

Capital sums: receipt of compensation and insurance moneys not treated as a disposal in certain cases. CGTA75 s29(1) to (3) and (5) 536.—(1) (a) Subject to paragraph (b), where the recipient so claims, receipt of a capital sum within subparagraph (i), (ii), (iii) or (iv) of section 535 (2) (a) derived from an asset which is not lost or destroyed shall not be treated as a disposal of the asset if—

(i) the capital sum is wholly applied in restoring the asset, or

(ii) the capital sum is applied in restoring the asset except for a part of the capital sum which is not reasonably required for the purpose and which is small as compared with the whole capital sum;

but, if the receipt is not treated as a disposal, all sums which, if the receipt had been so treated, would have been taken into account as consideration for that disposal in the computation of a gain accruing on the disposal shall be deducted from any expenditure allowable under Chapter 2 of this Part as a deduction in computing a gain on the subsequent disposal of the asset.

(b) Paragraph (a) shall not apply to cases within subparagraph (ii) of that paragraph if immediately before the receipt of the capital sum there is no expenditure attributable to the asset under paragraphs (a) and (b) of section 552 (1) or if the consideration for the part disposal deemed to be effected on receipt of the capital sum exceeds that expenditure.

(2) Where an asset is lost or destroyed and a capital sum received as compensation for the loss or destruction, or under a policy of insurance of the risk of the loss or destruction, is, within one year of receipt or such longer period as the inspector may allow, applied in acquiring an asset in replacement of the asset lost or destroyed, the owner shall on due claim be treated for the purposes of the Capital Gains Tax Acts as if—

(a) the consideration for the disposal of the old asset were (if otherwise of a greater amount) of such amount as would secure that on the disposal neither a loss nor a gain accrued to such owner, and

(b) the amount of the consideration for the acquisition of the new asset were reduced by the excess of the amount of the capital sum received as compensation or under the policy of insurance, together with any residual or scrap value, over the amount of the consideration which such owner is treated as receiving under paragraph (a).

(3) A claim shall not be made under subsection (2) if part only of the capital sum is applied in acquiring the new asset; but, if all of that capital sum except for a part which is less than the amount of the gain (whether all chargeable gain or not) accruing on the disposal of the old asset is so applied, the owner shall on due claim be treated for the purposes of the Capital Gains Tax Acts as if—

(a) the amount of the gain so accruing were reduced to the amount of that part of the capital sum not applied in acquiring the new asset (and, if not all chargeable gain, with a proportionate reduction in the amount of the chargeable gain), and

(b) the amount of the consideration for the acquisition of the new asset were reduced by the amount by which the gain is reduced under paragraph (a).

(4) This section shall not apply in relation to a wasting asset.