



Class Ruling

Income tax: Arconic Inc. – Employee Share Scheme

Contents	Para
LEGALLY BINDING SECTION:	
Summary – what this ruling is about	1
Date of effect	8
Scheme	9
Ruling	45
NOT LEGALLY BINDING SECTION:	
Appendix 1:	
Explanation	52
Appendix 2:	
Detailed contents list	62

This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

Summary – what this ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:
- section 83A-10 of the *Income Tax Assessment Act 1997* ('ITAA 1997')
 - section 83A-120 of the ITAA 1997
 - section 130-80 of the ITAA 1997.

All legislative references are to the ITAA 1997 unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are all persons who:

- are residents of Australia within the meaning of the *Income Tax Assessment Act 1936* ('ITAA 1936')

- are not ‘temporary residents’ within the meaning of that expression in subsection 995-1(1) of the ITAA 1997
- were employed by Alcoa Inc. or a subsidiary of Alcoa Inc. prior to 1 November 2016 (the **Separation** and distribution)
- continue to be employees of Alcoa Inc. (renamed Arconic Inc.) or a subsidiary of Arconic Inc. in connection with the Separation and distribution
- held just prior to the time of the Separation and distribution:
 - (a) Options (‘**Stock Options**’) over Alcoa Inc. common stock under the 2009 Alcoa Stock Incentive Plan
 - (b) Options (‘**Stock Options**’) over Alcoa Inc. common stock under the 2013 Alcoa Stock Incentive Plan
 - (c) Restricted Stock Units (‘**RSU**’s) over Alcoa Inc. common stock under the 2013 Alcoa Stock Incentive Plan, and
 - (d) Shares (‘**Shares**’) of common stock in Alcoa Inc. under the Alcoa of Australia Limited Employee Share Plan Trust Deed Tax Deferred Plan
- Subdivision 83A-C applied to those Stock Options, RSUs, and Shares and no ESS deferred taxing point happened to them before the Separation
- as a result of the Separation and distribution, Arconic Inc. employees had each of their Stock Options and RSUs adjusted to reflect the Separation and distribution
- as a result of the Separation and distribution, Arconic Inc. employees continued to hold the Alcoa Inc. shares as Arconic Inc. common stock and received in addition Alcoa Corporation common stock
- at the time of Separation and distribution, did not hold a beneficial interest of more than 5% of the shares in Alcoa Inc. common stock and were not in a position to cast, or control the casting of, more than 5% of the maximum number of votes that might be cast at an Alcoa Inc. general meeting, and
- are not subject to the taxation of financial arrangement rules in Division 230 of the ITAA 1997.

4. The persons described in this class of entities at paragraph 3 are considered to be participants (‘**Participants**’) for the purposes of this Class Ruling.

Qualifications

5. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

6. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 9 to 40 of this Ruling.

7. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled, and
- this Ruling may be withdrawn or modified.

Date of effect

8. This Ruling applies from 1 July 2016 to 30 June 2017. The Ruling continues to apply after 30 June 2017 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

9. The following description of the scheme is based on information provided by the applicant.

Note: certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under Freedom of Information legislation.

Alcoa Inc.

10. Alcoa Inc. (**'Alcoa Inc.'**) was a US company listed on the New York Stock Exchange (**'NYSE'**) and had a market capitalisation of approximately US \$13 billion, based on the value of its common stock outstanding as at 31 December 2015.

11. Alcoa Inc.'s common stock was also listed and traded on the Australian Stock Exchange (**'ASX'**) as Chess Depository Instruments. Alcoa Inc. was removed from the official ASX listing, with its revocation of approval effective at end of day Monday, 17 October 2016.

The Separation and distribution

12. On September 28, 2015, Alcoa Inc. announced its intention to separate its Alcoa Corporation business from its Arconic Inc. business (the **Separation**).

13. The Separation occurred by means of a pro rata distribution to Alcoa Inc. shareholders of at least 80.1% of the outstanding shares of common stock of Alcoa Corporation, which was formed to hold Alcoa Inc.'s Bauxite, Alumina, Aluminium, Cast Products and Energy businesses, and rolling mill operations in Warrick, Indiana, and Alcoa Inc.'s 25.1% interest in the Ma'aden Rolling Company in Saudi Arabia.

14. Following the distribution, Alcoa Inc.'s shareholders own directly at least 80.1% of the outstanding shares of common stock of Alcoa Corporation, and Alcoa Corporation is a separate company from Alcoa Inc. Alcoa Inc. retained no more than 19.9% of the outstanding shares of common stock of Alcoa Corporation following the distribution.

15. In connection with the distribution:

- Alcoa Inc. completed an internal reorganisation, as a result of which Alcoa Corporation became the parent company of the Alcoa Inc. operations comprising, and the entities that conduct, the Alcoa Corporation business
- Alcoa Inc. changed its name to '**Arconic Inc.**', and
- 'Alcoa Upstream Corporation' changed its name to '**Alcoa Corporation**'.

16. On 29 September 2016, the Arconic Inc. board of directors approved the distribution of at least 80.1% of Alcoa Corporation's issued and outstanding shares of common stock on the basis of one share of Alcoa Corporation common stock for every three shares of Arconic Inc. common stock held as at close of business on 20 October 2016, the record date for the distribution.

17. At 12:01 a.m., Eastern Time U.S., on 1 November 2016, the distribution date, each Arconic Inc. shareholder received one share of Alcoa Corporation common stock for every three shares of Arconic Inc. common stock held at the close of business on the record date for the distribution, as described below. Arconic Inc. shareholders received cash in lieu of any fractional shares of Alcoa Corporation common stock that they would have received after application of this ratio.

18. Upon completion of the Separation, each Arconic Inc. shareholder as of the record date continued to own shares of Arconic Inc. (which, as a result of Alcoa Inc.'s name change to Arconic Inc., became Arconic Inc. shares (having NYSE listing reference '**ARNC**'))

and owned a proportionate share of the outstanding common stock of Alcoa Corporation (having NYSE listing reference '**AA**').

19. Arconic Inc. shareholders were not required to make any payment, surrender, or exchange their Arconic Inc. common stock or take any other action to receive shares of Alcoa Corporation common stock in the distribution.

Employee share schemes

20. The employee share schemes ('**ESS**'), the subject of this Class Ruling, and the treatment of that equity based compensation in connection with the Separation, are described in paragraphs 21 to 40.

Employee share scheme pre-Separation

21. Alcoa Inc. (as it was known prior to the Separation and name change to Arconic Inc.) offered equity to Australian employees of Alcoa Inc. and its subsidiaries under the following equity plans over the years.

The 2009 Plan

22. The 2009 Plan includes the following:

- Alcoa Inc. operated the 2009 Alcoa Stock Incentive Plan (the **2009 Plan**)
- under the 2009 Plan, employees of Alcoa Inc. or a subsidiary (in this case, Alcoa of Australia Limited) were granted Alcoa Inc. Stock Options and Alcoa Inc. RSUs. All outstanding awards previously granted under the 2009 Plan continue to be governed by and administered under the 2009 Plan
- Alcoa Inc. Stock Options – One third of the award vests on each anniversary of the grant date over three years
- Alcoa Inc. RSUs – 100% of the award vests at the three year anniversary of the grant date
- eligible employees could also be granted restricted shares, stock appreciation rights, and other awards under either the 2009 Plan
- no awards were able to be granted (and were not granted) under the 2009 Plan after 2 May 2013, and
- all awards have now vested and have had an ESS taxing point.

The 2013 Plan

23. The 2013 Plan includes the following:

- Alcoa Inc. operates the 2013 Alcoa Stock Incentive Plan (the **2013 Plan**). The 2013 Plan became effective on 3 May 2013. No awards may be granted under the 2013 Plan after 2 May 2023
- under the 2013 Plan, employees of Alcoa Inc. or a subsidiary (in this case, Alcoa of Australia Limited) were granted options over shares of common stock in Alcoa Inc. (**'Alcoa Inc. Stock Options'**) or rights to shares of common stock in Alcoa Inc. (**'Alcoa Inc. RSUs'**)
- Alcoa Inc. Stock Options – One third of the award vests on each anniversary of the grant date over three years
- Alcoa Inc. RSUs – 100% of the award vests at the three year anniversary of the grant date, and
- eligible employees could also be granted restricted shares, stock appreciation rights, and other awards under either the 2013 Plan. Such awards were made to only two Australian employees since establishment of the 2013 Plan.

Alcoa Employee Share Plan

24. In addition, Alcoa of Australia Limited operates the Alcoa Employee Share Plan by way of the Alcoa Employee Share Plan Trust Deed and annexures.

25. The Alcoa Employee Share Plan includes the following:

The Tax Exempt Scheme

- Under the Tax Exempt scheme an employee can acquire up to \$1,000 of Alcoa Inc. shares (**'\$1,000 Plan Shares'**) using pre-tax salary.
- **\$1,000 Plan Shares** acquired are subject to disposal restrictions, being the earlier of either three years from the date of acquisition or on cessation of employment with the Alcoa Inc. group companies (with a minimum disposal restriction of six months).

The Tax Deferred Scheme

- Under the Tax Deferred Scheme, employees can acquire up to \$5,000 of Alcoa Inc. shares (**'7 or 10 Year Deferred Plan Shares'**) using pre-tax salary.

- **7 or 10 Year Deferred Plan Shares** acquired are subject to disposal restrictions, being the earlier of either seven years from the date of acquisition or on cessation of employment with the Alcoa Inc. group companies (with a minimum disposal restriction of six months).

How the Tax Exempt Scheme and the Tax Deferred Scheme are held

- **\$1,000 Plan Shares and 7 or 10 Year Deferred Plan Shares** acquired are held in the Alcoa Employee Share Plan Trust from the date of acquisition.

Employee Share Schemes post Separation and distribution

26. In connection with the Separation:

- the vested but unexercised Stock Options (acquired on or after 1 July 2015)
- the unvested Stock Options (acquired on or after 1 July 2009 and before 1 July 2015), and
- unvested RSUs (acquired on or after 15 October 2013)

held by employees were either adjusted as an Arconic Inc. award or converted to an Alcoa Corporation award, depending upon each employee's post Separation employer as follows in paragraphs 27 to 37.

Arconic Inc. Stock Options and RSUs

Stock Options

27. Each award of Alcoa Inc. Stock Options held by an Arconic employee will continue to relate to Alcoa Inc. common stock (which, as a result of Alcoa Inc.'s name change to Arconic Inc., is now Arconic Inc. common stock after the Separation), provided that the exercise price of, and number of shares subject to, each such award was adjusted in a manner intended to preserve the aggregate intrinsic value of the original Alcoa Inc. award as measured immediately before and immediately after the Separation, subject to rounding. Such adjusted award will otherwise continue to have the same terms and conditions that applied to the original Alcoa Inc. award immediately prior to the Separation.

Restricted Stock Units

28. Each award of Alcoa Inc. RSUs held by an Arconic employee will continue to relate to Alcoa Inc. common stock (which, as a result of Alcoa Inc.'s name change to Arconic Inc., is now Arconic Inc. common stock after the Separation), provided that the number of

shares subject to each such award was adjusted in a manner intended to preserve the aggregate intrinsic value of the original Alcoa Inc. award as measured immediately before and immediately after the Separation, subject to rounding. Such adjusted award will otherwise continue to have the same terms and conditions that applied to the original Alcoa Inc. award immediately prior to the Separation.

Alcoa Corporation Stock Options and RSUs

Stock Options

29. Each award of Alcoa Inc. Stock Options held by an Alcoa Corporation employee was converted into an award of Stock Options with respect to Alcoa Corporation common stock. The exercise price of, and number of shares subject to, each such award was adjusted in a manner intended to preserve the aggregate intrinsic value of the original Alcoa Inc. award as measured immediately before and immediately after the Separation, subject to rounding. Such adjusted award will otherwise continue to have the same terms and conditions that applied to the original Alcoa Inc. award immediately prior to Separation.

Restricted Stock Units

30. Each award of Alcoa Inc. restricted share units held by an Alcoa Corporation employee was converted into an award of RSUs with respect to Alcoa Corporation common stock. The number of shares subject to each such award was adjusted in a manner intended to preserve the aggregate intrinsic value of the original Alcoa Inc. award as measured immediately before and immediately after the Separation, subject to rounding. Such adjusted award will otherwise continue to have the same terms and conditions that applied to the original Alcoa Inc. award immediately prior to the Separation.

Adjustment and conversion methodology for Stock Options and RSUs

31. On 5 October 2016, the Alcoa Inc. board recommended a reverse stock split ratio of 1-for-3.

32. On 1 November 2016 when Alcoa Inc. separated into Arconic Inc. and Alcoa Corporation, shareholders received one share of Alcoa Corporation common stock for every three shares of Alcoa Inc. common stock held as of the record date for the distribution, which was 20 October 2016.

33. The 2013 plan reflected the post-Separation employer, meaning that Arconic Inc. employees now hold Arconic Inc. Stock Options or RSUs, and Alcoa Corporation employees now hold Alcoa Corporation Stock Options or RSUs.

34. At the time of legal Separation, existing awards were cancelled and reissued under the 3-for-1 split. This changed the number of shares in ownership and under Stock Option, but not the value.

35. The formula used to convert the pre Separation interest into the post Separation interest is as follows:

Stock Options

36. $\text{Pre-Separation Exercise Price} \times \text{Opening Price} / \text{Closing Price} = \text{Post-Separation Exercise Price}$

$\text{Number of Options Pre-Separation} \times \text{Closing Price} / \text{Opening Price} = \text{number of Options Post-Separation}$

Restricted Stock Units

37. $\text{Number of RSUs Pre-Separation} \times \text{Closing Price} / \text{Opening Price} = \text{Number of RSUs Post-Separation}$

RSUs were rounded down to the nearest whole share. The value of fractional shares were paid to the employee through payroll and tax was applied accordingly.

38. In connection with the Separation:

- the **\$1,000 Plan Shares** (acquired on or after 2 November 2013), and
- the **7 or 10 Year Deferred Plan Shares** (acquired on or after 2 November 2009)

held by employees were treated on the same basis as other shareholders for example, on 1 November 2016 when Alcoa Inc. separated into Arconic Inc. and Alcoa Corporation, employees received one share of Alcoa Corporation common stock for every three shares of Alcoa Inc. common stock held as of the record date for the distribution, which was 20 October 2016.

39. Therefore Arconic Inc. employees now hold both Arconic Inc. shares and Alcoa Corporation shares. This changed the number of shares and the company in which the shares were held in ownership, but not the value.

40. The same terms and conditions that applied to the original Alcoa Inc. shares continue to apply.

\$1,000 Plan Shares

41. The \$1,000 Plan Shares held under the Tax Exempt Scheme were taxed at acquisition (i.e. prior to Separation and distribution). The treatment of those awards is not addressed in this class ruling.

7 or 10 Year Deferred Plan Shares

42. The tax treatment for employees who held shares delivered as 7 or 10 year deferred plan shares and had already had a cessation time or an ESS deferred taxing point happen prior to Separation and distribution is not addressed in this class ruling.

Former employees

43. The treatment of awards held by former employees of Arconic Inc. and its subsidiaries and former employees of Alcoa Corporation and its subsidiaries is not addressed in this class ruling.

Capital gains tax

44. Employees who had shares of stock delivered as a result of a cessation time or an ESS deferred taxing point happening in relation to awards participated in the Separation on the same basis as other shareholders. The treatment of those awards is not addressed in this class ruling.

Ruling

The Stock Options and RSUs are ESS interests

45. The rights acquired pursuant to the Stock Options and the RSUs satisfy the definition of ESS interest under paragraph 83A-10(1)(b). That is, both the Stock Options and the RSUs are a beneficial interest in a right to acquire a beneficial interest in a share in the company.

No ESS deferred taxing point arises as a result of the Separation

46. The adjustment to the Stock Options originally held in Alcoa Inc. to preserve their aggregate intrinsic value measured immediately before and immediately after the Separation did not create an ESS deferred taxing point under section 83A-120.

47. The adjustment to the RSUs originally held in Alcoa Inc. to preserve their aggregate intrinsic value measured immediately before and immediately after the Separation did not create an ESS deferred taxing point under section 83A-120.

48. The Arconic Inc. Stock Options and the Arconic Inc. RSUs are subject to the same ESS deferred taxing point that the Alcoa Inc. Stock Options and Alcoa Inc. RSUs would have had in the absence of the Separation.

49. The Separation does not create an ESS deferred taxing point under section 83A-120 in respect of the Alcoa Inc. shares (now Arconic Inc. shares) held under the Tax Deferred Scheme.

50. The Alcoa Inc. shares (now Arconic Inc. shares) held under the Tax Deferred Scheme are subject to the same ESS deferred taxing point that they would have had in the absence of the Separation.

CGT consequences

51. Any capital gain or capital loss that arises in respect of an ESS interest that results from the Separation and distribution is disregarded under section 130-80.

Commissioner of Taxation

23 August 2017

Appendix 1 – Explanation

❶ *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

The Stock Options and RSUs are ESS interests

52. The Stock Options and the RSUs are described in paragraphs 27 to 37 and were originally granted in relation to the common stock of Alcoa Inc. under the 2009 Plan and the 2013 Plan.

53. Each award of Stock Options and RSUs held by an Arconic Inc. employee continue to relate to the original grant of common stock in Alcoa Inc. after Separation, however each award was adjusted to preserve the aggregate intrinsic value and will have the same terms and conditions that applied to the Alcoa Inc. Stock Options and RSUs prior to Separation.

54. Subsection 83A-10(1) states that an 'ESS interest' in a company is a beneficial interest in a share in the company, or beneficial interest in a right to acquire a beneficial interest in a share in the company.

55. The rights acquired pursuant to the Stock Options and the RSUs satisfy the definition in paragraph 83A-10(1)(b). That is, both the Stock Options and the RSUs are a beneficial interest in a right to acquire a beneficial interest in a share in Alcoa Inc. (now Arconic Inc.).

No ESS deferred taxing point arises as a result of the Separation

56. Section 83A-120 applies to determine the ESS deferred taxing point if the ESS interest is a beneficial interest in a right to acquire a beneficial interest in a share.

57. Subject to subsection 83A-120(3), the ESS deferred taxing point is the earliest of the times specified in subsections 83A-120(4) to (7):

- where the ESS interest has not been exercised, and there is no real risk of forfeiting or losing the ESS interest, and if there is a restriction on disposing of the ESS interests, when such restriction ceases (subsections 83A-120(4))
- when the Participant's employment in respect of which the ESS interest was acquired ends (subsections 83A-120(5))
- the end of the 7 year period (for ESS interests acquired before 1 July 2015) starting when the Participant acquired the interest, or the end of the 15 year period (for ESS interests acquired from

1 July 2015) starting when the Participant acquired the interest (subsections 83A-120(6)), or

- where the ESS interest is exercised, and there is no real risk of forfeiting or losing the beneficial interests in the share, and if there is a restriction on disposing of the beneficial interests in the share, when such restriction ceases (subsection 83A-120(7)).

58. Subsection 83A-120(3) provides that if the Participant disposed of the ESS interest within 30 days of the time which would otherwise be the ESS deferred taxing point, the ESS deferred taxing point would instead be the time of the disposal.

59. The Separation did not give rise to any of the circumstances in section 83A-120 and therefore the Separation and the adjustment to the ESS awards did not trigger an ESS deferred taxing point for the ESS interests.

CGT consequences

60. Section 130-80 disregards any capital gain or capital loss to the extent that it results from a CGT event if:

- the CGT event that happens in relation to the ESS interests that were acquired under an Alcoa Inc. employee share scheme (paragraph 130-80(1)(a))
- the CGT event is not CGT Event E4, G1, or K8 (paragraph 130-80(1)(b))
- where subdivision 83A-C applies to the ESS interest, the CGT event happens on or before the ESS deferred taxing point for the ESS interest (subparagraph 130-80(1)(d)(ii)), and
- subsection 130-80(2) does not apply.

61. Accordingly, any capital gain or any capital loss made from a CGT event happening to the ESS interest as a result of the Separation and distribution is disregarded under section 130-80.

Appendix 2 – Detailed contents list

62. The following is a detailed contents list for this Ruling:

	Paragraph
Summary – what this ruling is about	1
Relevant provision(s)	2
Class of entities	3
Qualifications	5
Date of effect	8
Scheme	9
Alcoa Inc.	10
The Separation and distribution	12
Employee share schemes	20
<i>Employee share scheme pre-Separation</i>	21
<i>The 2009 Plan</i>	22
<i>The 2013 Plan</i>	23
<i>Alcoa Employee Share Plan</i>	24
<i>Employee Share Schemes post Separation and distribution</i>	26
<i>Arconic Inc. Stock Options and RSUs</i>	27
<u>Stock Options</u>	27
<u>Restricted Stock Units</u>	28
<i>Alcoa Corporation Stock Options and RSUs</i>	29
<u>Stock Options</u>	29
<u>Restricted Stock Units</u>	30
<i>Adjustment and conversion methodology for Stock Options and RSUs</i>	31
<u>Stock Options</u>	36
<u>Restricted Stock Units</u>	37
<i>\$1,000 Plan Shares</i>	41
<i>7 or 10 Year Deferred Plan Shares</i>	42
<i>Former employees</i>	43
<i>Capital gains tax</i>	44
Ruling	45
The Stock Options and RSUs are ESS interests	45
No ESS deferred taxing point arises as a result of the Separation	46
CGT consequences	51

Appendix 1 – Explanation	52
The Stock Options and RSUs are ESS interests	52
No ESS deferred taxing point arises as a result of the Separation	56
CGT consequences	60
Appendix 2 – Detailed contents list	62

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10

Legislative references:

- ITAA 1936
 - ITAA 1997
 - ITAA 1997 83A-10
 - ITAA 1997 83A-10(1)
 - ITAA 1997 83A-10(1)(b)
 - ITAA 1997 Subdiv 83A-C
 - ITAA 1997 83A-120
 - ITAA 1997 83A-120(3)
 - ITAA 1997 83A-120(4)
 - ITAA 1997 83A-120(5)
 - ITAA 1997 83A-120(6)
 - ITAA 1997 83A-120(7)
 - ITAA 1997 130-80
 - ITAA 1997 130-80(1)(a)
 - ITAA 1997 130-80(1)(b)
 - ITAA 1997 130-80(1)(d)(ii)
 - ITAA 1997 130-80(2)
 - ITAA 1997 Div 230
 - ITAA 1997 995-1(1)
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