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HMRC internal manual

Complaints and Remedy Guidance

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(/government/organisations/hm-revenue-customs)

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CRG5625 - Financial redress: Illegal sale of goods (debt management)

As an enforcement method, HMRC distrain on (seize) a debtor's goods with the intention of selling them at public auction and applying the sale proceeds against the costs incurred and the principal debt. Departmental instructions tell distraint officers that, before seizing the goods, they should establish they are free of third party financial interest (hire purchase, lease or a debenture etc) and wholly owned by the debtor.

Despite this, goods that do not belong to the debtor are occasionally distrained upon and subsequently sold, and in such cases we should consider compensating the actual owner. The claim is

against HMRC by the genuine owner and this applies even if the debtor misled us about ownership of the goods. A thorough investigation should be undertaken and the claimant must provide clear documentary evidence that they owned the goods that have been sold.

Goods distrained on by HMRC are sold at public auction without a reserve in place, so the proceeds of the sale rarely equate to the value or replacement cost to the owner. However, where the goods are second hand, we initially negotiate a settlement by offering the sale proceeds to the claimant. This is frequently unacceptable, especially where the claimant considers they have suffered damages and seeks extra compensation. We may then need to consider an ex gratia payment in addition to the sale proceeds. In reaching a settlement note that, where the distrained goods are new and unused, experience shows that a court would probably award the owner the full replacement amount.

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