Status: **legally binding**

Class Ruling

Carbon Revolution Limited – employee share scheme – exchange of shares for Carbon Revolution plc shares

Relying on this Ruling

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

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the income tax consequences for employees of Carbon Revolution Limited (Carbon) who participated in the Tax Exempt Employee Share Plan (Share Plan) to acquire ordinary shares in Carbon (TESP Shares) which were subsequently cancelled in exchange for shares in Carbon Revolution plc on 3 November 2023.

2. Details of this scheme are set out in paragraphs 7 to 20 of this Ruling.

3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

Who this Ruling applies to

4. This Ruling applies to you if you:

- acquired TESP Shares on 21 December 2020 or 20 December 2021, which you held at all times until 3 November 2023
- were entitled to reduce the amount included in your assessable income in accordance with section 83A-35 (with the exception of the condition in subsection 83A-45(4) – minimum holding period) when you acquired the TESP Shares, and

- were employed by Carbon or a 'subsidiary' (as defined in the *Corporations Act 2001*) of Carbon (collectively referred to as the Carbon Revolution Group) at all times from the date you acquired the TESP Shares until 3 November 2023.

When this Ruling applies

5. This Ruling applies from 1 July 2020 to 30 June 2024.

Ruling

6. The Commissioner will allow the minimum holding period to end at the earlier time of 3 November 2023 for the TESP Shares you acquired on 21 December 2020 or 20 December 2021 (paragraph 83A-45(5)(a)).

Scheme

7. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

Relevant entities

Carbon Revolution Limited

8. Carbon was the head company of Carbon Revolution Group and a publicly listed company on the Australian Securities Exchange.

9. Carbon manufactures carbon fibre wheels for the global automotive industry.

Tax Exempt Employee Share Plan

10. Carbon established the Share Plan as an employee share scheme in accordance with the Carbon Revolution Limited Equity Incentive Plan Rules dated 31 October 2019 (Plan Rules).

11. On 21 December 2020 and 20 December 2021, Carbon granted TESP Shares up to the value of:

- $500, if you had service length of between 6 to 12 months, or
- $1,000, if you had service length of at least 12 months.

12. The TESP Shares were granted to you for nil consideration.

13. The TESP Shares were:

- held for your benefit by a trustee
- subject to a restriction period where you could not dispose them until the earlier of
  - 3 years from the date the TESP Shares were granted to you, or
  - you ceasing employment with the Carbon Revolution Group, and

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- fully vested when granted to you, that is, they could not be forfeited.

14. The board of Carbon has not previously exercised its discretion to waive or diminish the disposal restrictions for the TESP Shares.

Scheme of Arrangement

15. As part of Carbon's strategy for growth, it has been seeking investors to accelerate its plans to grow, predominantly in foreign markets.

16. Carbon was approached by Twin Ridge Capital Acquisition Corp., a Cayman Islands-organised and New York Stock Exchange-listed special purpose acquisition company (SPAC), which proposed a merger of the 2 entities.

17. Carbon and SPAC agreed on the terms of the merger by entering into a binding Business Combination Agreement (BCA) and the accompanying Scheme Implementation Deed (SID) on 29 November 2022 and 30 November 2022, respectively.

18. Under the BCA and SID, a newly formed company, Carbon Revolution plc, acquired both Carbon (via the SID) and SPAC (via the BCA) (together, the Transaction).

19. On 3 November 2023 the Transaction was completed and all Carbon shares, including the TESP Shares, were disposed of when the shares were cancelled in exchange for shares in Carbon Revolution plc.

Other matters

20. Carbon did not enter into any formal discussions with any entity concerning a takeover or some other acquisition of all of Carbon shares prior to 20 December 2021.

Commissioner of Taxation
22 November 2023

Status: **not legally binding**

Appendix – Explanation

This Explanation 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.

When the minimum holding period ends

21. One of the conditions which allowed you to reduce the amount included in your assessable income when you acquired the TESP Shares was that the Plan Rules restricted the shares being disposed of within the minimum holding period of 3 years or when you ceased employment with the Carbon Revolution Group (sections 83A-35 and 83A-45).

22. However, the Commissioner can allow the minimum holding period of 3 years to end earlier, if the Commissioner is satisfied that:

- Carbon intended that the requirements as set out in subsection 83A-45(4) would apply to the TESP Shares during the 3 years (subparagraph 83A-45(5)(a)(i)), and
- at the earlier time that the Commissioner allows, all Carbon shares were disposed of under a particular scheme (subparagraph 83A-45(5)(a)(ii)).

23. The Commissioner is satisfied that the Plan Rules prevented employees from disposing of the TESP Shares during the 3 years after the shares were acquired.

24. On 3 November 2023, all Carbon shares, including the TESP Shares, were disposed of under the Transaction.

25. Therefore, the Commissioner is satisfied that the requirements of subparagraphs 83A-45(5)(a)(i) and (ii) are met and will allow the minimum holding period to end at the earlier time of 3 November 2023.

26. Consequently, you remain entitled to reduce the amount included in your assessable income in accordance with section 83A-35.

Status: **not legally binding**

References

Legislative references:

- ITAA 1997 83A-35
- ITAA 1997 83A-45
- ITAA 1997 83A-45(4)
- ITAA 1997 83A-45(5)(a)
- ITAA 1997 83A-45(5)(a)(i)
- ITAA 1997 83A-45(5)(a)(ii)
- Corporations Act 2001

ATO references

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