Status: **legally binding**

# Class Ruling

## Brazilian Rare Earths Limited – in specie distribution of Alurion Resources Limited shares

**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 Brazilian Rare Earths Limited (BRE) who received a return of capital from BRE by way of an in specie distribution of shares in Alurion Resources Limited (Alurion) on 24 July 2026 (Implementation Date).

2. Details of this scheme are set out in paragraphs 26 to 51 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:

- held BRE shares on 22 July 2026 (Record Date)
- held your BRE shares on capital account – that is, you did not hold your BRE shares as 'revenue assets' (as defined in section 977-50) or as 'trading stock' (as defined in subsection 995-1(1))
- are not, for capital gains tax (CGT) purposes, taken to have acquired your BRE shares before 20 September 1985
- were eligible to receive Alurion shares under the scheme described in paragraphs 26 to 51 of this Ruling
- are either
  - a 'resident of Australia', as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936) (and not a 'temporary resident' as defined in subsection 995-1(1)), or

  - a non-resident of Australia who does not carry on a business at or through a permanent establishment in Australia, and

- received the in specie distribution of shares in Alurion on the Implementation Date.

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 26 to 51 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 2026 to 30 June 2027.

# Ruling

### Demerger happened

7. A demerger, as defined in section 125-70, happened to the BRE demerger group, which included BRE and Alurion.

### Capital gains tax consequences for Australian shareholders

#### *CGT event G1*

8. CGT event G1 happened when BRE made an in specie distribution of Alurion shares to you in respect of the BRE shares you owned on the Record Date and continued to own on the Implementation Date (section 104-135).

9. You made a capital gain from CGT event G1 happening if the reduction of share capital for each BRE share ($0.1829 per share) was more than the cost base of the share (paragraph 104-135(1)(b) and subsection 104-135(3)). The capital gain is equal to the difference. You cannot make a capital loss from CGT event G1 (Note 1 to subsection 104-135(3)).

#### *Demerger roll-over is available*

10. You can choose to obtain a demerger roll-over for your BRE shares under subsection 125-55(1).

##### *Choosing demerger roll-over*

11. If you choose demerger roll-over for your BRE shares:

- any capital gain you made when CGT event G1 happened to your BRE shares under the demerger is disregarded (subsection 125-80(1)), and
- you must recalculate the first element of the cost base and reduced cost base of your BRE shares, and calculate the first element of the cost base and reduced cost base of the corresponding Alurion shares you acquired

under the demerger (subsection 125-80(2)) – see paragraphs 13 to 15 of this Ruling for more information.

### *Not choosing demerger roll-over*

12. If you do not choose demerger roll-over for your BRE shares, you:

- cannot disregard any capital gain you made when CGT event G1 happened to your BRE shares under the demerger, and
- must recalculate the first element of the cost base and reduced cost base of your BRE shares, and calculate the first element of the cost base and reduced cost base of the corresponding Alurion shares you acquired under the demerger (subsections 125-85(1) and (2)) – see paragraphs 13 to 15 of this Ruling for more information.

### ***Cost base and reduced cost base of your shares in Brazilian Rare Earths Limited and Alurion Resources Limited***

13. The first element of the cost base and reduced cost base of each BRE share and corresponding Alurion share is worked out by:

- taking the total of the cost bases of your BRE shares just before the demerger, and
- apportioning that total between your BRE shares and the Alurion shares you acquired under the demerger.

14. The apportionment is done on a reasonable basis, having regard to the market values of the BRE shares and Alurion shares just after the demerger or an anticipated reasonable approximation of those market values (subsections 125-80(2) and (3)).

15. We accept that a reasonable apportionment is to attribute:

- 89.2% of the total of the cost bases of your BRE shares just before the demerger to the BRE shares, and
- 10.8% of the total of the cost bases of your BRE shares just before the demerger to the Alurion shares.

### ***Acquisition date of your shares in Alurion Resources Limited for discount capital gain purposes***

16. For the purpose of determining whether you can make a discount capital gain from a future CGT event that happens to an Alurion share you acquired under the demerger, you will be taken (for CGT purposes) to have acquired the Alurion share on the date you acquired the corresponding BRE share (table item 2 of subsection 115-30(1)). This will be the case whether or not you choose demerger roll-over.

## **Capital gains tax consequences for foreign resident shareholders**

### ***CGT event G1***

17. CGT event G1 happened when BRE made an in specie distribution of Alurion shares to you in respect of the BRE shares you owned on the Record Date and continued to own on the Implementation Date (section 104-135).

18. You made a capital gain from CGT event G1 happening if the reduction of share capital for each BRE share ($0.1829 per share) was more than the cost base of the share (paragraph 104-135(1)(b) and subsection 104-135(3)). The capital gain is equal to the difference. You cannot make a capital loss from CGT event G1 (Note 1 to subsection 104-135(3)).

19. However, any capital gain you made from CGT event G1 is disregarded, unless the BRE share is taxable Australian property (section 855-10). A BRE share is taxable Australian property if it:

- was used by you (foreign resident shareholder) at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or
- is 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).

### *Limited availability of demerger roll-over*

20. If you are a foreign resident, you cannot choose to obtain demerger roll-over under subsection 125-55(1) for your BRE shares unless the Alurion shares you acquired under the demerger are taxable Australian property just after you acquired them (subsection 125-55(2)).

### *Cost base and reduced cost base of your shares in Brazilian Rare Earths Limited and Alurion Resources Limited*

21. Whether or not you choose demerger roll-over, or demerger roll-over is available to you, you must work out the first element of the cost base and reduced cost base of each BRE share and corresponding Alurion share in the same way as described in paragraphs 13 to 15 of this Ruling (subsections 125-80(2) to (3), and 125-85(1) to (2)).

## Value of Alurion Resources Limited shares not included in your assessable income

22. No part of the value of an Alurion share transferred to you under the demerger will be included in your assessable income under subsection 44(1) of the ITAA 1936. Although the part of the market value of an Alurion share that is not debited to the share capital account of BRE is a ‘dividend’ under subsection 6(1) of the ITAA 1936, it will be a ‘demerger dividend’ under subsections 44(3) to (5) of the ITAA 1936. A demerger dividend is non-assessable non-exempt income for you.

23. If you are a foreign resident, no part of the value of an Alurion share transferred to you under the demerger will be subject to dividend withholding tax (subsection 128B(3D) of the ITAA 1936).

## Integrity provisions will not apply to deem an amount of assessable dividend

24. We will not make a determination under subsection 45A(2) of the ITAA 1936 that section 45C of the ITAA 1936 applies in relation to the whole, or any part, of the distribution of share capital. This is because all shareholders of BRE participated in the distribution of share capital based on the number of BRE shares they held on the Record Date so that there was no streaming of capital benefits.

25. As the purpose test in paragraph 45B(2)(c) of the ITAA 1936 is not satisfied, we will not make a determination under subsection 45B(3) of the ITAA 1936 that:

- section 45BA of the ITAA 1936 applies to the whole, or any part, of the demerger benefit provided to you under the demerger, or
- section 45C of the ITAA 1936 applies to the whole, or any part, of the capital benefit provided to you under the demerger.

# Scheme

26. This 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.

### Brazilian Rare Earths Limited

27. BRE is an Australian-resident mineral exploration company, focused on the exploration and development of rare earths and other critical minerals in Brazil.

28. BRE shares have been listed on the Australian Securities Exchange (ASX) since 19 December 2023.

29. BRE formed an income tax consolidated group on 1 July 2025.

30. In October 2023, BRE (via a Brazilian subsidiary) executed an agreement to purchase Amargosa, a large scale bauxite project (Amargosa Project).

### Alurion Resources Limited

31. Alurion is an Australian-resident public company that was incorporated on 23 September 2025 and was wholly owned by BRE on incorporation.

32. Following an internal restructure on 28 May 2026, Alurion became the owner of the Amargosa Project assets.

### Demerger of Alurion Resources Limited

33. The demerger of Alurion was undertaken by a reduction of share capital under section 256B of the *Corporations Act 2001*.

34. On 10 July 2026, BRE shareholders voted in favour of an ordinary resolution under section 256C of the *Corporations Act 2001* to reduce the share capital of BRE by an amount equal to the value of the Alurion shares distributed less a dividend component.

35. The date for determining the entitlement of BRE shareholders to receive Alurion shares was the Record Date.

36. On the Implementation Date, BRE shareholders received approximately 0.5607 Alurion shares for each BRE share they held on the Record Date, and nothing else.

37. After the demerger, BRE retained 39,025,413 shares in Alurion.

38. Alurion shares commenced trading on the ASX on 31 July 2026.

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### *Demerger reasoning*

39. Alurion will have a separate board and management team which is focused on the Amargosa Project rather than competing for management attention with BRE's rare earths projects.

40. The demerger would allow BRE to better focus its efforts and resources on its flagship projects and in doing so remove the internal competition for valuable capital.

41. Despite improved bauxite pricing and lower capex development options, the value of the Amargosa Project was not being fully reflected in the share price. Separation allows Alurion to attract investors seeking pure bauxite exposure.

### *Accounting treatment*

42. BRE accounted for the demerger by debiting its:

- share capital account by $51,244,923 (capital reduction amount), and
- demerger reserve account by $113,691,375 (demerger dividend).

43. The demerger dividend was calculated as the difference between the market value of the Alurion shares that were transferred and the capital reduction amount.

### *Sale facility for Ineligible Foreign Shareholders and Small Shareholders*

44. A sale facility was used to sell the Alurion shares that would otherwise have been received by Ineligible Foreign Shareholders, as well as Small Shareholders who elected to participate in the sale facility. Under the sale facility, Ineligible Foreign Shareholders and electing Small Shareholders had the Alurion shares to which they were entitled sold by a sale agent on the ASX who remitted the net sale proceeds to the relevant shareholders. The Alurion shares of Ineligible Foreign Shareholders and electing Small Shareholders were transferred to the sale agent on the Implementation Date.

45. An Ineligible Foreign Shareholder was a shareholder whose address on the BRE share register on the Record Date was outside of Australia, New Zealand, Hong Kong, Singapore, China, the European Union, the United Kingdom, Switzerland, the United States of America, Canada, Brazil or the British Virgin Islands.

46. A Small Shareholder was a shareholder who was not an Ineligible Foreign Shareholder but was entitled to receive $2,000 or less worth of Alurion shares.

### Other matters

47. Immediately before the Implementation Date, BRE's share capital account was not tainted (within the meaning of Division 197).

48. BRE did not elect under subsection 44(2) of the ITAA 1936 that subsection 44(3) and (4) of the ITAA 1936 will not apply to the demerger dividend for all BRE shareholders.

49. Just after the demerger, CGT assets owned by Alurion and its subsidiaries, representing at least 50% by market value of all the CGT assets owned by those entities, were used in carrying on a business by those entities (subsection 44(5) of the ITAA 1936).

50. On the Implementation Date, the sum of the market values of the assets of Alurion that were taxable Australian real property (as defined in section 855-20) did not exceed the sum of the market values of the assets of Alurion that were not taxable Australian property.

51. For the purposes of the cost base and reduced cost base apportionment under subsections 125-80(2) and (3), a reasonable approximation of the market values of a BRE share and an Alurion share just after the demerger were:

- $3.7403 for each BRE share, being the volume-weighted average price of BRE shares as traded on the ASX over the first 5 trading days from (and including) the Implementation Date, and
- $0.8038 for each Alurion share, being the volume-weighted average price of Alurion shares as traded on the ASX over the first 5 trading days from and including 31 July 2026.

**Commissioner of Taxation**
9 September 2026

# References

*Legislative references:*
- ITAA 1936 6(1)
- ITAA 1936 44(1)
- ITAA 1936 44(2)
- ITAA 1936 44(3)
- ITAA 1936 44(4)
- ITAA 1936 44(5)
- ITAA 1936 45A(2)
- ITAA 1936 45B(2)(c)
- ITAA 1936 45B(3)
- ITAA 1936 45BA
- ITAA 1936 45C
- ITAA 1936 128B(3D)
- ITAA 1997 104-135
- ITAA 1997 104-135(1b)
- ITAA 1997 104-135(3)
- ITAA 1997 104-165(3)
- ITAA 1997 115-30(1)
- ITAA 1997 125-55(1)
- ITAA 1997 125-55(2)
- ITAA 1997 125-70
- ITAA 1997 125-80(1)
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- ITAA 1997 Div 230
- ITAA 1997 855-10
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- Corporations Act 2001 256B
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ATO references

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