneficial ownership
  - ▶ Deemed disposition on death



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**Taxation of woodlots**

Capital gain - non-commercial

- ▶ Proceeds - adjusted cost base = capital gain
- ▶ Proceeds
  - ▶ Selling price less any related expenses (legal, relator's fees)
- ▶ Adjusted cost base
  - ▶ Asset cost plus any related expenses (legal, survey, deed transfer tax)
- ▶ 50% of capital gain is taxable



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**Taxation of woodlots**

- ▶ Commercial and commercial farm woodlots
  - ▶ Business income = revenue - expenses
  - ▶ 100% of net income is taxable
  - ▶ Types of expenses
    - ▶ Fuel, equipment repairs, interest on loans, depletion, stumpage, depreciation of assets
  - ▶ Immediate expensing - ends soon!
  - ▶ ITCs



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**Reporting income**

When to report income

- Commercial: when it is earned
- Non-commercial: date of sale agreement
  - Maximum 5 year deferral if proceeds received over time



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**Reporting income**

Who reports the income

- ▶ Beneficial owner
  - ▶ Person who enjoys the benefits of the property
    - ▶ True joint tenancy
    - ▶ Resulting trust joint tenancy
    - ▶ Gift of a joint tenancy with right of survivorship



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**Woodlot tax liability on death**

- ▶ General Rule
  - ▶ Deemed disposition of all property at fair market value
- ▶ Capital gain = fair market value less adjusted cost base
  - ▶ Large amounts of tax payable



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**Woodlot tax liability on death**

- ▶ Exceptions to the general rule:
  - ▶ Spousal roll over
  - ▶ Intergenerational transfer of eligible farm property on death



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**Intergenerational Transfer on Death**

- ▶ To qualify:
  - ▶ Must be a farm located in Canada
  - ▶ The child must be a resident of Canada
  - ▶ Used principally in the business of farming, and
  - ▶ Actively farmed by you, your spouse, or your children

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**Intergenerational Transfer on Death**

- ▶ Rollover to children also includes woodlots if :
  - ▶ Operated under a Prescribed Forestry Management Plan
  - ▶ The woodlot must be legally transferred to the child within 36 months

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**Capital Gains Deduction**

- ▶ Available to an individual to shelter gain on disposal of Qualified Farm Property
  - ▶ \$1,000,000 gain

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**Qualified Farm Property**

What property is eligible ?

- ▶ Land, buildings and equipment used in a farm business, quota
- ▶ Shares in a family farm corporation
- ▶ An interest in a family farm partnership



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**Qualified Farm Property**

- ▶ Proprietorships - land, building, quota, equip
  - ▶ Acquired before June 18, 1987, vs. after
    - ▶ Last date acquired
    - ▶ 1994 capital gains election
- ▶ Shares of farm corp, interest in partnership
  - ▶ Held for at least 2 years
  - ▶ > 50% of assets used in farming for 24 month
  - ▶ > 90% of assets used in farming at time of sale/transfer



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**Qualified small business corporation shares (Non-Farm)**

- ▶ Shares of a Canadian controlled private corporation
- ▶ \$971,190 exemption for 2023 (will cap at \$1m)
- ▶ Held for at least 2 years
- ▶ Assets used in Canada
  - ▶ > 50% of the assets must be used in active business in the last 2 years
  - ▶ > 90% at time of sale/transfer
- ▶ Complex issues if there are non-resident shareholders



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**Transfer of your woodlot during your lifetime**

- ▶ General rule - transfer at fair market value
- ▶ Keep beneficial ownership rules in mind
- ▶ Exceptions to the general rule
  - ▶ Transfer to spouse (caution - attribution rules)
  - ▶ Rollover to the next generation
    - ▶ If transfer is a gift (no cash), transfer must be at cost
- ▶ Capital gains deduction can be used if eligible
- ▶ Incorporate?

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**Other considerations**

- ▶ If selling or gifting woodlot, keep claw backs in mind
  - ▶ For example OAS
- ▶ The need for long term care
- ▶ Donating your woodlot to charity
- ▶ Probate fees

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**Concluding comments**

Questions?

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