Status: **legally binding**

Class Ruling

Amani Gold Limited – return of capital

Relying on this Ruling

This publication 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 shareholders of Amani Gold Limited (Amani) who received the return of capital of $1.20 per Amani share (Capital Return) on 27 June 2025 (Payment Date).

2. Details of this scheme are set out in paragraphs 18 to 38 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:

- were registered on the Amani share register on 20 May 2025 (Record Date), and
- held your Amani shares on capital account – that is, you did not hold your Amani shares as revenue assets (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1)).

5. This Ruling does not apply to anyone who is subject to the taxation of financial arrangements rules in Division 230 in relation to the scheme outlined in paragraphs 18 to 38 of this Ruling.

Note: Division 230 will not apply to individuals unless they have made an election for it to apply.

When this Ruling applies

6. This Ruling applies from 1 July 2024 to 30 June 2025.

Status: **legally binding**

Ruling

Return of capital is not a dividend

7. No part of the Capital Return you received from Amani on the Payment Date is a dividend as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936). This is because the entire amount of the Capital Return has been debited against an amount standing to the credit of Amani's share capital account.

8. Therefore, no part of the Capital Return is included in your assessable income as a dividend under subsection 44(1) of the ITAA 1936.

Sections 45A, 45B and 45C of the ITAA 1936 do not apply

9. The Commissioner will not make a determination that section 45C of the ITAA 1936 applies to any part of the Capital Return you received on the Payment Date, under either:

- subsection 45A(2) of the ITAA 1936 – because there was no streaming of capital benefits to some Amani shareholders and dividends to other Amani shareholders as required by subsection 45A(1) of the ITAA 1936, or
- paragraph 45B(3)(b) of the ITAA 1936 – because the requirements of subsection 45B(2) of the ITAA 1936 were not satisfied.

Capital gains tax consequences

CGT event G1

10. CGT event G1 happened on the Payment Date when Amani paid you the Capital Return in respect of each Amani share you owned at the Record Date and continued to own on the Payment Date (section 104-135).

11. You made a capital gain when CGT event G1 happened if the Capital Return you received was more than your Amani share's cost base (subsection 104-135(3)). The amount of the capital gain is equal to the excess. If you made a capital gain, the share's cost base and reduced cost base is reduced to nil (subsection 104-135(3)).

12. If the Capital Return you received was equal to or less than the cost base of your Amani share, the cost base or reduced cost base of your Amani share is reduced by the amount of the Capital Return (subsection 104-135(4)). You cannot make a capital loss when CGT event G1 happens (Note 1 to subsection 104-135(3)).

CGT event C2

13. CGT event C2 happened to your right to receive the Capital Return on the Payment Date when Amani paid you the Capital Return in respect of each Amani share you owned on the Record Date but ceased to own before the Payment Date (section 104-25).

14. You made a capital gain under CGT event C2 if the capital proceeds from the ending of the right were more than the cost base of the right. You made a capital loss if the capital proceeds from the ending of the right were less than the reduced cost base of the right (subsection 104-25(3)).

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15. In working out the capital gain or capital loss when CGT event C2 happened:

- The capital proceeds are equal to the amount of the Capital Return for each share you owned on the Record Date but ceased to own before the Payment Date ($1.20 per Amani share) (subsection 116-20(1)).
- The cost base of your right to receive the Capital Return is worked out under Division 110 (modified by Division 112). The cost base of the right does not include the cost base or reduced cost base of the Amani share previously owned by you to the extent that it was applied in working out a capital gain or capital loss made when a CGT event happened to that share – for example, when you disposed of the share after the Record Date but before the Payment Date. Therefore, if the cost base or reduced cost base of the Amani share previously owned by you has been fully applied in working out a capital gain or capital loss on the share, the right to receive the Capital Return will have a nil cost base. As a result, you will, in those circumstances, make a capital gain equal to the capital proceeds, being $1.20 per Amani share owned at the Record Date.

Discount capital gain

16. You can treat a capital gain made when CGT event G1 or CGT event C2 happened as a discount capital gain if you acquired your Amani shares at least 12 months before the Payment Date (subsection 115-25(1)), provided the other conditions in Subdivision 115-A are satisfied.

Foreign resident shareholders

17. If, just before the Payment Date, you were a foreign resident or the trustee of a foreign trust for CGT purposes, as defined in subsection 995-1(1), you disregard any capital gain made from CGT event G1 or any capital gain or capital loss from CGT event C2 happening, pursuant to subsection 855-10(1), unless you:

- have used your Amani shares at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or
- are an individual and your Amani shares were covered by subsection 104-165(3) (choosing to disregard a capital gain or capital loss on ceasing to be an Australian resident) (table item 5 of section 855-15).

Scheme

18. 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.

Amani Gold Limited

19. Amani is a company incorporated in Australia on 30 April 2005. Amani was listed on the Australian Securities Exchange from 2007 until it was delisted on 20 December 2024.

Status: **legally binding**

20. Amani and its subsidiaries carried on a business of acquiring and exploring mineral interests, prospective for precious metals and energy in the Democratic Republic of the Congo (DRC).

21. As at 31 December 2024, Amani had:

- $94,189,868 issued share capital
- $80,069,657 accumulated losses, and
- $10,401,587 reserves.

Share capital and dividend payment history

22. Amani has only one class of shares on issue, being ordinary shares.

23. In 2024, Amani undertook 3 share buy-backs before delisting from the Australian Securities Exchange, which resulted in Amani having 21,449,587,154 shares on issue.

24. Following this, Amani received approval from its shareholders for a 1-for-1000 share consolidation, which occurred on 29 January 2025, resulting in Amani having 21,449,500 shares on issue.

25. As at the Record Date, Amani had 22,049,500 ordinary fully paid shares on issue to 834 shareholders.

26. Approximately 24% of Amani's shares on issue are held by non-resident shareholders.

27. Amani has not paid any dividends or issued bonus shares to its shareholders since its incorporation.

Disposal of Amani Consulting Sarl

28. On 23 January 2023, Amani entered into a binding term sheet with an unrelated party for the sale of 100% of its ordinary shares in Amani Consulting Sarl (Amani Consulting).

29. Amani Consulting is a company incorporated in the DRC, which holds 65% of the ordinary shares in Giro Goldfields Sarl, a DRC-incorporated company that is the registered holder of the 2 exploitation permits comprising the Giro Gold Project situated in the DRC.

30. The sale of Amani Consulting constituted a disposal of Amani's main undertaking, the Giro Gold Project, and required shareholder approval, which was received at the Amani General Meeting held on 17 August 2023.

31. Amani made an overall loss on the sale of Amani Consulting and received the sale proceeds in tranches. As at the Payment Date, the total sale proceeds received by Amani was $36,915,030.

Return of capital

32. On 15 May 2025 at the company's General Meeting, Amani shareholders approved a resolution for a distribution of up to $27,561,875 (or up to $1.25 per Amani share) by way of an equal reduction of share capital, in accordance with sections 256B and 256C of the *Corporations Act 2001*.

Status: **legally binding**

33. On the Payment Date, Amani shareholders received $1.20 for each Amani share they held on the Record Date.

34. The Capital Return was paid by way of cash distribution from Amani's existing funds.

35. The entire Capital Return amount of $26,459,400 was debited to Amani's share capital account.

36. There was no change to the proportionate interest of each shareholder in Amani following the Capital Return.

Other matters

37. The share capital account (as defined in section 975-300) of Amani is not tainted within the meaning of Division 197.

38. Less than 50% of the market value of Amani's assets were 'taxable Australian real property' (as defined in section 855-20).

Commissioner of Taxation
30 July 2025

Status: **not legally binding**

References

Legislative references:

- ITAA 1936 6(1)
- ITAA 1936 44(1)
- ITAA 1936 45A
- ITAA 1936 45A(1)
- ITAA 1936 45A(2)
- ITAA 1936 45B
- ITAA 1936 45B(2)
- ITAA 1936 45B(3)(b)
- ITAA 1936 45C
- ITAA 1997 104-25
- ITAA 1997 104-25(3)
- ITAA 1997 104-135
- ITAA 1997 104-135(3)
- ITAA 1997 104-135(4)
- ITAA 1997 104-165(3)
- ITAA 1997 Div 110
- ITAA 1997 Div 112
- ITAA 1997 Subdiv 115-A
- ITAA 1997 115-25(1)
- ITAA 1997 116-20(1)
- ITAA 1997 Div 197
- ITAA 1997 Div 230
- ITAA 1997 855-10(1)
- ITAA 1997 855-15
- ITAA 1997 855-20
- ITAA 1997 975-300
- ITAA 1997 977-50
- ITAA 1997 995-1(1)
- Corporations Act 2001 256B
- Corporations Act 2001 256C

ATO references

NO:	1-17LK5VIO
ISSN:	2205-5517
BSL:	PG
ATOlaw topic:	Income tax ~~ Capital management ~~ Share capital return Capital gains tax ~~ CGT events ~~ C1 to C3 – end of a CGT asset Capital gains tax ~~ CGT events ~~ G1 to G3 – shares

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