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## Class Ruling

# Washington H. Soul Pattinson and Company Limited – scrip for scrip roll-over

### **❶ 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 the holders of ordinary shares in Washington H. Soul Pattinson and Company Limited (WHSP) in relation to the acquisition of the majority of the ordinary shares in WHSP by Second Services Company Pty Ltd (Subco) which was implemented on 23 September 2025 (Implementation Date).
2. Details of this scheme are set out in paragraphs 25 to 57 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 WHSP share register as a holder of an ordinary share in WHSP as at 7:00 pm (AEST) on 17 September 2025 (Scheme Record Date)
  - acquired your shares in WHSP on or after 20 September 1985
  - held your WHSP shares on capital account – that is, your WHSP shares were neither held as a ‘revenue asset’ (as defined in section 977-50) nor as ‘trading stock’ (as defined in subsection 995-1(1)).
5. This Ruling does not apply to you if you:
  - acquired your WHSP shares under an employee share scheme (as defined in section 83A-10)

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- are subject to the investment manager regime in Subdivision 842-I in relation to your WHSP shares
- are exempt from Australian income tax
- are subject to the taxation of financial arrangements rules in Division 230 in relation to the scheme outlined in paragraphs 25 to 57 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 2025 to 30 June 2026.

## **Ruling**

### **CGT event A1 happened on the disposal of your shares in Washington H. Soul Pattinson and Company Limited**

7. CGT event A1 happened when you disposed of your WHSP shares to Subco (section 104-10).
8. The time of CGT event A1 is on the Implementation Date (23 September 2025) (paragraph 104-10(3)(b)).
9. The capital proceeds from CGT event A1 happening to each WHSP share is the market value of one share in First Services Company Ltd (Topco) which you received in respect of your disposal of the WHSP share (subsection 116-20(1)). The market value of the Topco shares is worked out as at the time of CGT event A1.
10. You will make a capital gain from CGT event A1 happening if the capital proceeds from the disposal of your WHSP share exceeded the cost base of that share (subsection 104-10(4)). You will make a capital loss from CGT event A1 happening if the capital proceeds from the disposal of your WHSP share were less than the reduced cost base of that share (subsection 104-10(4)).

### **Foreign resident shareholders of Washington H. Soul Pattinson and Company Limited**

11. You must disregard a capital gain or capital loss you made from CGT event A1 happening when you disposed of your WHSP shares to Subco (section 855-10) if:
- you were a foreign resident just before the Implementation Date (that is, you were not a 'resident of Australia' as defined in subsection 6(1) of the ITAA 1936), and
  - your WHSP shares were not 'taxable Australian property' (as defined in section 855-15).
12. Your WHSP shares were 'taxable Australian property' if they were:
- used by you at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or

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- a CGT asset that is 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).

#### **Availability of scrip for scrip roll-over for your shares in Washington H. Soul Pattinson and Company Limited**

13. Subject to the qualifications in paragraphs 14 and 15 of this Ruling, if you make a capital gain from the disposal of your WHSP shares, you may choose to obtain scrip for scrip roll-over for the capital gain (sections 124-780 and 124-785).

14. If any capital gain you might make from a replacement Topco share would be disregarded, otherwise than because of a roll-over, you cannot choose scrip for scrip roll-over (paragraph 124-795(2)(a)).

15. If you were a foreign resident just before the Implementation Date and you make a capital gain that is not disregarded (see paragraph 11 of this Ruling), you cannot choose scrip for scrip roll-over unless your Topco shares were taxable Australian property (as defined in section 855-15) just after the Implementation Date (subsection 124-795(1)).

#### **Consequences if you choose scrip for scrip roll-over for your shares in Washington H. Soul Pattinson and Company Limited**

##### ***Capital gain is disregarded***

16. If you choose scrip for scrip roll-over, your capital gain is disregarded (subsection 124-785(1)).

#### **Acquisition date of shares in First Services Company Ltd for discount capital gain purposes**

17. If you choose scrip for scrip roll-over, for the purposes of determining your eligibility to make a discount capital gain, the Topco shares you acquired in exchange for your WHSP shares are taken to have been acquired on the date you acquired, for CGT purposes, the corresponding WHSP shares (table item 2 of subsection 115-30(1)).

#### **Cost base and reduced cost base of shares in First Services Company Ltd**

18. If you choose scrip for scrip roll-over, the first element of the cost base and reduced cost base of a replacement share in Topco that you received is worked out by reasonably attributing to it the cost base and reduced cost base (respectively) of the WHSP shares for which it was exchanged and for which the roll-over was obtained (subsections 124-785(2) and (4)).

19. The Commissioner accepts a reasonable method of attribution would be to calculate the first element of the cost base and reduced cost of each replacement share in Topco by dividing the total cost bases of your WHSP shares by the number of replacement Topco shares you received.

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**Consequences if you do not choose, or cannot choose, scrip for scrip roll-over for your shares in Washington H. Soul Pattinson and Company Limited**

***Capital gain is not disregarded***

20. If you do not choose, or cannot choose, scrip for scrip roll-over, you must take into account any capital gain or capital loss from CGT event A1 happening on the disposal of your WHSP shares in working out your net capital gain or net capital loss for the income year in which CGT event A1 happened (sections 102-5 and 102-10).

21. If you make a capital gain where you do not choose, or cannot chose, scrip for scrip roll-over, you can treat the capital gain as a discount capital gain provided that the conditions of Subdivision 115-A are met. In particular, you must have acquired your WHSP shares at least 12 months before the Implementation Date on which CGT event A1 happened (excluding the date on which you acquired the WHSP shares and the Implementation Date).

***Cost base and reduced cost base of shares in First Services Company Ltd***

22. If you do not choose, or cannot choose, scrip for scrip roll-over, the first element of the cost base and reduced cost base of a replacement share of Topco that you received is equal to the market value of the WHSP share you gave in respect of acquiring the Topco share (subsections 110-25(2) and 110-55(2)).

23. The market value of the WHSP shares you gave is to be worked out as at the time when you acquired the Topco shares.

***Acquisition date of shares in First Services Company Ltd***

24. If you do not choose, or cannot choose, scrip for scrip roll-over, the acquisition date of the Topco shares is the date on which those shares were issued to you (table item 2 of section 109-10).

## **Scheme**

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25. 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.

**Washington H. Soul Pattinson and Company Limited**

26. WHSP is a company that was incorporated in New South Wales in 1872.

27. WHSP is the head company of an income tax consolidated group under Part 3-90.

28. WHSP was listed on the Australian Securities Exchange (ASX), having been first listed on a predecessor to the ASX on 21 January 1903.

29. The business of WHSP consists of owning shares in other companies listed on the ASX, interests in private equity funds, real estate and debt interests.

30. WHSP has one class of shares on issue (ordinary shares). On the Implementation Date, there were 367,859,806 WHSP ordinary shares on issue.

31. Just before the Combination Deed was entered into, and just before the Implementation Date, WHSP had more than 300 shareholders.

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32. Just before the Combination Deed was entered into, approximately 42.92% of the shares in Brickworks Ltd (Brickworks) were owned by WHSP and approximately 25.64% of the shares in WHSP were owned by Brickworks.

33. No foreign resident (with their associates, as defined in section 318 of the ITAA 1936) held 10% or more of the shares in WHSP at any time in the 24 months before the Implementation Date.

#### **First Services Company Ltd and Second Services Company Pty Ltd**

34. Topco is a company incorporated in Australia. It is the head company of an income tax consolidated group under Part 3-90.

35. Subco is a company incorporated in Australia.

36. Topco owns all the shares in Subco.

37. Topco and Subco were incorporated to acquire all the shares in WHSP and Brickworks.

38. Topco was admitted to the official list of the ASX on 15 September 2025.

#### **Acquisition of shares in Washington H. Soul Pattinson and Company Limited by Second Services Company Pty Ltd**

39. On 2 June 2025, WHSP, Topco, Subco and Brickworks announced that they had entered into a Combination Deed. Under the Combination Deed, WHSP agreed to propose that WHSP and its shareholders enter into a scheme of arrangement under Part 5.1 of the *Corporations Act 2001* (Corporations Act) pursuant to which Subco would acquire all of the ordinary shares in WHSP (except the shares owned by Brickworks) in exchange for shares in Topco.

40. On 10 September 2025, a resolution in favour of the scheme of arrangement was passed by the shareholders of WHSP as required by subparagraph 411(4)(a)(ii) of the Corporations Act.

41. The scheme of arrangement was approved by the Supreme Court of New South Wales under paragraph 411(4)(b) of the Corporations Act on 12 September 2025.

42. Subco acquired all of the relevant shares in WHSP on the Implementation Date (23 September 2025).

43. Under the scheme of arrangement, the shareholders of WHSP (other than Brickworks) received the Scheme Consideration on the Implementation Date, consisting of one ordinary share in Topco for each WHSP share they held on the Scheme Record Date (17 September 2025).

44. An Ineligible Foreign Shareholder did not receive the Topco shares to which they would otherwise be entitled for the disposal of their WHSP shares. Those Topco shares were issued to a nominee, who sold them on the ASX. The relevant amount of the net sale proceeds was paid by Topco to each Ineligible Foreign Shareholder.

45. An Ineligible Foreign Shareholder is a WHSP shareholder whose address in the WHSP share register on the Scheme Record Date is not in Australia, New Zealand, the United Kingdom, Norway, Hong Kong, Canada, Switzerland, the United Arab Emirates, Germany, Singapore, Ireland, the Czech Republic, the United States of America, France or Israel (or their respective external territories) or where Topco determines that the beneficial owner of those WHSP shares is not in such jurisdictions, unless Topco determines before

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the Implementation Date that it is lawful and not unduly onerous or impracticable for it to issue Topco shares to that WHSP shareholder.

46. The shares in WHSP were suspended from trading on the ASX from the close of trading on 15 September 2025.

47. WHSP was removed from the official list of the ASX on 24 September 2025.

48. Subco acquired all of the shares in Brickworks (and thus indirectly acquired Brickworks' shareholding in WHSP) pursuant to a separate scheme of arrangement under Part 5.1 of the Corporations Act (that is the subject of Class Ruling CR 2025/72 *Brickworks Ltd – scrip for scrip roll-over*) immediately before Subco acquired all of the relevant shares in WHSP under the scheme of arrangement that is the subject of this Ruling. The acquisition of Brickworks and the acquisition of WHSP were governed by the same Combination Deed and were legally interdependent.

49. Immediately after the Implementation Date, Subco owned all of the shares in WHSP (directly and through Brickworks).

50. On 15 September 2025, Topco changed its name to Washington H. Soul Pattinson and Company Limited pursuant to section 157 of the Corporations Act.

51. The ordinary shares in Topco trade under the ASX code 'SOL'.

#### **Other matters**

52. Paragraph 124-780(3)(f) is satisfied in respect of the disposal of WHSP shares to Subco.

53. There was no WHSP shareholder who was a 'significant stakeholder' or a 'common stakeholder' for the arrangement within the meaning of those terms in section 124-783.

54. A WHSP shareholder, WHSP and Topco (or Subco) were not all members of the same linked group (within the meaning given by section 170-260) just before the Combination Deed was entered into.

55. Topco did not make a choice under subsection 124-795(4) that WHSP shareholders could not obtain the roll-over in Subdivision 124-M for CGT event A1 happening in relation to the exchange of WHSP shares.

56. Subsections 124-810(3) and 124-810(5) did not apply to WHSP just before the Combination Deed was entered into.

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57. The following table is a summary of the key dates for the scheme of arrangement.

Table 1: Summary of key dates for the scheme of arrangement

| <b>Event</b>                               | <b>Date</b>       |
|--------------------------------------------|-------------------|
| Combination Deed executed                  | 2 June 2025       |
| First court hearing                        | 1 August 2025     |
| Date of scheme booklet                     | 4 August 2025     |
| Second court hearing to approve the scheme | 12 September 2025 |
| Effective date of the scheme               | 15 September 2025 |
| Scheme Record Date                         | 17 September 2025 |
| Implementation Date                        | 23 September 2025 |

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**Commissioner of Taxation**

8 October 2025

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## References

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### *Related rulings and determinations:*

CR 2025/72; TR 2006/10; TD 2002/10; TD 2002/4

### *Legislative references:*

- ITAA 1936 6(1)
  - ITAA 1936 318
  - ITAA 1997 83A-10
  - ITAA 1997 102-5
  - ITAA 1997 102-10
  - ITAA 1997 104-10
  - ITAA 1997 104-10(3)(b)
  - ITAA 1997 104-10(4)
  - ITAA 1997 104-165(3)
  - ITAA 1997 109-10
  - ITAA 1997 110-25(2)
  - ITAA 1997 110-55(2)
  - ITAA 1997 Subdiv 115-A
  - ITAA 1997 115-30(1)
  - ITAA 1997 116-20(1)
  - ITAA 1997 124-M
  - ITAA 1997 124-780
  - ITAA 1997 124-780(3)(f)
  - ITAA 1997 124-783
  - ITAA 1997 124-785
  - ITAA 1997 124-785(1)
  - ITAA 1997 124-785(2)
  - ITAA 1997 124-785(4)
  - ITAA 1997 124-795(1)
  - ITAA 1997 124-795(2)(a)
  - ITAA 1997 124-795(4)
  - ITAA 1997 124-810(3)
  - ITAA 1997 124-810(5)
  - ITAA 1997 170-260
  - ITAA 1997 Div 230
  - ITAA 1997 Pt 3-90
  - ITAA 1997 842-I
  - ITAA 1997 855-10
  - ITAA 1997 855-15
  - ITAA 1997 977-50
  - ITAA 1997 995-1(1)
  - Corporations Act 2001 157
  - Corporations Act 2001 Part 5.1
  - Corporations Act 2001 411(4)(a)(ii)
  - Corporations Act 2001 411(4)(b)
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### ATO references

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