

CGT relief if an asset is lost or accidentally destroyed

The capital gains tax (CGT) rules provide a lot of important concessions where a capital gain arises in unusual or unexpected circumstances.

One such concession is the rollover where a CGT asset (or part of one) is lost or accidentally destroyed.

This typically occurs where a natural disaster occurs (eg flood, fire, cyclone etc) which results in the destruction of an asset – such as an investment property, a commercial building etc. And, importantly, this includes the partial destruction of an asset (eg where a roof on an investment property or a commercial building is destroyed and has to be replaced)

The rollover may also occur where a CGT asset is stolen or where it is lost due to fraud. (But note that the ATO now takes the view that roll-over no longer applies where a broker accidentally sells your shares on your behalf.)

Under CGT principles these type of “destruction or loss” scenarios can give rise to an assessable capital gain because, in effect, the ownership of the asset has changed – even though this occurs accidentally or in circumstances outside the taxpayer’s control.

And this where the CGT rollover for “where an asset is lost or accidentally destroyed” steps in.

But, suffice to say, there are several key conditions to be met before the rollover can apply.



And the main one of these is that money (eg insurance or other indemnity) or a replacement asset is received in compensation for the loss or destruction of the asset. Importantly, in the case of money this must be applied in acquiring a replacement asset within a certain time period.

In this case, the capital gain that you would otherwise would have made as a result of the loss or destruction is disregarded – and the replacement asset you acquired is deemed to have the same cost for CGT purposes as the original asset.

However, there are important rules to be aware of where you receive money as compensation and you spend only some of it (or more than it) in acquiring a replacement asset. And this can give rise to an immediate capital gain or other CGT adjustments

These rules are messy and require the advice of an expert.

In the event, that the original asset was acquired pre-CGT (ie before the CGT regime was introduced) then any replacement asset will be taken to have been acquired pre-CGT also provided the cost of replacement asset is within certain thresholds or the replacement asset is substantially the same as the original asset.

Suffice to say the rules for qualifying for the rollover in the first place and their exact effect will depend on individual circumstances.

Moreover, they can be quite complex – depending on the circumstances – and require the advice of an expert.

So, if you find yourself in this situation make an appointment and come and speak to us as soon as possible so all the right steps can be undertaken to obtain this important CGT relief.

This information has been prepared without taking into account your objectives, financial situation or needs. Because of this, you should, before acting on this information, consider its appropriateness, having regard to your objectives, financial situation or needs.