

HMRC internal manual

Capital Gains Manual

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(/hmrc-internal-manuals/capital-gains-
manual/updates)

CG13155 - Introduction and computation: occasions of charge: assets lost, destroyed or of negligible value: involuntary transfers

Whether an involuntary transfer will constitute a disposal

Involuntary transfers are disposals for Capital Gains
Tax purposes if either

- the original owner's title to the asset passes to a new owner, for example, a local authority after a compulsory purchase, see CG60660
(<https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg60660>) and CG72100P
(<https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg72100p>)
- the original owner's title comes to an end under a particular law or statute, see, for example, below

Involuntary transfers are not disposals if both

- the original owner retains their title to the asset, but loses possession
- the new owner acquires a new and separate title.

Fairweather v St Marylebone Property Company Ltd [1963]

It is always important to ascertain the correct legal position. In this case, it was held that a squatter had obtained a new and separate title under the Statute of Limitations and had not taken a 'Parliamentary conveyance' from the original owner.

The operation of the Statute of Limitations was said to be merely negative. It destroyed the leaseholder's title to the land but did not vest it in the squatter. Therefore this was an involuntary transfer which was not a natural disposal but, nevertheless, the asset was 'entirely lost'.

A leaseholder in this situation could claim relief for the loss of their interest in the asset under section 24(1) of the Taxation of Chargeable Gains Act 1992 (<https://www.legislation.gov.uk/ukpga/1992/12/section/24>) (TCGA 1992).

Theft of property

Theft of an asset is not the 'entire loss' of that asset. After the theft, although the victim has given up actual possession of the asset, they normally retain the right to recover possession. The asset has not been completely lost or destroyed, so section 24(1) TCGA 1992 (<https://www.legislation.gov.uk/ukpga/1992/12/section/24>) will not apply.

If the asset is found and returned to the rightful owner, HMRC take the view that the beneficial interest in the asset was not lost during the period when possession was lost. The return of the stolen asset is clearly not 'compensation' because it is the asset itself, so that section 22 TCGA
(<https://www.legislation.gov.uk/ukpga/1992/12/section/22>) 1
9
(<https://www.legislation.gov.uk/ukpga/1992/12/section/22>)9
2
(<https://www.legislation.gov.uk/ukpga/1992/12/section/22>),
see CG12940P (<https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg12940p>), has no effect. For Capital Gains Tax purposes, HMRC would not take a charge.

If, however, there is no likelihood that the asset will be recovered, a negligible value claim under section 24(2) TCGA
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>) 1
9
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>)9
2 (<https://www.legislation.gov.uk/ukpga/1992/12/section/24>)
would be competent. This would not apply where the loss has been covered by insurance etc. In those circumstances we would regard the charge under section 22(1) TCGA
(<https://www.legislation.gov.uk/ukpga/1992/12/section/22>) 1
9
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>)9
2 (<https://www.legislation.gov.uk/ukpga/1992/12/section/24>)
as overriding the claim under section 24(2) TCGA
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>) 1
9
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>)9
2
(<https://www.legislation.gov.uk/ukpga/1992/12/section/24>).

← **Previous page**
([/hmrc-internal-manuals/capital-gains-manual/cg13150](https://www.gov.uk/hmrc-internal-manuals/capital-gains-manual/cg13150))



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