

Filling in the 'Trust and Estate Capital Gains' pages TCN2

Disposals by trusts/settlements with separate funds TCN2

Section 1 – General: filling in pages TC 1 to TC 8 TCN2

■ Definition of listed shares or other securities for the 'Trust and Estate Capital Gains' pages TCN2

■ Filling in page TC 1 TCN3

■ Filling in page TC 2 TCN3

■ Filling in page TC 3, boxes 5.1 to 5.8A for residential property TCN5

■ Filling in page TC 3, boxes 5.9 to 5.17A for other property, assets and gains TCN6

■ Filling in page TC 4 TCN6

Capital losses TCN7

■ Filling in page TC 5 TCN7

■ Filling in pages TC 6 and TC 7 TCN7

■ Filling in page TC 8 TCN8

Section 2 – A simple guide to Capital Gains Tax TCN8

Section 3 – An introduction to Capital Gains Tax TCN8

■ Chargeable gains TCN8

■ Who pays Capital Gains Tax TCN8

■ Assets TCN9

■ Exempt assets TCN9

■ Disposals TCN9

■ Small receipts TCN9

■ Trustees: occasions of deemed disposals TCN9

■ Share reorganisations, company reconstructions and takeovers TCN10

■ Other taxable gains TCN10

■ Gains of earlier years TCN10

Section 4 – Calculating gains and losses TCN10

■ How to calculate gains and losses TCN10

■ A simple calculation TCN10

■ Losses TCN11

■ Completion of page TC1 and TC2 TCN11

■ Carry back of losses TCN11

■ Claiming losses TCN11

■ How to claim for a loss TCN11

■ Time limits for claiming losses TCN11

■ Date of disposal (or acquisition) TCN12

■ Disposal proceeds TCN12

■ Deductible expenses TCN12

■ Acquisition costs TCN13

■ Enhancement costs TCN13

■ Incidental costs TCN13

■ Expenditure on establishing, preserving or defending your title to an asset TCN13

■ Market value TCN13

■ Estimates and valuations TCN14

■ Valuations we've already checked TCN14

■ Connected persons TCN14

■ Wasting assets TCN14

■ Adjustments for capital allowances TCN14

■ Part disposals TCN14

■ Disposal of shares or securities TCN14

Section 5 – Reliefs and elections TCN15

■ Private Residence Relief TCN15

■ Other reliefs TCN15

Section 6 – Worked examples of gains and losses TCN16

## HELPSHEETS

These give more detailed information about particular tax rules relevant to the 'Trust and Estate Capital Gains' pages.

Go to [www.gov.uk/self-assessment-forms-and-helpsheets](http://www.gov.uk/self-assessment-forms-and-helpsheets)

- Helpsheet 263, 'Relief for Foreign Tax Paid'
- Helpsheet 275, 'Business Asset Disposal Relief' (previously 'Entrepreneurs' Relief')
- Helpsheet 276, 'Incorporation Relief'
- Helpsheet 282, 'Death, personal representatives and legatees'
- Helpsheet 283, 'Private Residence Relief'
- Helpsheet 284, 'Shares and Capital Gains Tax'
- Helpsheet 285, 'Capital Gains Tax, share reorganisations and company takeovers'
- Helpsheet 286, 'Negligible value claims and Income Tax losses on disposals of shares you have subscribed for in qualifying trading companies'
- Helpsheet 288, 'Partnerships and Capital Gains Tax'
- Helpsheet 290, 'Business Asset Roll-over Relief'
- Helpsheet 292, 'Capital Gains Tax land and leases'
- Helpsheet 293, 'Chattels and Capital Gains Tax'
- Helpsheet 294, 'Trusts and Capital Gains Tax'
- Helpsheet 295, 'Relief for gifts and similar transactions'
- Helpsheet 296, 'Debts and Capital Gains Tax'
- Helpsheet 297, 'Capital Gains Tax and Enterprise Investment Scheme'
- Helpsheet 307, 'Non-resident Capital Gains (NRCCG) on direct and indirect disposals of interest in UK land and property'
- Helpsheet 308, 'Investors' Relief'
- Helpsheet 393, 'Seed Enterprise Investment Scheme – Income Tax and Capital Gains Tax reliefs'

## Notes on TRUST AND ESTATE CAPITAL GAINS

## Filling in the 'Trust and Estate Capital Gains' pages

Gather together the material you need, such as:

- contracts for the purchase or sale of assets
- invoices for allowable expenditure
- copies of any valuations obtained

## ■ Capital Gains pages

Fill in the Trust and Estate Capital Gains pages if any of the following apply:

- the trust or estate disposed of chargeable assets in the year to 5 April 2022 worth more than £49,200
- you were required to file non-resident Capital Gains Tax returns in the year
- the total chargeable gains (before the deduction of any losses) were more than the annual exempt amount
- you want to claim an allowable loss, or make any other capital gains claim or election for the year

In working out whether the assets you disposed of were worth more than £49,200, ignore exempt assets (see page TCN9) and any asset that the trustees are deemed to dispose of without a chargeable gain on the termination of a life interest in possession on the death of the person entitled to that interest (see page TCN9), but include any residence which is not exempt or is only part exempt (see page TCN15).

In working out your total chargeable gains, include gains from all assets apart from exempt assets.

If you have to fill in the 'Trust and Estate Capital Gains' pages you must include all your capital losses for the year which are to be claimed as allowable losses. If you do not have to fill in the 'Trust and Estate Capital Gains' pages you can still complete them if you want to claim a capital loss arising in this year. If you do not do this you have to claim any losses arising in this year by 5 April 2026 for them to be available to set against future gains (see page TCN11). If you want to make any other claim or election for this year, also do this by completing the 'Trust and Estate Capital Gains' pages (see section 5 on pages TCN15 and TCN16).

The following notes, and the helpsheets, cannot describe all the possible circumstances in which you may have to pay Capital Gains Tax. In more complex cases you may need to get professional advice or access the Capital Gains Manual at [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals)

The notes are divided into 6 sections:

- section 1 (pages TCN2 to TCN8) explains how to fill in the 'Trust and Estate Capital Gains' pages
- section 2 (page TCN8) provides a simple guide to Capital Gains Tax
- sections 3 to 6 (pages TCN8 to TCN17) provide more detailed guidance

Notes relevant only to personal representatives are highlighted in green.

## Disposals by trusts/settlements with separate funds

Where part of the property comprised in a settlement is vested in one trustee or set of trustees and part in another, all the income and chargeable gains of the settlement must be included in a single tax return for Self Assessment unless a sub-fund election is in force.

## Section 1 – General: filling in pages TC 1 to TC 8

Before you start completing the 'Trust and Estate Capital Gains' pages you may find it useful to familiarise yourself with the requirements of the pages by reading these notes.

If this is the first time you've filled in the 'Trust and Estate Capital Gains' pages, the notes on pages TCN3 to TCN8 will help you to understand what information you need to provide. We do not go into all the possible detail here, so we may sometimes refer you to helpsheets.

For disposals where you were required to submit a non-resident

Capital Gains Tax return for direct or indirect disposals of interest in UK land or property, entries are required in boxes 5.35 to 5.37. Otherwise you must always fill in pages TC 1 to TC 5 for all other disposals. This includes where a 'Payment for Property Disposal' return was required in respect of disposals of interests in UK residential property. If your transactions involved assets other than listed shares or other securities (a definition for the purposes of the 'Trust and Estate Capital Gains' pages is given below), you must also provide the further information requested on page TC 6 (for transactions in other shares or securities), page TC 6 (for transactions in residential property and or land or property) or page TC 7 (for all other transactions excluding transactions in listed shares or other securities). You can also use page TC 8 if there's not enough space in column G on pages TC 1 or TC 2 for any additional information you want to provide.

We ask for more information about the transactions involving assets other than listed shares or other securities as these are often more complex and need greater review. For example, you may be claiming various tax reliefs which reduce your chargeable gains, or you may have used an estimate or valuation within your computation, and we may need to check the accuracy of the estimate or valuation with our specialist valuers (see page TCN14). Again, if we need more information to clarify any of your transactions, we'll write to you.

If you think that you'll need more than one copy of pages TC 1 or TC 2 (together with pages TC 6 to TC 7, as appropriate) to give details of all your disposals, take photocopies before making any entries. Please put your name and tax reference on each photocopy. If you use photocopies of the pages, please ignore the numbered boxes on all but the final sheet. On the final sheet make sure the entries in the boxes reflect the totals of all the transactions covered by the photocopied pages. Alternatively, you may send computer-generated schedules to replace pages TC 1 to TC 5 (together with pages TC 6 to TC 7, as appropriate), provided they follow the form of the paper copy of these pages.

In some situations, if you receive an amount for an asset which is small compared to the value of that asset, the receipt may not be treated as a disposal. You'll find more details on where this may apply, and how to fill in page TC 1 or TC 2 in these cases, under the heading 'Small receipts' on page TCN9.

You do not need to submit any calculations or other supporting documents unless specified with your Trust and Estate Tax Return. If you want to provide more information to show how you've calculated your figures, you're welcome to do so. Please give the details on page TC 8 and tick box 5.41 if you've enclosed a computation. If you provide calculations, you must still complete pages TC 1 and TC 2 (together with pages TC 6 to TC 7 as appropriate).

## ■ Definition of listed shares or other securities for the 'Trust and Estate Capital Gains' pages

For the purpose of completing the 'Trust and Estate Capital Gains' pages, 'listed shares or other securities' are shares or securities of a company:

- which were either listed on a recognised stock exchange throughout the period you owned them – ignoring any period when the listing or quotation was temporarily suspended
- that was a UK open-ended investment company throughout the period you owned them
- including units in a unit trust that was an authorised unit trust throughout your period of ownership

Any shares or securities not within the 'listed shares and securities' definition above are to be treated as 'unlisted'. Shareholdings in Alternative Investment Market (AIM) companies are regarded as 'unlisted'.

For a list of recognised stock exchanges, go to [www.gov.uk/guidance/recognised-stock-exchanges](http://www.gov.uk/guidance/recognised-stock-exchanges)

## Notes on TRUST AND ESTATE CAPITAL GAINS

## ■ Filling in page TC 1

This page is for disposals of interests in residential property only. Include disposals of other types of asset on page TC 2.

## Column A

In this column, enter details of each disposal. For example, if you've disposed of a freehold residential property, simply give a brief one line description of the asset. Then cross-reference each entry to the additional information requested on, as appropriate, page TC 6.

We have split the list on page TC 1 into 2. Use the top half, rows 1 to 6, for recording details of disposals which give a gain and the bottom half, rows 7 and 8, for recording details of disposals which give a loss.

If you've made any chargeable gains or allowable losses in the year ended 5 April 2022 without making a disposal, also include details of these gains and losses in the list. This could occur, for example, because a deferred gain is treated as made in the year ended 5 April 2022. You must also state the nature of the event causing the gain to become chargeable and the particular gain which is now becoming chargeable.

## Column AA

In each row of this column enter the identifying letter:

- interests in UK residential property, enter R
- interests in non-UK residential property, enter N

Please make an entry for every transaction (both gain or loss transactions) in column A.

Do not forget to give the additional information requested for each individual transaction on TC 6.

If, however, the information asked for on page TC 6 has already been supplied in a claim to Gifts Hold-Over Relief (see Helpsheet 295, 'Relief for gifts and similar transactions') or as a result of a post-transaction valuation check request (see page TCN14), it need not be repeated.

## Column B

Tick the box in this column on any row where you've used an estimate or valuation in calculating the gain or loss (Include details of any valuations you've used on page TC 6 – see the note on page TCN14). For example, valuations need to be used where an asset you've disposed of was any of the following:

- acquired from, or disposed of to, a connected person (see page TCN14)
- held by you at 31 March 1982
- acquired as a legatee

## Column C

If you dispose of an asset that you owned at 31 March 1982, gains and losses are calculated by reference to their value on that date. The historical cost is ignored. In column C enter the date you acquired the asset, or 31 March 1982, whichever is later.

## Column D

In column D enter the date of disposal for each asset that gave rise to a chargeable gain or loss. If, for example, the date of disposal was 3 June 2021, show the date in the appropriate row of column D as '03/06/21'.

Pages TCN9 and TCN12 explain when a disposal for Capital Gains Tax purposes occurs and on what date your disposal will be treated as having occurred.

## Column E

In column E enter the total proceeds you've received or will receive from each disposal. Page TCN12 explains what to include in disposal proceeds. If you think the amount received is small (see 'Small receipts' on page TCN9) include details of the disposal in column E but do not include the gain or loss in the total you enter in boxes 5.1 and 5.2 on page TC 3.

There is no column F.

## Column G

Where the disposal or gain on any row is affected by a Capital Gains Tax claim or election, or a relief is due, give details in column G. For claims to relief, also state the amount of your claim (except for a claim to Business Asset Disposal Relief (previously Entrepreneurs' Relief)). For example, you may have claimed Roll-over Relief, or an exemption under the terms of a double taxation agreement. Section 5 on pages TCN15 and TCN16 describes the common reliefs. If you have insufficient space, use page TC 8 to give any additional information.

A claim to Business Asset Disposal Relief (previously Entrepreneurs' Relief) must be made jointly with the qualifying beneficiary. If you claim Business Asset Disposal Relief, also tick box 5.38 on page TC 5 and complete the relevant information in boxes 5.39 and 5.40, see the notes on page TCN7. See Helpsheet 275, 'Business Asset Disposal (previously Entrepreneurs' Relief) for more information, go to [www.gov.uk](http://www.gov.uk) and search for 'HS275'.

For disposals on or after 23 June 2010 please write 'Business Asset Disposal Relief' in column G and enter the amount of the gain in box 5.17 and box 5.40. The helpsheet also includes an optional form that can be used to claim the relief.

If you make a claim to Gifts Hold-Over Relief (for a claim form see Helpsheet 295, 'Relief for gifts and similar transactions'), you must also attach the official claim form. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS295'.

For claims to Business Asset Roll-over Relief, you can find an optional claim form, which sets out all of the information needed, attached to the Helpsheet 290, 'Business Asset Roll-over Relief'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS290'.

If you do not use the claim form, you must still provide all of the information asked for.

## Column H

Use column H to record the net amount of any gain or loss after all reliefs have been deducted.

## ■ Filling in page TC 2

Fill in page TC 2 to give details about the trust's or estate's disposals for other property, assets and gains in the year ended 5 April 2022. If any of the transactions you're recording on page TC 2 involve assets other than listed shares or other securities you must also give, where appropriate, the additional information asked for on pages TC 6 and TC 7. If, however, the information asked for on pages TC 6 and TC 7 has already been supplied in a claim to Gifts Hold-Over Relief (see Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for HS295) or as a result of a post-transaction valuation check request (see page TCN14), it need not be repeated.

The information provided helps determine whether we need to ask you any more detailed questions about your Trust and Estate Tax Return. Fully completed pages will help us to avoid making unnecessary checks.

## Notes on TRUST AND ESTATE CAPITAL GAINS

**Column A**

In this column, enter details of each asset you've disposed of. For example, if you've disposed of land or non-residential property, unlisted shares or securities or assets other than listed shares or other securities, simply give a brief one line description of the asset. Then cross-reference each entry to the additional information requested on, as appropriate, page TC 6 or TC 7.

If you've disposed of listed shares or other securities, enter on page TC 2 (or if there's not enough space, use page TC 8) the name of the company or unit trust, the type of shares or securities you've disposed of and how many shares or securities you've disposed of. No more information is asked for on this return for these transactions.

We have split the list on page TC 2 into 2. Use the top half, rows 1 to 6, for recording details of disposals which give a gain and the bottom half, rows 7 and 8, for recording details of disposals which give a loss.

If you've made any chargeable gains or allowable losses in the year ended 5 April 2022 without making a disposal, also include details of these gains and losses in the list. This could occur, for example, because a deferred gain is treated as made in the year ended 5 April 2022 (see the section on gains of earlier years on page TCN10) or a loan to a trader has become irrecoverable. You must also state the nature of the event causing the gain to become chargeable and the particular gain which is now becoming chargeable.

**Column AA**

In each row of this column enter the identifying letter (Q, U, L or O) which corresponds to the assets identified in each of the rows. Please make an entry for every transaction (both gain or loss transactions) in column A.

For transactions in:

- listed shares or other securities, as defined on page TCN2, enter Q
- other shares or securities, enter U
- land and non-residential property, enter L
- other assets (for example, goodwill), enter O

Record in column AA as 'U' shares or securities that were acquired as a result of a share exchange, or other company reorganisation (see page TCN10), where the shares or securities you originally held did not count as 'Q' throughout the period you held them.

Do not forget to give the additional information asked for, for each individual transaction on:

- page TC 6 for transactions in other shares or securities (U)
- page TC 6 for land and non-residential property (L)
- page TC 7 for other assets (O)

If, however, the information requested on pages TC 6 to TC 7 has already been supplied in a claim to Gifts Hold-Over Relief (see Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for 'HS295') or as a result of a post-transaction valuation check request (see page TCN14), it need not be repeated.

**Column B**

Tick the box in this column on any row where you've used an estimate or valuation in calculating the gain or loss. (Include details of any valuations you've used on pages TC 6 to TC 7 – see the note on page TCN14.) For example, valuations need to be used where an asset you've disposed of was any of the following:

- acquired from, or disposed of to, a connected person (see page TCN14)
- held by you at 31 March 1982
- acquired as a legatee

**Column C**

If you dispose of an asset that you owned at 31 March 1982, gains and losses are calculated by reference to their value on that date.

The historical cost is ignored. In column C enter the date you acquired the asset, or 31 March 1982, whichever is later.

**Column D**

In column D enter the date of disposal for each asset that gave rise to a chargeable gain or loss. If, for example, the date of disposal was 3 June 2021, show the date in the appropriate row of column D as '03/06/21'.

Pages TCN9 and TCN12 explain when a disposal for Capital Gains Tax purposes occurs and on what date your disposal will be treated as having occurred.

**Column E**

In column E enter the total proceeds you've received or will receive from each disposal. Page TCN12 explains what to include in disposal proceeds. If you think the amount received is small (see 'Small receipts' on page TCN9) include details of the disposal in column E but do not include the gain or loss in the total you enter in boxes 5.9 and 5.10 on page TC 3.

There is no column F.

**Column G**

Where the disposal or gain on any row is affected by a Capital Gains Tax claim or election, or a relief is due, give details in column G. For claims to relief, also state the amount of your claim (except for a claim to Business Asset Disposal Relief (previously Entrepreneurs' Relief). For example, you may have claimed Roll-over Relief, or an exemption under the terms of a double taxation agreement. Section 5 on pages TCN15 and TCN16 describes the common reliefs. If you do not have enough space, use page TC 8 to give any additional information.

A claim to Business Asset Disposal Relief or Investors' Relief must be made jointly with the qualifying beneficiary. If you claim Business Asset Disposal Relief, also tick box 5.38 on page TC 5 and complete the relevant information in boxes 5.39 and 5.40, see the notes on page TCN7. See Helpsheet 275, Business Asset Disposal Relief (previously Entrepreneurs' Relief) or Helpsheet 308, 'Investors' Relief' for more information. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS275' or 'HS308'.

For disposals on or after 23 June 2010 please write 'Business Asset Disposal Relief' in column G and enter the amount of the gain in box 5.17 and box 5.40. Helpsheet 275 includes a form to claim the relief.

For disposals qualifying for Investors' Relief, write 'Investors' Relief' in column G and enter the amount of the gain in box 5.17A. Helpsheet 308 also includes a form to claim the relief.

If you make a claim to any of the following:

- Gifts Hold-Over Relief (for a claim form see Helpsheet 295, 'Relief for gifts and similar transactions')
- Enterprise Investment Scheme Deferral Relief (the claim form EIS3 is attached to the EIS3 certificate you receive from the company – for information see also Helpsheet 297, 'Capital Gains Tax and Enterprise Investment Scheme')
- Seed Enterprise Investment Scheme Reinvestment Relief (the claim form SEIS3 is attached to the SEIS3 certificate you receive from the company – for more information see Helpsheet 393, 'Seed Enterprise Investment Scheme – Income Tax and Capital Gains Tax reliefs')

you must also attach the official claim form.

For claims to Business Asset Roll-over Relief, you can find an optional claim form, which sets out all of the information needed, attached to the Helpsheet 290, 'Business Asset Roll-over Relief'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS290'.

If you do not use the claim, form you must still provide all of the information asked for.



## Notes on TRUST AND ESTATE CAPITAL GAINS

## Column H

Use column H to record the net amount of any gain or loss after all reliefs have been deducted.

For example, you have a chargeable gain of £50,000. In column G you give details of a claim for Enterprise Investment Scheme Deferral Relief of £30,000. In column H, enter only the net gain of £20,000.

### ■ Filling in page TC3, boxes 5.1 to 5.8A for residential property

Any gains on disposals of interest in residential property are chargeable at a higher rate of tax than other gains. You can choose how to allocate losses and your annual exempt amount. The following notes include more detail.

**box 5.1** Enter the total gains from TC 1.

**box 5.2** Enter the total of losses from TC 1 and any losses that are included in the total from TC 2 that you wish to set against the gains for residential property.

There are restrictions on the use of clogged losses. Clogged losses are losses that arise on the disposal of assets to connected persons or where losses are transferred to you after 15 June 1999 by trustees when you become absolutely entitled to settled property. These losses can only be set against gains of certain types (see page TCN11).

**box 5.3** This box will not apply to many trusts or estates. If there are chargeable gains for residential property after deducting the capital losses in box 5.2, allocate the income losses against these gains first with any balance available to set against other gains from TC 2, see boxes 5.9 and 5.11. In box 5.3 enter the amount of any allowable trading losses or post-cessation expenditure that you want to set against chargeable gains from box TC 1.

Enter the lower of either the:

- total losses you can claim
- amount needed to reduce the figure of gain, after capital losses of the year have been set off, to nil

You can find more information about income losses in Helpsheet 227, 'Losses'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS227'.

**box 5.4** If you have losses brought forward from earlier years these losses are used to reduce the total gains of the year to the annual exempt amount. Put the amount of losses brought forward that you want to use against gains from TC 1 in box 5.4. There are restrictions on the use of clogged losses. See page TCN11.

If you have losses brought forward from the tax year 1996-97, and later years, use these before losses for earlier tax years. This is because the rules for claiming losses changed in 1996-97. Also include any losses used in box 5.4 in the totals entered in boxes 5.25 and 5.28 on page TC 4.

**box 5.5** You're now in a position to work out your total taxable gains from TC 1 for the year. It is the total of box 5.1 minus boxes 5.2, 5.3 and 5.4. Enter this amount in box 5.5.

**box 5.6** In box 5.6 enter the amount of the relief against Capital Gains Tax you're claiming for a settlement for the vulnerable beneficiary. You can make a claim only if you made a valid election. See the notes on boxes 8.17 and 8.18 on page 12 of the Trust and Estate Return Guide. A tick in box 8.18 applies the special treatment to both Income Tax and Capital Gains Tax. If you've claimed relief in box 5.6 you must also claim Income Tax relief if the trust has any income that's subject to the special treatment. The amount of Capital Gains Tax payable will be reduced by any relief claimed in

box 5.6. Claim any relief against Income Tax in box 10.1B of the Trust and Estate Return. For more information go to [www.gov.uk/trusts-taxes/trusts-for-vulnerable-people](http://www.gov.uk/trusts-taxes/trusts-for-vulnerable-people) or contact us.

**box 5.7** You may not have to pay tax on the first part of the gains made in a year. This part is referred to as your annual exempt amount. Enter the amount of your annual exempt amount that you wish to set against gains from TC 1. If the amount in box 5.7 is greater than, or equal to, the figure in box 5.5, leave box 5.8 blank.

### ● Trustees

You do not pay tax on the first part of any gains made in the year. The amount of gains free of tax depends on the nature of the trust. The annual exempt amount available to the trustees will depend on a number of factors.

- 1 Trustees of certain trusts for the benefit of persons with learning disabilities or in receipt of certain specified allowances do not pay tax on the first £12,300 of gains made in the year. If 2 or more trusts qualifying for relief have been made by the same settlor after 9 March 1981, the amount for each trust is £12,300 divided by the number of such trusts, but subject to a minimum amount of one tenth, that is, £1,230.
- 2 Trustees of other trusts, if they were made before 7 June 1978, do not pay tax on the first £6,150 of gains made in the year.
- 3 Trustees of other trusts, if they were made after 6 June 1978, also do not pay tax on the first £6,150 of gains made in the year. But if 2 or more such trusts have been made by the same settlor the amount for each trust is £6,150 divided by the number of such trusts, but subject to a minimum amount of one fifth, that is £1,230.
- 4 Where an election has been made for a sub-fund to be treated as a 'sub-fund settlement', it is treated for all purposes of Income Tax and Capital Gains Tax as a separate trust with one exception. For the purposes of the annual exempt amount you compute the amount that would be due to the trustees of the 'principal settlement' if the election had not been made. This is then divided by the number of trusts consisting in the principal settlement and the sub-fund settlements to give the annual exempt amount for each of them.

You can find more information in Helpsheet 294, 'Trusts and Capital Gains Tax'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS294'.

### ● Personal representatives

Personal representatives do not pay tax on the first £12,300 of gains made in:

- the year in which the deceased died
- either of the next 2 years

Personal representatives must pay tax on all the gains made in subsequent years in the administration period.

If you've received a capital payment or benefit (for example, the writing off of a loan) from a non-resident, dual resident or immigrating trust, then Capital Gains Tax may be due. Phone the Deceased Estates Helpline on 0300 123 1071 for advice.

Please note that where a person acquires an asset from personal representatives as a legatee (including a residuary legatee), the personal representatives have no chargeable gain or allowable loss on that disposal and the legatee is treated as if they had acquired the asset at the same time and at the same cost or market value as the personal representatives did. You can find more information in Helpsheet 282, 'Death, personal representatives and legatees'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS282'.

## Notes on TRUST AND ESTATE CAPITAL GAINS

**box 5.8** Enter the net amount of chargeable gains from TC 1 on which you must pay Capital Gains Tax for the year ended 5 April 2022. This would include any gains included in 'Payment for Property Disposal' returns made in respect of disposals of interest in UK residential property for the year. However, for gains to which Business Asset Disposal Relief (previously Entrepreneurs' Relief) applies, these should be entered in box 5.17.

**box 5.8A** Enter total tax charged on Payment for Property Disposal returns made for the year, that is the tax you were required to pay on those returns.

### ■ Filling in page TC 3, boxes 5.9 to 5.17A for other property, assets and gains

**box 5.9** Enter the total gains from TC 2.

**box 5.10** Enter the total of losses from TC 2 and any losses that are included in the total from TC 1 that you wish to set against the gains from TC 2.

You must make sure that the total of the entries in boxes 5.2 and 5.10 do not exceed the total losses from TC 1 and TC 2.

There are restrictions on the use of clogged losses. Clogged losses are losses that arise on the disposal of assets to connected persons or where losses are transferred to you after 15 June 1999 by trustees when you become absolutely entitled to settled property. These losses can only be set against gains of certain types (see page TCN11).

**box 5.11** This box will not apply to many trusts or estates. If there are chargeable gains from TC 2 after deducting the capital losses allocated in box 5.10, allocate the income losses that have not been included in box 5.3 against these gains.

In box 5.11 enter the amount of any allowable trading losses or post-cessation expenditure that you want to set against chargeable gains for residential property. Enter the lower of either the:

- total losses you can claim
- amount needed to reduce the figure of gain, after capital losses of the year have been set off, to nil

You can find more information about income losses in Helpsheet 227, 'Losses'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS227'. The totals from boxes 5.3 and 5.11 must not exceed the total of income losses available for the year.

**box 5.12** If you have losses brought forward from earlier years these losses are used to reduce the total gains of the year to the annual exempt amount. Put the amount of losses brought forward that are used against gains from TC 2 in box 5.12.

The totals from boxes 5.4 and 5.12 must not exceed the total of brought forward losses available for the year.

There are restrictions on the use of clogged losses. See page TCN11. If you have losses brought forward from the tax year 1996-97, and later years, use these before losses for earlier tax years. This is because the rules for claiming losses changed in 1996-97. Also put any losses used in box 5.12 in the totals entered in boxes 5.25 and 5.28 on page TC 4.

There are restrictions on the use of clogged losses. See page TCN11.

**box 5.13** You're now in a position to work out your total taxable gains for other property, assets and gains for the year. It is the total of box 5.9 minus boxes 5.10, 5.11 and 5.12. Enter this amount in box 5.13.

**box 5.14** In box 5.14 enter the amount of the relief against Capital Gains Tax you're claiming for a settlement for the vulnerable beneficiary. You can make a claim only if you made a valid election. See the notes on boxes 8.17 and 8.18 on page 12 of the Trust and

Estate Return Guide. A tick in box 8.18 applies the special treatment to both Income Tax and Capital Gains Tax. If you've claimed relief in box 5.6 you must also claim Income Tax relief if the trust has any income that is subject to the special treatment.

The amount of Capital Gains Tax payable will be reduced by any relief claimed in box 5.14. Claim any relief against Income Tax in box 10.1B of the Trust and Estate Return.

For more information go to [www.gov.uk/trusts-taxes/trusts-for-vulnerable-people](http://www.gov.uk/trusts-taxes/trusts-for-vulnerable-people) or contact us.

**box 5.15** You may not have to pay tax on the first part of the gains made in a year. This part is referred to as your annual exempt amount. See the notes at box 5.7 to work out the annual exempt amount available to the trustees.

In box 5.15 enter the annual exempt amount you wish to set against the gains after losses in this section. If the amount in box 5.15 is greater than, or equal to, the figure in box 5.13, leave box 5.16 blank. The totals of boxes 5.7 and 5.15 must not exceed the annual exempt amount due for the year.

If you've received a capital payment or benefit (for example, the writing off of a loan) from a non-resident, dual resident or immigrating trust, then Capital Gains Tax may be due. Phone the Trusts Helpline on 0300 123 1072 for advice.

Please note that where a person acquires an asset from personal representatives as a legatee (including a residuary legatee), the personal representatives have no chargeable gain or allowable loss on that disposal and the legatee is treated as if they had acquired the asset at the same time and at the same cost or market value as the personal representatives did. You can find more information in Helpsheet 282, 'Death, personal representatives and legatees'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS282'.

**box 5.16** Enter the net amount of chargeable gains from TC 2 on which you must pay Capital Gains Tax for the year ended 5 April 2022, excluding any amount shown in boxes 5.17 (gains to which Business Asset Disposal Relief (previously Entrepreneurs' Relief) applies) and 5.17A (gains to which Investors' Relief applies).

**box 5.17** Enter the amount of chargeable gains accruing on which you must pay Capital Gains Tax for the year ended 5 April 2022 that qualify for Business Asset Disposal Relief (previously Entrepreneurs' Relief) but excluding gains deferred from before 23 June 2010.

**box 5.17A** Enter the amount of chargeable gains accruing on which you must pay Capital Gains Tax for the year ended 5 April 2022 that qualify for Investors' Relief. You can find more information in Helpsheet 308 'Investors' Relief'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS308'.

### ■ Filling in page TC 4

#### Trustees only, boxes 5.18 and 5.19

Personal representatives can ignore boxes 5.18 and 5.19.

If this trust was made after 6 June 1978, in box 5.18 enter the number of trusts made by the settlor of this trust which were in existence at some time during the year to 5 April 2022. Otherwise leave the box blank.

If you're entitled to the annual exempt amount relating to a trust for the benefit of a disabled person, tick box 5.19.

#### Page TC 4 summary boxes

Page TC 4 has a number of summary boxes that we ask you to complete after you have completed pages TC 1 and TC 2 and boxes 5.1 to 5.17 on page TC 3.

## Notes on TRUST AND ESTATE CAPITAL GAINS

## Capital losses

**boxes 5.20 to 5.23**

These boxes summarise the losses you have made this year and the various ways in which they have been used. Any remaining losses are carried forward to use against gains of later years.

**boxes 5.24 to 5.28**

These boxes summarise the losses you have made in the earlier years that have not been used against chargeable gains before this year, the amount of these losses you have now used in this year and the amount of remaining losses to be carried forward to use against gains of later years.

**boxes 5.29 and 5.30**

These boxes summarise your losses to carry forward.

## Clogged losses

Clogged losses are losses that can only be set against gains of certain types (see page TCN11). You must keep these losses separate from your other losses and make sure that they're allowed at the appropriate time. Do not merge at any time the clogged losses into your main loss record at page TC 4.

## ■ Filling in page TC 5

Personal representatives can ignore boxes 5.31, 5.32, 5.34 and 5.38 and go to boxes 5.35 and 5.41.

This part of the Trust and Estate Tax Return provides us with more information about:

- the chargeable gains of trustees
- assets which have been vested in beneficiaries

**box 5.31**

Tick this box if any person holding an interest in possession in the settled property has died during the year.

Enter in the spaces provided the:

- name and address of the person who has died
- date on which they died

**box 5.32**

Tick this box if any beneficiary has become absolutely entitled to any part of the settled property during the year.

Enter in the spaces provided the:

- name and address of each such beneficiary
- date on which each such beneficiary became absolutely entitled
- nature of each such asset
- value of each such asset
- amount of any loss transferred to each such beneficiary

**box 5.33**

The total of losses transferred to beneficiaries during the year in box 5.22 must equal the total of losses entered in box 5.33 on page TC 5.

**box 5.34**

Tick this box if the trustees have ceased to be resident in the UK in this year or have become dual resident.

Enter in the spaces provided:

- a description of the assets held when the trustees ceased to be resident or became dual resident
- the date on which the change occurred
- the amount of chargeable gain arising as a result of the change

**box 5.35**

Tick this box if you have submitted a non-resident Capital Gains Tax return for the direct or indirect disposal of an interest in a UK residential property or properties.

Also, complete box 5.42 to show the reference number of each non-resident Capital Gains Tax return made.

**box 5.36**

Enter the total taxable gains on direct disposals of interests in UK residential property that are chargeable to non-resident Capital Gains Tax. If there are overall losses on these disposals enter the amount to be deducted from other non-resident capital gains for the year that are included in boxes 5.36A or 5.36B.

**box 5.36A**

Enter the total taxable gains on direct disposals of interests in UK non-residential property that are chargeable to non-resident Capital Gains Tax. If there are overall losses on these disposals enter the amount to be deducted from other non-resident capital gains for the year that are included in boxes 5.36 or 5.36B.

**box 5.36B**

Enter the total taxable gains on indirect disposals of interests in UK residential property that are chargeable to non-resident Capital Gains Tax. If there are overall losses on these disposals enter the amount to be deducted from other non-resident capital gains for the year that are included in boxes 5.36 or 5.36A.

**box 5.37**

Enter the total tax charged by the Non-resident Capital Gains Tax returns you have made for the year, that is, the tax you were required to pay on those returns.

If exceptionally any of the gains chargeable in the NRCG boxes 5.36 to 5.36B qualify for Business Asset Disposal Relief, include those qualifying gains in box 5.17 and adjust the amounts in the NRCG boxes 5.36 to 5.36B accordingly.

**box 5.38**

Tick this box if you are claiming Business Asset Disposal Relief (previously Entrepreneurs' Relief) for this year.

**box 5.39**

Enter the gains deferred from before 23 June 2010. Enter the amount of chargeable gains on which the relief is claimed, not the amount of relief claimed, which is entered in column G.

**box 5.40**

Enter the amount of gains accruing on or after 23 June 2010 that qualify for Business Asset Disposal Relief and indicate that the relief is claimed in column G. Also include this amount in box 5.17.

**box 5.40A**

If you have ticked box 5.38, enter the amount of gains on which Business Asset Disposal Relief and Entrepreneurs' Relief has been claimed in all tax years up to and including the tax year ended 5 April 2022. This total must include any amounts included with boxes 5.39 and 5.40 for this year.

**box 5.41**

Tick this box if you've enclosed a capital gains computation outlining details of the sale or disposal of all assets included in this return.

**box 5.42 Additional information**

All changes or additions to the people involved with the trust or estate, that is trustees, personal representatives, beneficiaries or members of the class of beneficiaries, settlors, protectors, agents and any natural person exercising control over the trust, must be recorded on the Trust Register. More information about the Trust Register, who should complete it and how to access it, can be found at [www.gov.uk/topic/personal-tax/trusts](http://www.gov.uk/topic/personal-tax/trusts)

## ■ Filling in pages TC 6 and TC 7

If the transactions you've entered on pages TC 1 or TC 2 relate to asset disposals involving any of the following:

- UK residential property (recorded in column AA on TC 1 as 'R')
- non-UK residential property (recorded in column AA on TC1 as 'N')
- land and property (recorded in column AA on TC 2 as 'L')
- other shares or securities (recorded in column AA on TC 2 as 'U')
- other assets, other than listed shares or securities, (recorded in column AA on TC 2 as 'O')

you must provide additional information for each individual transaction on page TC 6 or TC 7.

## Notes on TRUST AND ESTATE CAPITAL GAINS

Pages TC 6 and TC 7 have space to give details of one transaction. If you have more than one transaction of each type, please photocopy the section before completing it and send in all completed pages with your capital gains pages. If, however, the information asked for on pages TC 6 and TC 7 has already been supplied in a claim to Gifts Hold-Over Relief (see Helpsheet 295, 'Relief for gifts and similar transactions'). Go to [www.gov.uk](http://www.gov.uk) and search for 'HS295') or as a result of a post-transaction valuation check request (see page TCN14), it need not be repeated.

This information will help with our review of the Trust and Estate Tax Return and may allow us to conclude that no check of the return is necessary. Occasionally we will need extra information. We'll write and ask you for this if the need arises. If you're unsure at any point as to what information you need to provide, we or your tax adviser will be able to help.

### ■ Filling in page TC 8

If you're asked to give additional information to support any entry on pages TC 1 or TC 2, or just need more space, please use this page.

## Section 2 – A simple guide to Capital Gains Tax

At its simplest, Capital Gains Tax is a tax to be paid if a gain is made from selling something.

The trust or estate, for example, may hold shares directly in major UK companies. If any of these shares are sold, you'll have to consider whether the trust or estate has to pay Capital Gains Tax. This simple guide is to help you answer that question. For disposals of shares, this guide deals only with the case in which the trust or estate bought shares listed on the stock exchange in one lot after 31 March 1982 through a broker, and where the trust or estate sold the shares in the same way. In any other case, or if you're in any doubt, read the notes in sections 3 to 5.

You must work out the gain using the rules for Capital Gains Tax. We call this gain the chargeable gain. You must pay Capital Gains Tax if the net chargeable gain for the year ended 5 April 2022, after deducting any allowable losses, exceeds the annual exempt amount. Section 1 beginning on page TCN2 shows how to fill in the 'Trust and Estate Capital Gains' pages.

Here's a simple example to help you start. Let us say that on 1 March 2002, 3,000 shares in a company were bought for £2.50 each. The broker charged a fee of £100. On 5 August 2021 the shares were sold for £8 each. The broker charged a fee of £200.

The gain is:

|  |         |
|--|---------|
| Sale price                               | £24,000 |
| minus broker's fee                       | £200    |
| Net disposal proceeds                    | £23,800 |
| Cost                                     | £7,500  |
| plus broker's fee (including Stamp Duty) | £100    |
|  | £7,600  |
| Net gain                                 | £16,200 |

Compare this gain with the Annual Exempt Amount to see if there's any Capital Gains Tax to pay.

Losses that have been made from sales or other disposals in the year must be deducted from the gains to decide whether the total gains are greater than the annual exempt amount. You can also deduct losses that have been made on sales or disposals in earlier years if they have not yet been deducted from gains made in earlier years. See section 4 on 'Calculating gains and losses' for more information.

## Section 3 – An introduction to Capital Gains Tax

Remember these notes are a simplified summary of the Capital Gains Tax law as it applies in some common cases. If you're in any doubt about whether you have Capital Gains Tax to pay, ask us or your tax adviser or see our helpsheets and manuals.

For more information on:

- helpsheets, go to [www.gov.uk/self-assessment-forms-and-helpsheets](http://www.gov.uk/self-assessment-forms-and-helpsheets)
- HMRC manuals, go to [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals)
- capital gains, go to [www.gov.uk/capital-gains-tax](http://www.gov.uk/capital-gains-tax)

### ■ Chargeable gains

A chargeable gain is made when something that the trustees or personal representatives own (an asset) is wholly or partly disposed of (or treated as disposed of), and either:

- its value has increased since acquisition, or since 31 March 1982 if that is later
- its value at the date of disposal is greater than the reduced value for which you're deemed to have acquired the asset because of an earlier relief (for example, Gifts Hold-Over Relief)

You do not pay tax on the price you receive for the asset, but only on the increase in its value during the period you have owned it. If it has lost value in that time, you deduct that loss from any gains you make on other assets in the same year or later.

You may also be treated as making a gain in other circumstances, for example, where any of the following apply:

- a gain on an earlier disposal of an asset has been deferred, and a particular event, for example, the disposal of another asset, or the lapse of time, has ended the deferral period
- the value of an asset has had its value decreased by a transfer of rights or by any other means that would not by itself be regarded as a disposal
- you dispose of a wasting asset, which has not diminished in value as quickly as was expected (see Helpsheet 293, 'Chattels and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS293')
- you derive a capital sum from your ownership of an asset
- you recover money for which you've had some relief under the capital gains rules

Go to [www.gov.uk/capital-gains-tax](http://www.gov.uk/capital-gains-tax) for more information. If you're specifically looking at debts then go to [www.gov.uk](http://www.gov.uk) and search for HS296, 'Debts and Capital Gains Tax'. Section 4 helps you to work out gains and losses.

### ■ Who pays Capital Gains Tax

Outside the special rules for non-residents making direct or indirect disposals of interests in UK land or property – see HS307, 'Non-resident Capital Gains (NRCG) on direct and indirect disposals of interest in UK land and property', the normal rules are as follows:

#### ● Trustees

If the trustees are resident in the UK, all gains made by the trustees after deducting allowable losses are chargeable to Capital Gains Tax. If you think you may be non-resident, please complete the supplementary pages for Trust and Estate Non-Residence and see the notes for those pages. Personal representatives are chargeable to Capital Gains Tax on all gains after deducting allowable losses if the deceased was resident in the UK when they died.

If the deceased was not resident in the UK, personal representatives are only chargeable to Capital Gains Tax on gains made from the assets of any branch or agency in the UK through which they're trading.



## Notes on TRUST AND ESTATE CAPITAL GAINS

### ■ Assets

Any form of property, wherever it is situated, may be an asset for Capital Gains Tax. The most common assets include:

- stocks, shares and units in unit trusts
- land and property
- business assets, such as goodwill

Some assets are exempt from Capital Gains Tax. Common exempted assets are listed below.

The capital gains rules for shares apply generally to units in a unit trust but with some modifications. For more information, see Helpsheet 284, 'Shares and Capital Gains Tax' go to [www.gov.uk](http://www.gov.uk) and search for 'HS284'.

The gains made on some assets may be wholly or partly relieved from tax. See the explanation of the common reliefs beginning on page TCN15 of these notes.

### ■ Exempt assets

You do not pay Capital Gains Tax on disposals of the following assets:

- private cars
- Savings Certificates, Premium and British Savings Bonds
- UK Government stock (gilts) and certain corporate bonds
- life assurance policies and deferred annuity contracts unless at any time acquired for actual consideration
- personal effects and goods worth £6,000 or less when you dispose of them
- shares issued after 18 March 1986 where relief has been given under the Business Expansion Scheme and not withdrawn

If your only disposals are of these types of assets and you have no chargeable gains, you do not need to complete the 'Trust and Estate Capital Gains Tax' pages.

Gains from the disposal of personal effects or goods, each of which was worth £6,000 or less when you disposed of them, are exempt. You may be able to use any loss that you make on such a disposal. This is dealt with in more detail in Helpsheet 293, 'Chattels and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS293'.

### ■ Disposals

Capital Gains Tax is payable on gains from the disposal of assets.

A disposal will occur when:

- you sell
- you give away
- you exchange an asset
- you receive a capital sum from your ownership of an asset
- the value of an asset you own has been reduced to increase the value of an asset owned by some other person

A capital sum is a sum that is not part of your taxable income.

You can claim to be treated as making a disposal if an asset you own has become of negligible value. This may enable you to claim a loss that you can deduct from your gains.

If you dispose of only part of an asset, you can only use part of the cost in calculating your gain. Part disposals are explained more fully on page TCN14.

Any disposal made by your nominee, or by a person who is a bare trustee in relation to assets to which you're absolutely entitled, will be treated as your disposal.

Some disposals do not result in a charge to Capital Gains Tax.

For example:

- where a person with an interest in possession dies and assets pass absolutely to a beneficiary, and the interest was in existence before 22 March 2006 – other cases depend on the Inheritance Tax treatment; please see Helpsheet 294, 'Trusts and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS294'
- where shares are disposed of in exchange for other shares – see the notes on 'Share reorganisations, company reconstructions and takeovers' on page TCN10

If the trust or estate is a member of a partnership, there are special rules dealing with the disposal or acquisition you make when there's a change in the share of partnership assets. For more information download Helpsheet 288, 'Partnerships and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS288'.

### ■ Small receipts

In some situations, an amount received for an asset, which would otherwise be treated as a part disposal of the asset, may not be treated as a disposal at all if the amount is small compared to the value of the asset. This applies where amounts are received for any of the following:

- as a capital distribution for shares – this includes amounts received where rights to further shares which are allotted to you are sold 'nil paid'
- as compensation, or under an insurance policy, for damage or injury to the asset
- for giving up or agreeing not to exercise rights
- for use or exploitation of the asset
- in some cases where there's a compulsory acquisition of land

Where the receipt is not treated as a disposal, and in some cases a claim may be needed, the amount will be deducted from the expenditure available to set against any later disposal of the asset. If the amount of the receipt exceeds the available expenditure, a gain may still arise on receipt. You can find more details in the Capital Gains Manual at CG12820, go to [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals) or ask us or your tax adviser for more information.

If you received cash on an exchange of shares for qualifying corporate bonds, or on a conversion of securities, any gain arising on the cash element may also be deferred if the amount is small compared to the value of the shares. You can find more details in the Capital Gains Manual at CG12820, go to [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals) or ask us or your tax adviser for more information.

### What is meant by small

If, in the situations described above and on the previous page, the amount you receive does not exceed £3,000, or 5% of the value of the asset for which it's paid, then the amount will be considered as small. If the amount received is also less than the allowable cost of the asset, then you do not need to enter the amount as a disposal on page TC 1 or TC 2.

If the amount exceeds these limits, but you think that it should be regarded, in the circumstances, as small, then:

- enter the gain or loss on the list of disposals on page TC 1 or TC 2
- explain why you think the amount should be treated as small on page TC 8

but do not include the gain or loss in the totals for column E on page TC 1 or TC 2 or boxes 5.1, 5.2, 5.9 or 5.10 on page TC 3. We may ask for more details in these cases.

### ■ Trustees: occasions of deemed disposals

Trustees are treated as making a disposal where:

- a person including other trustees becomes absolutely entitled to settled property
- a person with an interest in possession which he or she held before 22 March 2006 dies, and the assets remain in trust subsequently – other cases depend on the Inheritance Tax treatment; please see Helpsheet 294, 'Trusts and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS294'
- the trustees cease to be resident in the UK
- an interest in the settlement is disposed of for a consideration and at some time during a defined period the settlement is one of which the settlor has an interest or contains property which has come from such a settlement

In each of these circumstances the trustees are treated as disposing of and reacquiring some or all of the property of the trust at the market value of the property. Market value is explained on

## Notes on TRUST AND ESTATE CAPITAL GAINS

page TCN13. In the first case mentioned above the trustees acquire the property as bare trustees for that person.

Trustees are chargeable to Capital Gains Tax as a result of each such deemed disposal unless it results from the termination of certain kinds of life interest in possession on the death of the person entitled to that interest. In such a case no chargeable gain arises unless there was a held-over gain on the disposal of that asset to the trustees.

When a beneficiary becomes absolutely entitled to property and there's a loss on that disposal, then if that loss cannot be set against either:

- gains arising on the same occasion
- gains on previous disposals by the trustees in the same tax year

the loss is transferred to the beneficiary and can only be used against gains which they have on that same asset, or any asset derived from that asset.

### ■ Share reorganisations, company reconstructions and takeovers

If shares you held in a company have changed because the company has reorganised its share capital, or if you have exchanged shares in a company for other shares or securities as part of a company reconstruction or takeover, you may be treated as if you had not made any disposal of the shares you held originally. Instead the chargeable gain or allowable loss for the original shares will arise when you make a disposal of the new shares or securities. There are 2 main exceptions to this general approach where you may be treated as having made a disposal on which there's a chargeable gain or allowable loss if:

- you receive anything else in addition to the new shares or securities, such as a sum of money
- a company reconstruction or takeover is not carried out for commercial reasons, or is made in order to avoid tax – companies can apply in advance to us for clearance from these anti-avoidance rules (the clearance will only be valid if the takeover or reconstruction is carried out in accordance with the clearance application)

If you think the trust or estate has obtained shares or securities as part of a company reconstruction or takeover, or you need advice about the anti-avoidance rules, see Helpsheet 285, 'Capital Gains Tax, share reorganisations and company takeovers', go to [www.gov.uk](http://www.gov.uk) and search for 'HS285'.

If you have exchanged shares or securities for a right to receive an unknown number of shares or securities in the future, the right may be treated as if it were a security so that the company reconstruction rules apply to the exchange of the original shares or securities for the right. See Helpsheet 285, 'Capital Gains Tax, share reorganisations and company takeovers', go to [www.gov.uk](http://www.gov.uk) and search for 'HS285'.

Make an election for such a right conferred in the year ended 5 April 2022 not to be treated as a security, by giving details in column G on page TC 2. The time limit for making such an election for the year ended 5 April 2022 is 31 January 2024.

### ■ Other taxable gains

In certain circumstances you may have to pay Capital Gains Tax on gains made by a non-resident company in which the trustees have an interest, in particular where the trustees or persons connected with them have a 25% participation in the non-resident company. If you think you may have to pay Capital Gains Tax on gains made by any such company, go to CG57200 in the Capital Gains Manual at [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals) or ask us or your tax adviser for more information.

### ■ Gains of earlier years

Some gains that were made before the year ended 5 April 2022 may be taxable this year. For example, where:

- roll-over relief was claimed on the purchase of a wasting asset, see Helpsheet 290, 'Business Asset Roll-over Relief', go to [www.gov.uk](http://www.gov.uk) and search for 'HS290'
- a life tenant has died and you hold assets on which there has been a hold-over claim for the transfer to the settlement, see Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for 'HS295'
- a gain has been deferred as a result of a share reorganisation in which you have been issued with qualifying corporate bonds, see Helpsheet 285, 'Capital Gains Tax, share reorganisations and company takeovers', go to [www.gov.uk](http://www.gov.uk) and search for 'HS285'.

You must include these gains in the 'Trust and Estate capital gains' pages.

## Section 4 – Calculating gains and losses

Remember, these notes are a simplified summary of the Capital Gains Tax rules, as they apply in some common cases. If you're in any doubt about your liability, get professional advice, ask us, see our helpsheets or go to [www.gov.uk/capital-gains-tax](http://www.gov.uk/capital-gains-tax)

### ■ How to calculate gains and losses

To calculate the gain you've made on the disposal of an asset, deduct the allowable costs from the proceeds you receive from the disposal.

There are examples on the following pages to show you how to work out your gain or loss.

If the trust or estate has disposed of shares or securities, there are special rules for identifying the assets involved and working out the gain or loss. See Helpsheet 284, 'Shares and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS284'.

### ■ A simple calculation

At its simplest, a calculation of a chargeable gain will use the format:

|        |                              |                   |
|--------|------------------------------|-------------------|
|        |                              | See notes on page |
|        | Disposal proceeds            | TCN12             |
| minus  | Cost of acquisition          | TCN13             |
|        | Enhancement costs            | TCN13             |
|        | Incidental acquisition costs | TCN13             |
|        | Incidental disposal costs    | TCN13             |
| equals | Chargeable gain              | TCN8              |

This simple calculation will not work if any of the following apply:

- the disposal is a part disposal, see page TCN14
- a relief is due, see page TCN15
- you have losses to set against the chargeable gain, see below

You can also be treated as having made a loss when:

- certain loans you've made to persons who are trading cannot be recovered
- you have had to make payments as a result of guarantees you've given for loans to persons who are trading

You must make a claim in each case. Helpsheet 296, 'Debts and Capital Gains Tax', explains how to make a claim. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS296'.

## Notes on TRUST AND ESTATE CAPITAL GAINS

### ■ Losses

The total allowable losses of 2021–22 are deducted from the total chargeable gains of the year. If the allowable losses are greater than the chargeable gains, the excess is carried forward to be set against gains in future years.

You only use enough losses of years before 2021–22 to reduce the chargeable gains to the level of the annual exempt amount. Losses from 1996–97 and later years must be used in priority to any other losses you may have from earlier years. Allowable losses must be set against the gains for the year in which they arose before you carry them forward to later years.

In working out the Capital Gains Tax payable, you may deduct losses and the annual exempt amount in the way which minimises the tax due unless there's a specific rule that limits how they may be deducted, such as for clogged losses.

### ■ Clogged losses

Clogged losses are losses that can only be set against gains of certain types. These are:

- losses on disposals to connected persons, see page TCN14 – these losses can only be set against gains on disposals to the same connected person; subject to that restriction all the normal rules relating to those losses apply
- losses transferred to you by trustees when you become absolutely entitled to settled property, but only where the transfer occurred after 15 June 1999 – in this case the losses can only be set against gains arising on the disposal of the same asset, (or an asset derived from that asset) – in this situation the losses are set against those gains in priority to any other losses whether of the same year or brought forward and are treated as if they were losses of the current year
- losses where the trustees have received property subject to a gifts hold-over claim (see Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for 'HS295') and the person who transferred the property in question, or any person connected with them, acquired an interest, or has arranged to acquire an interest, and consideration is payable in connection with that acquisition – in this situation your allowable losses cannot be set against any gain on the disposal of that property

In order to keep these losses separate and ensure that they're allowed at the appropriate time, if you have any clogged losses of the year, or clogged losses of any earlier year, please make a copy of the capital losses section at the bottom of page TC 4 for each clogged loss. This copy is referred to here as a shadow page TC 4.

Do not merge the clogged losses into your main page for capital losses on page TC 4 loss record at any time. Keep a copy of any shadow page TC 4 at least until the clogged losses have been fully used. Do not send copies of shadow pages unless we ask you to.

### ■ Completion of pages TC 1 and TC 2

If you complete page TC 1 and TC 2 and have a clogged loss, write the word 'clogged' alongside the description in column A and put an explanation in the 'Additional information' box on page TC 8. Include the full amount of the clogged loss in the figure in box 5.2 or 5.10 but divide this total loss between box 5.20 on the loss record on page TC 4 and any shadow page TC 4, as needed.

If you set clogged losses against gains, give the amounts and an explanation on page TC 8. Enter the use of any actual and clogged losses on the loss record on page TC 4 and any shadow page TC 4, as needed.

If any clogged losses are set against gains, tick the appropriate 'Yes' box on page TC 4.

### ■ Carry back of losses

You can claim or elect to carry back allowable losses to deduct from gains of years before 2021–22 in 2 cases. You may claim to carry back allowable losses made on expiry or termination of a mineral lease against gains made from mineral royalties. You may also be able to elect to carry back allowable losses arising on a disposal of a right to deferred unascertainable consideration.

If you're making a claim or election on the tax return to set such losses against earlier years' gains, enter the amount of the loss in box 5.22 and also enter details of your claim or election in column G on page TC 1 and TC 2 and put an explanation in the 'Additional information' box on page TC 8.

### ■ Claiming losses

A loss made in 1996–97 or later years has to be claimed. These losses are not allowable losses until you have given notice of the amount of the loss to us. You do not have any choice about the order in which allowable losses are used. They must be deducted from gains in the order set out in the notes above.

Losses for 1995 to 1996 and earlier years cannot be claimed. Put the accumulated amount of such losses in box 5.27. If you're using some of these losses against gains of 2021–22, put the amounts being used in the boxes for allowable losses brought forward in boxes 5.4 and or 5.12 on page TC 3. Such losses will form part of this tax return and we may make checks into them. There's no time limit before which these earlier losses must be used.

### ■ How to claim for a loss

The rules for completing returns mean that many losses will have to be included in the 'Trust and Estate Capital Gains' pages (see 'Capital Gains' on page 9 of the Trust and Estate Tax Return Guide) for the year in which they are made. In 2021–22, if the total worth of all the assets disposed of was more than £49,200 or the trust or estate has made chargeable gains of more than the Annual Exempt Amount, you must include all allowable losses you want to claim for the year in the losses section on page TC 1 or TC 2 of the 'Trust and Estate Capital Gains' pages. By giving the details requested on page TC 1 or TC 2 we'll treat the entries as your claim to allowable losses. If you discover a loss that should have been claimed on the Trust and Estate Tax Return, but you have already sent the return to us, if the time for amending your return:

- has not yet passed – write to us giving details of the loss and ask for the Trust and Estate Tax Return to be amended
- has already passed but you're still in time to make a claim, see the next section below – send a separate notice of the amount of the loss to us

If the loss is one that you do not need to claim right away, see the next section 'Time limits for claiming losses' for details of when the loss should be claimed.

### ■ Time limits for claiming losses

Allowable losses for 1996–97 and later years have to be claimed. This applies whether the losses are used in that time period or not. The latest date for claiming losses made in 2021–22 is 5 April 2026.

If losses brought forward have been claimed in the Trust and Estate Tax Return for the year they were made, or by a separate claim, they will still have to be included in a later year's tax return when they're used.

There's no time limit for claiming losses for 1995–96 and earlier years which can be carried forward indefinitely until there are gains against which they can be set (see 'Claiming losses' on this page).

## Notes on TRUST AND ESTATE CAPITAL GAINS

### ■ Date of disposal (or acquisition)

You'll have to consider the date an asset was disposed of (or acquired) to decide if any disposal occurred in the year to 5 April 2022.

If the disposal (or acquisition) is by way of a contract, the date of disposal (or acquisition) is usually the date of the contract.

In a small number of cases the contract may be conditional. This will be so if one or more conditions have to be met before the contract becomes binding. In these cases, the date of disposal (or acquisition) is the date on which the last of the conditions is met.

In the situation where a beneficiary becomes absolutely entitled to settled property as against the trustee, the date of disposal (or acquisition) is the date of absolute entitlement.

In other cases where there is not a contract the date of disposal (or acquisition) will usually be the date when ownership of the asset is effectively transferred.

There are exceptions. For example, in most of the cases where you get a capital sum from ownership of an asset, the date of disposal is the date you receive the capital sum.

#### Example 1

As trustee or personal representative you sell a piece of bare land under an unconditional contract dated 2 April 2022.

The land was conveyed to the purchaser on 2 May 2022.

The disposal, for the purpose of working out the gain or loss, is treated as taking place on 2 April 2022.

The disposal is in the tax year ending on 5 April 2022, include any gain or loss in the Trust and Estate Tax Return for this year.

### ■ Disposal proceeds

In most cases your calculation should begin with the total amount of disposal proceeds you'll receive. This may include any of the following:

- cash payable now or in the future
- the value of any asset received in exchange for the asset you've disposed of
- the value of a right to receive future payments

The disposal proceeds include cash, or anything that can be turned into cash. Do not include anything that's taxable as income.

If disposal proceeds include any amount taken into account as a balancing charge in calculating income, you can find more information in Helpsheet 293, 'Chattels and Capital Gains Tax'. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS293'.

List the total disposal proceeds of each of your disposals on page TC 1 of the 'Trust and Estate Capital Gains' pages.

#### Example 2

As trustee or personal representative you exchange a painting the trust or estate owns, which is worth £30,000, for a painting that you consider to be worth £33,000. Your calculation of the gain or loss on the first painting begins with £33,000, the value of the painting received.

The distinction between future payments and the right to receive future payments is important when you do not receive all of the money to which you are entitled straightaway.

If the total amount to which the trust or estate is entitled is known or can be calculated, include the full amount you're due to receive.

No allowance can be made for the possibility that the whole sum may not be paid. However, if it becomes clear later on that you'll never receive some part of the total amount originally due, the calculation of the gain can be adjusted.

If you receive the total amount due in instalments over a period exceeding 18 months, you may not have to pay the tax which is due on the gain in one sum. Ask us for details.

#### Example 3

As trustee or personal representative you sell shares in a company in December 2021 for £50,000 together with a sum equal to 10% of the profits made by the company in the year ended 30 June 2021. Begin your calculation by bringing in the £50,000 and the sum equal to the percentage of profits to which you're entitled. Accounts can be prepared and the sum can be calculated.

If some part of the amount to which you're entitled cannot yet be calculated when you make the disposal because of an unknown factor, bring in the value of the right to that future sum.

When you receive the amount to which you're entitled, you'll make a further gain or loss on the disposal of that right.

#### Example 4

As trustee or personal representative you sell land for £40,000 and you'll also be entitled to receive 50% of any increase in the value of the land, if the purchaser is able to obtain planning permission for a housing development. When you make the disposal, you cannot know whether planning permission will be obtained or what effect that will have on the value of the land. So you do not know how much you'll finally get. Begin your calculation by bringing in the £40,000 together with your estimate of the value of your right to more money.

In some circumstances, the amount that you're to receive should be replaced in your calculation by the market value of the asset you've disposed of. The phrase 'market value' is explained on page TCN13. Market value will apply where the disposal is, for example, any of the following:

- to a connected person
- otherwise than by a bargain made at arm's length; a gift (unless the no gain/no loss rules apply)
- wholly or partly for consideration that cannot be valued
- a deemed disposal on the occasion of a beneficiary becoming absolutely entitled as against the trustees

The phrase 'connected person' is explained on page TCN14.

#### Example 5

As trustee or personal representative you transfer a piece of land worth £10,000 to the deceased's former spouse or civil partner for their undertaking to give up all claims against you. The consideration given cannot be valued. Begin your calculation by bringing in disposal proceeds of £10,000.

A disposal which is otherwise than by way of a bargain made at arm's length is most often one where one party intends in that transaction to confer a gratuitous benefit on the other.

#### Example 6

As personal representative you sell land worth £40,000 to the deceased's sister for £25,000 in accordance with the instructions in the will. Begin your calculation on the disposal of the land by bringing in disposal proceeds of £40,000.

### ■ Deductible expenses

In working out a gain the expenses that you can deduct fall into 4 categories. These are:

- acquisition costs
- enhancement costs
- incidental costs of acquisition and disposal
- expenditure on establishing, preserving or defending your title to the asset

These phrases are explained in the following notes.



## Notes on TRUST AND ESTATE CAPITAL GAINS

Expenses that you deduct must be expenditure on the asset disposed of. These must not be expenses which you can claim against income. Expenditure which has been taken into account in a claim to capital allowances can be deducted. You cannot claim for the cost of normal maintenance and repairs, or payments of interest or alternative finance payments. An alternative finance payment is the charge made by your finance provider over and above the original cost of the asset in the alternative finance arrangement.

The expenses you can deduct may be reduced if the asset you've sold is a wasting asset. This phrase is explained on page TCN14. If you've only made a part disposal of an asset you can only deduct part of the expenditure on that asset. See page TCN14 for more details about part disposals.

### ■ Acquisition costs

You can deduct any amount you gave wholly and exclusively for the acquisition of the asset. If the asset was bought using an alternative finance arrangement the acquisition cost is the original cost of the asset under the arrangement and does not include any alternative finance payments. In certain circumstances the amount you gave may be replaced by the market value of the asset when you acquired it. The phrase market value is explained in more detail in the next column.

Market value will apply where you acquired the asset, for example:

- from a connected person
- otherwise than by a bargain made at arm's length; this could be a gift (unless the no gain/no loss rules apply)
- wholly for a consideration that cannot be valued
- you owned the asset before 31 March 1982

If you owned the asset at 31 March 1982, calculate the gain or loss based on the value at 31 March 1982.

Personal representatives and trustees of a will trust are treated as if they had acquired the assets of the deceased which make up the estate for a sum equal to the market value of those assets at the date on which the deceased died. Assets acquired by the personal representatives during the administration are subject to the rules described in the 3 paragraphs above.

If the asset is not one acquired but one the deceased created (for example, a copyright or the goodwill of a business), deduct any capital expenditure incurred wholly and exclusively in creating the asset.

### ■ Enhancement costs

You can deduct any amount you spent wholly and exclusively for the purpose of enhancing the value of the asset. Also, only expenditure which is still reflected in the state or nature of the asset at the date of sale is still allowable.

#### Example 7

As trustee you arranged for an extension to be built onto a trust property that you let but demolished before sale. The cost of that extension cannot be deducted because it's no longer reflected in the state of the asset at the date of sale. The costs of demolition may be allowable.

### ■ Incidental costs

You can deduct any expenditure incurred wholly and exclusively on the acquisition or disposal of the asset:

- fees, commission or remuneration paid for professional advice
- the costs of transfer or conveyance
- Stamp Duty or Stamp Duty Land Tax

Advertising costs, to find a buyer or a seller, can be deducted and so can the costs of any valuations or apportionments you obtain to

work out the gain or loss on a disposal.

You cannot deduct any subsequent costs incurred if we disagree with your valuation.

When trustees transfer property to a person who is absolutely entitled to it, that person may deduct:

- any costs of transfer they incur
  - any costs of transfer incurred by the trustees
- as allowable expenditure in calculating any gain or loss on a subsequent disposal of the property, provided the expenditure is not already taken into account in computing the trustees' gain or loss on their disposal.

### ■ Expenditure on establishing, preserving or defending your title to an asset

You can deduct expenditure you've incurred wholly and exclusively in establishing, preserving or defending your title to an asset, or your rights over an asset. This may include, for example, the legal costs of a dispute with a neighbouring landowner whose fence encroaches on trust or estate land.

The costs incurred by the personal representatives in establishing their title to the assets of the estate may be deducted as set out in Statement of Practice 2/04, go to [www.gov.uk/government/collections/statements-of-practice](http://www.gov.uk/government/collections/statements-of-practice)

### ■ Market value

In some cases, the price paid when you obtained the asset, or the price you received when you disposed of it, is replaced by the market value of the asset in working out your gain or loss.

For example, if you owned the asset at 31 March 1982 the price paid for the asset will be replaced in the calculation by the market value of the asset at 31 March 1982.

The market value is the price an asset might reasonably have been expected to fetch on the open market at the date of that acquisition or disposal.

There's a special rule which applies if you've disposed of assets by a series of linked disposals to connected persons so that the value of the assets transferred, taken separately, is less than their combined value. The value of each separate asset is replaced in your calculation by a proportion of the total market value of all the assets in the series. You can exclude from the series any disposals that took place more than 6 years before the last disposal in the series.

#### Example 8

The trust owns the freehold interest in a piece of land. That interest is worth £100,000. Four years later as trustee you grant the settlor's brother a lease over that land. The lease is worth £20,000. You then sell him the freehold interest for its market value of £60,000. You have only realised a total of £80,000 (the freehold and the lease) in disposing of land worth £100,000. Because this was a series of transactions, you must replace the £20,000 you got from the grant of the lease by £25,000 ( $£20,000/£80,000 \times £100,000$ ) in working out your gain. You must replace the £60,000 you got for the freehold interest by £75,000 ( $£60,000/£80,000 \times £100,000$ ) in working out the gain on that disposal.

In the case of shares or securities quoted on the Stock Exchange Daily Official List (SEDOL) the market value is calculated in a special way. For those assets the market value is the lower of:

- a figure one-quarter up from the lower of the 2 prices in the quotation for the relevant day
- the figure halfway between the highest and the lowest prices of recorded bargains for that day

## Notes on TRUST AND ESTATE CAPITAL GAINS

### ■ Estimates and valuations

If you've used any estimated figures to work out your gains and losses, tick the appropriate box in column B on page TC 1 and or TC 2 of the 'Trust and Estate Capital Gains' pages. Describe which figures you estimated and why you had to use estimates in the appropriate boxes on pages TC 6 and TC 7.

Also include any valuations you've used to work out gains or losses, for example, because the asset was acquired from a connected person or because you held the asset at 31 March 1982. Tick the appropriate box in column B, whether you've prepared your own estimate of the value of the asset or have taken professional advice.

We may need to check if the values you have used are accurate. We use specialist valuers to value some assets, mainly unlisted shares, land, goodwill and works of art. You'll be able to discuss the values you've used with our valuers. If we cannot agree the valuation after discussion, you can appeal to an independent tribunal. If we do not check a computation, do not assume that valuations used in that computation are agreed.

### ■ Valuations we've already checked

If you've already asked us on form CG34 to check any of the valuations you've used in your calculations, tick the appropriate box on pages TC 6 to TC 7 or put a note to that effect on page TC 8. We need to know which valuations have been agreed already and which have not yet been agreed.

### ■ Connected persons

If you dispose of an asset to a connected person, or acquired an asset on the disposal by a connected person, the price you pay or receive is replaced by the market value of the asset in working out your gain or loss on the disposal of that asset.

Trustees are connected with:

- any living individual who is a settlor of that trust
- any person who is connected with such an individual
- any company which is connected with that trust

If you make a loss on the disposal of an asset to a connected person, you can only set that loss against gains you make on disposals to that same connected person.

Personal representatives are not connected to anybody while they're acting in that capacity.

### ■ Wasting assets

A wasting asset is an asset that had a predictable life of 50 years or less on the date on which you acquired it. All plant and machinery is treated as a wasting asset.

When you dispose of a wasting asset, the expenses that you can deduct are reduced to take account of the remaining predictable life of the asset.

If you've disposed of a wasting asset see Helpsheet 293, 'Chattels and Capital Gains Tax', which explains how to make the calculations. Go to [www.gov.uk](http://www.gov.uk) and search for 'HS293'.

### ■ Adjustments for capital allowances

You may have claimed capital allowances on the assets you've disposed of. If the disposal produces an allowable loss, the amount of the loss is reduced by restricting the expenses by the net capital allowances. 'Net capital allowances' means total capital allowances less any balancing charges. This restriction can only reduce the loss to zero. It cannot produce a gain.

### Example 9

In March 2006 as trustee or personal representative you buy a printing press for £100,000. The printing press is sold for £27,000. The net capital allowances after deducting the balancing charge are £73,000. The loss of £73,000 is reduced to zero by restricting the allowable expenses by the amount of the capital allowances.

### ■ Part disposals

If you've made a disposal of part of an asset, this may be the disposal of a physical part of the asset, or an interest or right in or over the whole or part of the asset. There are rules to allocate expenditure between the part disposed and the part retained.

These are:

- expenditure which relates wholly to the part disposed of is deductible in full
- expenditure which relates wholly to the part retained is not deductible
- the proportion of expenditure that relates to the part disposed of and is deductible in the computation of the gain is normally calculated with the formula  $A/(A+B)$  where A = the disposal consideration and B = the value of the part kept at the time of the part disposal

Where the part of the asset sold, particularly in the case of shares and securities, is a recognisable fraction of the asset, the allowable expenditure may be allocated according to that fraction to avoid unnecessary valuation work. The expenditure not allowed this time can be allowed on a later disposal.

This treatment does not apply to certain transactions, for example, subleases granted out of short leases, certain transactions in land, options. If you're unsure if the normal part disposal formula can apply please see CG12730 in the Capital Gains Manual, go to [www.gov.uk/government/collections/hmrc-manuals](http://www.gov.uk/government/collections/hmrc-manuals) for more details.

### Example 10

As trustee or personal representative you sell part of an asset for £25,000. The asset cost £30,000 and the part of the asset kept is worth £50,000. You have also incurred expenditure of £5,000 wholly on the part of the asset sold. To work out your gain or loss you can deduct the £5,000 spent on the part sold together with:

$$\frac{\pounds 25,000}{\pounds 25,000 + \pounds 50,000} \times \pounds 30,000 = \pounds 10,000$$

Where the part of the asset sold, particularly in the case of shares and securities, is a recognisable fraction of the asset, the allowable expenditure may be allocated according to that fraction to avoid unnecessary valuation work. The expenditure not allowed this time can be allowed on a later disposal.

### ■ Disposal of shares or securities

Shares acquired (or treated as acquired) at any time are treated as a single asset, the share pool, if they are:

- of the same class
- in the same company
- acquired in the same capacity

The same treatment applies to some securities and similar assets.

If the trust or estate has disposed of shares or securities and similar assets more information is available in Helpsheet 284, 'Shares and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS284'.

## Notes on TRUST AND ESTATE CAPITAL GAINS

## Section 5 – Reliefs and elections

Reliefs from Capital Gains Tax are given in different ways to meet different purposes. Some reliefs are given automatically and so you do not need to make a claim. Take account of the amount of any relief that is due, even if it is 'automatic', when you work out gains and losses.

Some reliefs are only given if you claim them. In some cases, you can make a claim in the tax return. In others you must make the claim on a separate form which you attach to the tax return. (See notes on completion of column G on page TC 1 and TC 2.)

Use the 'Trust and Estate Capital Gains' pages to make any claims and elections (which determine how gains are to be worked out).

The most common reliefs and elections are introduced briefly below and are dealt with more fully in helpsheets available at [www.gov.uk/self-assessment-forms-and-helpsheets](http://www.gov.uk/self-assessment-forms-and-helpsheets) – see the list on page TCN1 of these notes.

### ■ Private Residence Relief

Trustees are entitled to claim relief when they dispose of the only home of an individual who is entitled to occupy it under the terms of the settlement. This is provided that, in calculating the amount of the gain arising on the disposal that would be a chargeable gain if the relief did not exist, no account would have to be taken of any Gifts Hold-Over Relief obtained under section 260 of the Taxation of Chargeable Gains Act 1992 by any person for any earlier disposal. Special transitional rules that may allow some Private Residence Relief to be claimed by the trustees apply where Gifts Hold-Over Relief is obtained for a transfer to the trustees which was made before 10 December 2003.

In most cases personal representatives will not have to pay tax on any gains made when they dispose of a property which is the only home, both before and after the deceased's death, of individuals who are entitled, either absolutely or for life, to 75% or more of the proceeds of the disposal (assuming that none of the proceeds are needed to meet any liabilities of the estate). The relief has to be claimed.

The most common exceptions are:

- if the garden or grounds of the home including the site of the house exceed half a hectare (a little less than one and a quarter acres) and some or all of that excess does not qualify for relief
- if part or all of the home has at some time been used for another purpose, for example, let or used for business

This list is not complete. If you think that you may be entitled to Private Residence Relief on a disposal you have made, read Helpsheet 283, 'Private Residence Relief', go to [www.gov.uk](http://www.gov.uk) and search for 'HS283'.

### ■ Other reliefs

#### Roll-over Relief

Allows gains on the disposal of business assets to be deferred if replacement assets are acquired. It can be claimed by trustees or personal representatives who are carrying on a trade.

If you want to claim this relief, read Helpsheet 290, 'Business Asset Roll-over Relief', go to [www.gov.uk](http://www.gov.uk) and search for 'HS290'.

Complete the claim form attached to Helpsheet 290. Please attach the claim form to the Trust and Estate Tax Return when you send it to us. If you're claiming in relation to any disposal, enter 'Roll-over Relief' and the amount claimed in column G on page TC 1 and or TC 2 next to that disposal.

#### Gifts Hold-Over Relief

Can be claimed in certain circumstances by trustees to defer gains made when assets are transferred otherwise than by way of a bargain made at arm's length. If you want to claim this relief, download Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for 'HS295'. Claims must be made

by completing the claim form attached to Helpsheet 295 or a copy of the form.

Please attach the claim form to the Trust and Estate Tax Return. Write 'Gifts Hold-Over Relief' in column G on page TC 1 next to the relevant disposal.

#### Business Asset Disposal Relief (previously Entrepreneurs' Relief)

Can be claimed by trustees of settlements who dispose of trust property that is either shares in, or securities of, a qualifying beneficiary's personal trading company of which they are an employee, or assets used in a qualifying beneficiary's business which ceased to be carried on by the beneficiary within a specified period prior to the disposal. A claim by trustees must be made jointly with the qualifying beneficiary. You may use the form attached to Helpsheet 275 to do this. The relief cannot be claimed simply by making an entry in column G on page TC 1 or TC 2. You can find more detailed guidance in Helpsheet 275, 'Business Asset Disposal Relief' (previously Entrepreneurs' Relief), go to [www.gov.uk](http://www.gov.uk) and search for 'HS275'. Personal representatives cannot claim Business Asset Disposal Relief.

#### Investors' Relief

You can find more guidance in Helpsheet 308, 'Investors' Relief', go to [www.gov.uk](http://www.gov.uk) and search for 'HS308'.

#### Enterprise Investment Scheme Deferral Relief

Allows gains to be deferred when you subscribe for Enterprise Investment Scheme shares. Read Helpsheet 297, 'Capital Gains Tax and Enterprise Investment Scheme', go to [www.gov.uk](http://www.gov.uk) and search for 'HS297'. The relief can only be claimed on receipt of an EIS3 certificate from the company invested in. A claim form is attached to the certificate for completion and must be submitted with your tax return to claim the relief. When claiming, write 'Enterprise Investment Scheme Deferral Relief' in column G on page TC 2 next to the relevant disposal and enter the amount of the relief claimed. Personal representatives cannot claim Enterprise Investment Scheme Deferral Relief.

#### Seed Enterprise Investment Scheme Reinvestment Relief

May allow you to treat a gain arising as exempt from Capital Gains Tax if you acquire Seed Enterprise Investment Scheme (SEIS) shares. Read Helpsheet 393, 'Seed Enterprise Investment Scheme – Income Tax and Capital Gains Tax reliefs', go to [www.gov.uk](http://www.gov.uk) and search for 'HS393'. The relief can only be claimed on receipt of an SEIS3 certificate from the company invested in. A claim form is attached to the certificate for completion and must be submitted with your tax return to claim the relief. When claiming, write 'Seed Enterprise Investment Scheme Reinvestment Relief' in column G on page TC 2 next to the relevant disposal and enter the amount of the relief claimed.

Personal representatives cannot claim Seed Enterprise Investment Scheme Reinvestment Relief

#### Business Incorporation Relief

Is available to both trustees and personal representatives who are carrying on a business. It defers a gain made when a business is transferred to a company in exchange for shares. This relief is given automatically. If you've taken advantage of this relief on any disposal write 'business transfer relief' in column G on page TC 2 next to the relevant disposal and enter the amount of the relief. For transfers on or after 6 April 2002 it's possible to elect out of this relief. You can find more guidance in Helpsheet 276, 'Incorporation Relief', go to [www.gov.uk](http://www.gov.uk) and search for 'HS276'.

#### Unremittable gains

Relief may be claimed by trustees and by personal representatives. If you've disposed of an asset situated outside the UK and you're unable to transfer the gains to the UK because of exchange controls or a shortage of foreign currency in the overseas country, then you can claim that the unremittable gain should not be taxable in 2021-22. You can claim relief by writing 'unremittable gains' in column G on page TC 2 next to the relevant disposal. Enter the amount claimed.

## Notes on TRUST AND ESTATE CAPITAL GAINS

**Gains becoming remittable**

Where a gain was not taxed in an earlier year because it was unremittable but it can now be remitted to the UK, it's treated as a gain arising in 2021–22. A gain may become remittable if, for example, exchange controls are lifted. Include any gains to which this applies whether or not they're actually remitted to the UK.

Negligible value claims and claims for certain debts that have become irrecoverable, which have the effect of crystallising losses, may be made in column G on page TC 2. You can find more guidance on such claims in, respectively, Helpsheet 286, 'Negligible value claims and Income Tax losses on disposals of shares you have subscribed for in qualifying trading companies', go to [www.gov.uk](http://www.gov.uk) and search for 'HS286' and Helpsheet 296, 'Debts and Capital Gains Tax', go to [www.gov.uk](http://www.gov.uk) and search for 'HS296'.

**Relief for foreign tax paid**

If gains chargeable to Capital Gains Tax have also been charged to tax in another country, you may be able to claim relief by way of credit for the foreign tax paid ('Foreign Tax Credit Relief'). Foreign Tax Credit Relief is deducted from that part of the Capital Gains Tax liability of the trust or estate that relates to the gain on which the foreign tax has been paid. If you want to claim Foreign Tax Credit Relief, you'll need the 'Trust and Estate Foreign' pages. Go to [www.gov.uk](http://www.gov.uk) and search for 'SA904'.

It will usually be advantageous to claim Foreign Tax Credit Relief for foreign tax paid. But this will not be the case where no Capital Gains Tax is chargeable on a particular gain. For example, where the disposal results in a loss, or losses brought forward extinguish any chargeable gains, there may be no UK tax against which the foreign tax can be credited.

If you do not want to claim Foreign Tax Credit Relief, deduct the foreign tax paid in calculating the amount of the chargeable gains or allowable losses to be entered in column H on page TC 2. You cannot, however, deduct part of the foreign tax in calculating the gain on disposal and claim credit for the balance.

If you do want to claim Foreign Tax Credit Relief, get the Trust and Estate Foreign pages and complete page TF3. If you're calculating the tax, you'll also need Helpsheet 263, 'Relief for Foreign Tax Paid', go to [www.gov.uk](http://www.gov.uk) and search for 'HS263'.

**Relief for Special Withholding Tax**

If gains chargeable to Capital Gains Tax have had tax withheld by another country because of the EU Savings Directive, you'll be able to set the tax withheld against the UK tax liability.

To claim the Special Withholding Tax, you'll need the Trust and Estate Foreign pages, go to [www.gov.uk](http://www.gov.uk) and search for 'SA904', and complete the capital losses section on page TF4.

**Relief for Inheritance Tax on a gift or deemed disposal**

Inheritance Tax is not usually taken into account in calculating liability to Capital Gains Tax. In exceptional circumstances, it may be taken into account when the transferee disposes of the assets. You can find more guidance in Helpsheet 295, 'Relief for gifts and similar transactions', go to [www.gov.uk](http://www.gov.uk) and search for 'HS295'.

**Relief for trusts for vulnerable beneficiaries**

For general guidance about how elections are to be made, go to [www.gov.uk/trusts-taxes/trusts-for-vulnerable-people](http://www.gov.uk/trusts-taxes/trusts-for-vulnerable-people)

Claims need to be made each year and apply to both Income Tax and Capital Gains Tax. Enter the amount of relief claimed against Capital Gains Tax in box 5.6 and or box 5.14 and the amount of relief claimed against Income Tax in box 10.1B of the Trust and Estate Return.

The consequence broadly is that the overall liability is calculated by reference to the circumstances of the vulnerable beneficiary.

**Section 6 – Worked examples of gains and losses****The basic calculation****Example 11**

A piece of land which was bought in June 1998 for £20,000 was sold in May 2021 for £100,000. The incidental costs of the acquisition were £1,000 while the incidental costs of the disposal were £5,000. A barn had been built on the land in August 1998 at a cost of £15,000 and it was still there when the land was sold.

|       |                              |         |                |
|-------|------------------------------|---------|----------------|
|       | Disposal proceeds            |         | £100,000       |
| minus | Incidental costs of disposal |         | £5,000         |
|       | Net disposal proceeds        |         | £95,000        |
|       | Cost                         | £20,000 |                |
| plus  | Incidental costs             | £1,000  |                |
| plus  | Enhancement expenditure      | £15,000 |                |
|       | Total                        | £36,000 | £36,000        |
|       | <b>Chargeable gain</b>       |         | <b>£59,000</b> |

**Allowable losses****Example 12**

An individual died during the tax year 2018–19. The estate has the following chargeable gains and allowable losses:

|        | 2019–20 | 2020–21 | 2021–22 |
|--------|---------|---------|---------|
| Gains  | £10,000 | £22,000 | £25,000 |
| Losses | £25,000 | £5,000  | zero    |

The chargeable gains or allowable losses position for each year would be:

|   |   |         |
|---|---|---------|
| 2019–20   | Gain  | £10,000 |
|   | minus Losses                                      | £10,000 |
|   | Losses to carry forward                           | £15,000 |
| Losses of the same year are set off to reduce gains to nil. |   |         |
| 2020–21   | Gain  | £22,000 |
|   | minus Current year losses                         | £5,000  |
|   | minus Losses brought forward                      | £4,700  |
|   | Net gain  | £12,300 |
|   | minus Annual exempt amount                        | £12,300 |
|   |   | zero    |
|   | Losses to carry forward<br>(£15,000 minus £4,700) | £10,300 |

Losses of the same year are set off in priority to losses brought forward.

Losses brought forward are set off to reduce gains to the annual exempt amount.

|         |                              |         |
|---------|------------------------------|---------|
| 2021–22 | Gain                         | £25,000 |
|         | minus Losses brought forward | £10,300 |

|   |                |
|---|----------------|
| <b>Gains before deduction of the annual exempt amount</b> | <b>£14,700</b> |
|---|----------------|



## Notes on TRUST AND ESTATE CAPITAL GAINS

## ■ Asset owned at 31 March 1982

**Example 13**

An asset cost £250,000 on 1 May 1979 inclusive of incidental costs. It is worth £200,000 at 31 March 1982 and was sold on 15 April 2021 for £1,000,000 net of incidental costs.

|                        | <b>Gain</b>     |
|------------------------|-----------------|
| Disposal proceeds      | £1,000,000      |
| minus Cost             | <u>£200,000</u> |
| <b>Chargeable gain</b> | <b>£800,000</b> |

## ■ A part disposal

**Example 14**

A house was bought for letting in December 1987 for £50,000 including incidental costs. In March 1988 it was subdivided into 2 flats at a cost of £5,000. One flat was sold in May 2021 for £120,000. Immediately before the sale a central heating system was installed at a cost of £2,000 in the flat that was sold. The incidental expenses of the disposal were £6,000 and the value of the retained flat was £80,000.

|                             |  |
|-----------------------------|--|
| Disposal proceeds           | £120,000   |
| minus Incidental costs      | <u>£6,000</u>  |
| Net disposal proceeds       | £114,000   |
| minus Part of cost of house |  |
| £50,000                     | $\times \frac{£120,000}{£120,000 + £80,000} = £30,000$ |
| minus Subdividing house     |  |
| £5,000                      | $\times \frac{£120,000}{£120,000 + £80,000} = £3,000$  |
| minus Central heating       | <u>£2,000</u>  |
| Total costs                 | £35,000 <u>£35,000</u>                                 |
| <b>Chargeable gain</b>      | <b>£79,000</b>   |

This would be a disposal of residential property and the gains would be chargeable at the upper rate of 28%.

## ■ A disposal of pooled shares

**Example 15**

2,000 shares were bought in May 1988 at a cost of £9,000 including incidental costs. In January 1990 there was a rights issue of 2 shares for each one held as a result of which a further 4,000 shares were bought for £20,000. In June 2021, 600 shares were sold for £6,000 net of incidental costs.

|  | <b>Number of shares</b> | <b>Pool of qualifying expenditure</b> |
|--|-------------------------|---------------------------------------|
| <b>May 1988</b> A pool is created  | 2,000                   | £9,000                                |
| <b>January 1990</b> Add the cost of the rights issue shares to the pool                          | <u>4,000</u>            | <u>£20,000</u>                        |
| New total  | <u>6,000</u>            | <u>£29,000</u>                        |
| <b>June 2021</b> Calculate chargeable gain and reduce the pool by the apportioned amount of cost | (600)                   | (£2,900)                              |
|  | 5,400                   | £26,100                               |
| <b>Calculation of chargeable gain</b>  |                         |                                       |
| Disposal proceeds  |                         | £6,000                                |
| minus Cost   |                         | <u>£2,900</u>                         |
| <b>Chargeable gain</b>   |                         | <b>£3,100</b>                         |