


# ***CR 2004/118 - Income tax: capital gains tax: merger of Centro Properties Group and Prime Retail Group***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2004*



## Class Ruling

### Income tax: capital gains tax: merger of Centro Properties Group and Prime Retail Group

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Contents	Para
<b>What this Class Ruling is about</b>	<b>1</b>
<b>Date of effect</b>	<b>8</b>
<b>Withdrawal</b>	<b>9</b>
<b>Arrangement</b>	<b>10</b>
<b>Ruling</b>	<b>22</b>
<b>Explanation</b>	<b>35</b>
<b>Detailed contents list</b>	<b>99</b>

#### **Preamble**

*The number, subject heading, **What this Class Ruling is about** (including Tax law(s), Class of persons and Qualifications sections), **Date of effect**, **Withdrawal**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the Taxation Administration Act 1953. CR 2001/1 explains Class Rulings and Taxation Rulings TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

## What this Class Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates.

#### **Tax law(s)**

2. The tax laws dealt with in this Ruling are:

- section 44 of the *Income Tax Assessment Act 1936* (ITAA 1936);
- section 45B of the ITAA 1936;
- section 104-10 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- section 104-70 of the ITAA 1997;
- section 104-135 of the ITAA 1997;
- section 110-25 of the ITAA 1997;
- subsection 115-30(1) of the ITAA 1997;
- Subdivision 124-M of the ITAA 1997; and
- Division 125 of the ITAA 1997.

## Class of persons

3. The class of persons to which this Ruling applies is the holders of units in Centro Property Trust (CPT) and shares in Centro Properties Limited (CPL) which together are listed for quotation on the Australian Stock Exchange as Centro Properties Group stapled securities (Centro stapled securities) who:

- (a) are 'residents of Australia' as that term is defined in subsection 6(1) of the ITAA 1936;
- (b) participate in the arrangement that is the subject of this Ruling;
- (c) are not 'significant stakeholders' within the meaning of that expression as used in Subdivision 124-M of the ITAA 1997; and
- (d) hold their units in CPT and shares in CPL on capital account.

## Qualifications

4. The Commissioner makes this Ruling based on the precise arrangement identified in this Ruling.

5. The class of persons defined in this Ruling may rely on its contents provided the arrangement actually carried out is carried out in accordance with the arrangement described at paragraphs 10 to 21 in this Ruling.

6. If the arrangement actually carried out is materially different from the arrangement that is described in this Ruling:

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

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## Date of effect

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8. This Ruling applies to the year of income ended 30 June 2005 or substituted accounting period. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of the Ruling (refer to paragraphs 21 and 22 of Taxation Ruling TR 92/20).

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## Withdrawal

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9. This Ruling is withdrawn from 30 June 2005. The Ruling continues to apply, in respect of the tax laws ruled upon, to all persons within the specified class who enter into the arrangement during the term of the Ruling.

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## Arrangement

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10. The arrangement that is the subject of this Ruling is described below. This description is based on the following documents provided by Freehills. These documents, or relevant parts of them, as the case may be, form part of the arrangement described:

- (a) Class Ruling application dated 27 July 2004;
- (b) copy of the CPT Eighth Supplemental Deed as executed on 5 November 1999 and as amended by the Ninth Supplemental Deed dated 19 March 2003, the Tenth Supplemental Deed dated 1 June 2004 and the draft Eleventh Supplemental Deed;
- (c) copy of the Prime Retail Property Trust (PRX) Consolidated Trust Deed consolidated to incorporate amendments made by the First to Seventh supplemental deeds and the eighth supplemental deed dated 16 June 2004;
- (d) copy of the Constitution of CPL;
- (e) copy of the Constitution of Prime Property Management Ltd (PPM);
- (f) pages 1-50 of the Annual Report for Centro Properties Group (Centro) for the year ended 30 June 2003;
- (g) pages 1-36 of the Annual Report for Prime Retail Group (Prime) for the year ended 30 June 2003;
- (h) financial statements for CPL dated 30 June 2004; and
- (i) correspondence dated 13 August 2004, 25 August 2004 and 8 September 2004 in response to requests for further information.

11. The arrangement involves the merger of Centro and Prime. The arrangement will involve 3 main steps.

## **Step 1 – distribution by CPT of units in PRX to CPT unitholders**

12. CPT currently owns 31.74% of the ordinary units in PRX (these are held as a stapled security, each unit being stapled to an ordinary share in PPM).

13. CPT will dispose of its units in PRX by making an *in specie* demerger distribution of them to its unitholders.

14. Each CPT unitholder will receive 0.04506 PRX units for each CPT unit they own.

## **Step 2 – disposal by CPT of shares in PPM to CPL shareholders**

15. CPT will dispose of the ordinary shares it owns in PPM to the shareholders in CPL for \$0.0186272 per share. CPL shareholders will purchase 0.04506 PPM shares for each CPL share they own.

16. To facilitate the purchase by the CPL shareholders, CPL will make a capital distribution to them of \$0.0008394 per CPL share (capital distribution amount). This amount will be compulsorily applied to acquire the PPM shares.

## **Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction**

17. The Centro stapled securities (each comprising a CPL share and a CPT unit) will be unstapled, allowing each share and unit to be disposed of separately.

18. Under a scheme of arrangement PPM will acquire 100% of the issued shares in CPL in exchange for an issue of shares to CPL shareholders. PPM will issue one share for each CPL share it acquires.

19. At the same time, PRX will become the owner of 100% of the units in CPT in exchange for an issue of units to CPT unitholders. PRX will issue one unit for each CPT unit it acquires.

20. For non-resident owners of CPL shares and CPT units other than New Zealand residents, replacement interests in PPM and PRX will be issued to a nominee for sale.

## **Residency of relevant entities**

21. Under the arrangement to which this Ruling applies:

- (a) CPT and PRX are Australian resident trust estates; and
- (b) CPL and PPM are Australian resident companies.

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

## **Ruling**

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22. Subject to the qualifications in paragraphs 4 to 6 of this Ruling, the taxation consequences for the class of persons to whom this Ruling applies from the arrangement described in this Ruling are as follows.

### **Step 1 – distribution by CPT of units in PRX to CPT unitholders**

23. CGT event E4 in section 104-70 of the ITAA 1997 will happen when CPT distributes the PRX units that it owns to CPT unitholders.

24. CPT unitholders can choose demerger roll-over under Division 125 when CGT event E4 happens in respect of their CPT units (subsection 125-55(1) of the ITAA 1997).

25. If demerger roll-over is chosen, any capital gain from CGT event E4 happening to a CPT unit under the demerger is disregarded (subsection 125-80(1) of the ITAA 1997).

26. If demerger roll-over is not chosen, any capital gain from CGT event E4 happening to a CPT unit under the demerger is **not** disregarded.

27. Regardless of whether they choose roll-over, CPT unitholders must calculate a new first element of the cost base and reduced cost base (just after the demerger) of:

- their CPT units; and
- the new PRX units received in relation to those units (sections 125-80 and 125-85 of the ITAA 1997).

28. A CPT unitholder can, for discount capital gains tax purposes, treat the PRX units acquired under the demerger as having been acquired on the date they acquired their corresponding CPT units (item 2 in the table in subsection 115-30(1) of the ITAA 1997).

### **Step 2 – disposal by CPT of shares in PPM to CPL shareholders**

29. The capital distribution amount paid by CPL is not a dividend under subsection 6(1) of the ITAA 1936 and is not included in assessable income under subsection 44(1).

30. The Commissioner will not make a determination under paragraph 45B(3)(b) of the ITAA 1936 that section 45C applies to the whole, or any part, of the capital benefit provided to the CPL shareholders in the form of the capital distribution amount.

31. CGT event G1 in section 104-135 of the ITAA 1997 will happen when CPL shareholders receive the capital distribution amount. CPL shareholders must reduce the cost base and reduced cost base of each of their CPL shares by the capital distribution amount of \$0.0008394.

32. The first element of the cost base and reduced cost base of each new PPM share acquired by the compulsory application of the capital distribution amount is \$0.0186272 (section 110-25 of the ITAA 1997).

### **Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction**

33. CGT event A1 in section 104-10 of the ITAA 1997 will happen when CPT unitholders dispose of each of their CPT units to PRX and CPL shareholders dispose of each of their CPL shares to PPM.

34. CPT unitholders can choose roll-over under paragraph 124-781(3)(c) of the ITAA 1997 for the disposal of a CPT unit and CPL shareholders can choose roll-over under paragraph 124-780(3)(d) for the disposal of a CPL share acquired after 19 September 1985 if:

- apart from the roll-over, they would make a capital gain from disposal of the CPT unit or the CPL share under the arrangement; and
- they would make a capital gain from a replacement unit in PRX or a replacement share in PPM which would not be disregarded (except because of a roll-over).

## **Explanation**

### **Step 1 – distribution by CPT of units in PRX to CPT unitholders**

#### ***CGT event E4***

35. CGT event E4 in section 104-70 of the ITAA 1997 happens if the trustee of a trust makes a payment to a beneficiary, in respect of their unit or interest in the trust, which is not included in the beneficiary's assessable income. The payment can include the giving of property.

36. The consequences of CGT event E4 happening are generally determined on an annual basis, that is, having regard to all such CGT events that happen during an income year.

37. If CGT event E4 happens during an income year, a unitholder will make a capital gain if the total of the non-assessable payments made by the trustee during the income year in relation to a unit exceeds the cost base of the unit.

38. However if the sum of the non-assessable payments is not more than the cost base of the unit the cost base and reduced cost base are reduced.

39. CGT event E4 will happen when the PRX units are distributed to the CPT unitholders because the value of the units is not included in their assessable income.

40. CPT unitholders are unlikely to make a capital gain from CGT event E4 happening to their units because the distribution of PRX units is unlikely to exceed the cost base for their CPT units. Those who do make a capital gain may choose roll-over under Division 125 of the ITAA 1997 (about demerger relief).

### ***Demerger relief***

41. Subsection 125-55(1) of the ITAA 1997 provides that roll-over may be chosen if:

- a unitholder owns an interest in a trust – this requirement is satisfied as CPT unitholders own units in CPT;
- the trust is the head entity of a demerger group – this requirement is satisfied as CPT is the head entity of a demerger group (refer to paragraphs 42 to 44 of this Ruling);
- a demerger happens to the demerger group – this requirement is satisfied as a demerger happens to the CPT/PRX demerger group (refer to paragraph 45 of this Ruling); and
- under the demerger a CGT event happens to the original interest (CPT unit) and a new or replacement interest is acquired in the demerged entity – this requirement is satisfied as CGT event E4 happens to the CPT units and CPT unitholders receive PRX units under the demerger and nothing else (refer to paragraphs 46 to 47 of this Ruling).

### ***Is CPT the head entity of a demerger group?***

42. A demerger group comprises one head entity and at least one demerger subsidiary (subsection 125-65(1) of the ITAA 1997). The demerger group in this case comprises CPT as head entity and PRX as a demerger subsidiary (CPT/PRX demerger group).

43. CPT is the head entity because:

- PRX has no ownership interests in CPT (subsection 125-65(3) of the ITAA 1997); and
- there is no other company or trust that is capable of being a *head entity* having PRX as a *demerger subsidiary* (subsection 125-65(4)).

44. PRX is a demerger subsidiary of CPT because CPT owns ownership interests that carry more than 20% of the rights to income and capital of PRX (subsection 125-65(7) of the ITAA 1997).



*Has a demerger happened to the demerger group?*

45. A demerger happens (as per subsections 125-70(1), (2) and (3) of the ITAA 1997) to the CPT/PRX demerger group because:

- there is a restructuring (paragraph 125-70(1)(a)), and CPT disposes of at least 80% of its existing PRX units to owners of original interests in CPT (subparagraph 125-70(1)(b)(i));
- CGT event E4 happens to original interests (CPT units) in the head entity (CPT) and CPT unitholders acquire new interests in PRX and nothing else (subparagraph 125-70(1)(c)(i));
- under the restructure PRX units are acquired by CPT unitholders on the basis of their ownership of their units in CPT (paragraph 125-70(1)(d) and subparagraph 125-70(1)(e)(ii));
- it is considered that under the arrangement paragraphs 125-70(1)(f) and 125-70(1)(g) are satisfied;
- CPT unitholders will acquire PRX units in the same proportion as they owned CPT units just before the demerger (paragraph 125-70(2)(a));
- the total market value of the units in each of CPT and PRX after the demerger are expected to be reasonably proportionate to the market value of the CPT units before the demerger (paragraph 125-70(2)(b));
- there is no buy-back involved (subsection 125-70(4)); and
- there is no roll-over available under another provision (subsection 125-70(5)).

*Replacement interests in demerged entity*

46. An entity that is a former member of a demerger group is a demerged entity if, under a demerger that happens to the group, ownership interests in it are acquired by unitholders in the head entity of the group (subsection 125-70(6) of the ITAA 1997).

47. PRX is a demerged entity because units in it were acquired by CPT unitholders (CPT being the head entity of the CPT/PRX demerger group).

***Cost base adjustments***

48. The method of calculating the first element of the cost base and reduced cost base for a unitholder's original CPT units and new PRX units is the same whether or not roll-over is chosen (subsections 125-80(2) and (3) of the ITAA 1997, subsection 125-85(2) and refer to Note 1 to subsection 125-80(2)).

49. CPT unitholders must apportion their original cost base for their CPT units over their (remaining) CPT units and the corresponding new PRX units, on the basis of the relative market values of those units (subsections 125-80(2) and (3) of the ITAA 1997). To assist with this apportionment, Centro intends to provide Centro stapled security holders with the volume weighted average stock market price (VWAP) on the ASX for Centro stapled securities and Prime stapled securities over the 5 day period beginning on the date of the demerger.

***Time of acquisition of PRX units – CGT discount***

50. For general capital gains tax purposes, unitholders will acquire their PRX units when those units are issued under the demerger (section 109-10 of the ITAA 1997). However for the purpose of determining an entitlement to the CGT discount in Division 115 of the ITAA 1997, CPT unitholders will be taken to have acquired their PRX units on the date they acquired their corresponding CPT units (item 2 in the table in subsection 115-30(1)). One of the conditions that must be satisfied before a capital gain can be reduced by the discount percentage is that it relate to an asset that was owned for at least 12 months (subsection 115-25(1)).

**Step 2 – disposal by CPT of shares in PPM to CPL shareholders*****Dividend***

51. Subsection 44(1) of the ITAA 1936 includes in a shareholder's assessable income a dividend, as defined in subsection 6(1), paid to a shareholder out of company profits.

52. A dividend is defined in subsection 6(1) of the ITAA 1936 to include any distribution made by a company to any of its shareholders. However, paragraph (d) of that definition excludes amounts debited against an amount standing to the credit of the share capital account of the company.

53. As the capital distribution amount will be debited against the amount standing to the credit of the 'share capital account', as defined in section 6D of the ITAA 1936, it will not constitute a dividend for the purposes of subsection 6(1) and will not be assessable as a subsection 6(1) dividend under subsection 44(1).

## ***Section 45B – schemes to provide certain benefits***

54. Section 45B of the ITAA 1936 applies to ensure that relevant amounts are treated as dividends for taxation purposes if certain payments, allocations and distributions are made in substitution for dividends.

55. Specifically, the provision applies where:

- there is a scheme under which a person is provided with a capital benefit by a company (paragraph 45B(2)(a) of the ITAA 1936);
- under the scheme a taxpayer, who may or may not be the person provided with the capital benefit, obtains a tax benefit (paragraph 45B(2)(b)); and
- having regard to the relevant circumstances of the scheme, it would be concluded that the person, or one of the persons, who entered into the scheme or carried out the scheme or any part of the scheme for a purpose, other than an incidental purpose, of enabling a taxpayer to obtain a tax benefit (paragraph 45B(2)(c)).

56. It is considered that the conditions of paragraphs (a) and (b) of subsection 45B(2) of the ITAA 1936 are satisfied.

57. In this case, the requisite purpose of enabling the CPL shareholders to obtain a tax benefit (by way of a capital benefit) is not present. In other words, having regard to the relevant circumstances of the scheme set out in subsection 45B(8) of the ITAA 1936, the parties to the arrangement did not enter into or carry out the scheme to obtain a tax benefit in the form of a capital benefit.

58. The purposes of CPL and of the shareholders are directed to the market advantages of the merger of Centro with Prime. In addition, CPL's pattern of distributions does not indicate that the capital distribution is in substitution for a dividend and there is nothing known of the circumstances of the CPL shareholders to indicate that the distribution was structured as a capital benefit in order to provide tax benefits to the shareholders or other persons.

59. It is therefore considered that the distribution of the capital benefit represents a genuine return of capital and is not attributable to the profits of the company.

60. Accordingly, the Commissioner will not make a determination under paragraph 45B(3)(b) of the ITAA 1936 that section 45C applies to the whole or part of the capital distribution amount paid to CPL shareholders under the arrangement.

**CGT event G1**

61. CGT event G1 happens to the CPL shares on the payment of the capital distribution amount, as this amount is neither a dividend nor an amount taken to be a dividend under section 47 of the ITAA 1936 (section 104-135 of the ITAA 1997).

62. CPL shareholders will make a capital gain under CGT event G1 if the capital distribution amount is more than the cost base of the CPL share. This is unlikely to happen because the capital distribution amount is unlikely to exceed that cost base (subsection 104-135(3) of the ITAA 1997).

63. Where no capital gain is made under CGT event G1, the cost base and the reduced cost base of each CPL share will be reduced by the capital distribution amount of \$0.0008394 (subsection 104-135(4) of the ITAA 1997).

**Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction**

64. CGT event A1 in section 104-10 of the ITAA 1997 happens if there is a change of ownership of an asset from one entity to another. A capital gain from CGT event A1 will arise if the cost base of the asset is less than the capital proceeds for its disposal. A capital loss will arise if the reduced cost base of the asset exceeds those capital proceeds. A capital gain or loss from an asset acquired before 20 September 1985 can be disregarded.

65. CGT event A1 will happen when CPT unitholders dispose of a CPT unit to PRX and CPL shareholders dispose of a CPL share to PPM.

66. Scrip for scrip roll-over enables a shareholder or unitholder to disregard a capital gain (but not a capital loss) from the disposal of an interest in a company or trust to the extent that they receive a replacement interest in exchange. The roll-over also provides that the cost base and reduced cost base of each new share or unit is based on those of the original shares or units at the time of the roll-over.

67. Roll-over will be available for CPL shareholders and CPT unitholders if certain conditions are satisfied. Below is an outline of the main conditions and exceptions that are relevant to the arrangement that is the subject of this Ruling.

68. **An entity (CPL shareholder or CPT unitholder) must exchange a share in a company (CPL) for a share in another company (PPM) or an interest in a trust (CPT) for an interest in another trust (PRX): subparagraphs 124-780(1)(a)(i) and 124-781(1)(a)(i) of the ITAA 1997 respectively.**

69. These requirements are satisfied because CPL shareholders exchange each of their shares in CPL for a share in PPM and CPT unitholders exchange each of their units in CPT for a unit in PRX.

70. **Entities must have fixed entitlements to all of the income and capital of the original entity (CPT) and the acquiring entity (PRX): paragraph 124-781(1)(b) of the ITAA 1997.**

71. Having regard to:

- (a) all of the documents and any other material referred to in paragraph 10 of this Ruling; and
- (b) all the facts comprising the arrangement as described in paragraphs 11 to 21 of this Ruling,

it is considered that, for the purposes of paragraph 124-781(1)(b) of the ITAA 1997, there are fixed entitlements to all of the income and capital of CPT and PRX immediately before, during and immediately after the arrangement that is the subject of this Ruling.

72. **The exchange of shares or units must be in consequence of a single arrangement that results in the acquiring entity (PPM or PRX), becoming the owner of 80% or more of the voting shares or trust voting interests in the original entity (CPL or CPT): paragraphs 124-780(1)(b) and 124-780(2)(a) of the ITAA 1997; or 124-781(1)(c) and 124-781(2)(a).**

73. Subsection 995-1(1) of the ITAA 1997 defines voting shares by reference to the definition in section 9 of the *Corporations Act 2001*. There is only one class of ordinary share on issue in CPL that satisfies this definition. PPM will acquire 100% of these shares.

74. A trust voting interest is defined in subsection 124-781(6) of the ITAA 1997 as an interest that confers rights of the same or a similar kind as the rights conferred by a voting share in a company. All of the CPT units are trust voting interests. This requirement will be satisfied as PRX will acquire 100% of the units in CPT.

75. **The exchange of shares or units must be in consequence of a single arrangement in which at least all owners of voting shares or trust voting interests in the original entity (CPL or CPT) could participate: paragraphs 124-780(1)(b) and 124-780(2)(b) of the ITAA 1997; or 124-781(1)(c) and 124-781(2)(b).**

76. The exchange of shares in CPL for shares in PPM will be in consequence of a single arrangement as will the exchange of CPT units for those in PRX.

77. This requirement is satisfied because all existing holders of CPL shares and CPT units (including non-residents) will be entitled to dispose of their shares and units under the arrangements.

78. **The exchange of shares or units must be in consequence of an arrangement in which participation is available on substantially the same terms for all of the owners of interests of a particular type: paragraphs 124-780(1)(b) and 124-780(2)(c) of the ITAA 1997; or 124-781(1)(c) and 124-781(2)(c).**

79. There is only one class of CPL shares and CPT units on issue. This requirement will be satisfied because each resident CPL shareholder and CPT unitholder will exchange their shares and units on the same terms.

80. Although the replacement shares and units that non-residents will otherwise be entitled to will be issued to a nominee for sale, the arrangement is still one that will be available on substantially the same terms for all participants.

81. An arrangement is considered to be on substantially the same terms if the capital proceeds that each participant receives differ for reasons such as those outlined in subsection 619(3) of the *Corporations Act 2001* (about the issue of securities to a nominee for foreign holders). There is no requirement that subsection 619(3) actually applies to an arrangement.

**82. Roll-over is only available for an interest (CPL share or CPT unit) acquired after 20 September 1985 for which the owner would make a capital gain apart from the roll-over: paragraphs 124-780(3)(a), 124-780(3)(b), 124-781(3)(a) and 124-781(3)(b) of the ITAA 1997.**

83. This Ruling will only apply to CPL shareholders and CPT unitholders to the extent to which they acquired their interests in CPL and CPT after 19 September 1985 and would otherwise make a capital gain from the disposal of those interests to PPM and PRX – refer to paragraph 34.

84. Whether a CPL shareholder or CPT unitholder would make a capital gain, apart from the roll-over, is dependent on the specific circumstances of each security holder – in particular the cost base of each share or unit at the time of the disposal and the value of the consideration attributable to it.

85. Roll-over is not available if a shareholder or unitholder will make a capital loss in respect of their CPL share or CPT unit.

**86. In the case of shares, the replacement interest must be in the acquiring entity (PPM) or the ultimate holding company of the wholly-owned group of which it is a member: paragraphs 124-780(1)(c) and 124-780(3)(c) of the ITAA 1997.**

87. This requirement will be satisfied as the replacement interest received by the CPL shareholders will be in PPM.

**88. The original interest holder must choose to obtain roll-over: paragraphs 124-780(3)(d) and 124-781(3)(c) of the ITAA 1997.**

89. This Ruling applies only to those CPL shareholders and CPT unitholders who choose to obtain roll-over – refer to paragraph 34.

90. **Subsections 124-780(4) and 124-781(4) of the ITAA 1997 contain additional requirements if the original interest holder (CPL shareholder and CPT unitholder) and:**

- **in the case of shares – the acquiring entity (PPM); or**
- **in the case of units – the trustee of the acquiring entity (PRX),**

**did not deal with each other at arm's length, and neither the original entity nor the acquiring entity had at least 300 members or beneficiaries just before the arrangement started.**

91. Subsections 124-780(4) and 124-781(4) will not apply because each of CPL and CPT will have more than 300 members just before the arrangement started. Section 124-810 will not apply to CPL and CPT because their ownership is not concentrated in the manner contemplated by that section.

92. **Paragraphs 124-780(1)(c), 124-780(3)(d), 124-781(1)(d) and 124-781(3)(c) of the ITAA 1997 provide that roll-over is available for an original interest holder (CPL shareholder or CPT unitholder) that is a common stakeholder only if the replacement entity (PPM in the case of shares or PRX in the case of units) jointly elects the roll-over.**

93. Additional rules associated with the cost base of interests apply for the purposes of scrip for scrip rollover if a CPL shareholder or CPT unitholder that is otherwise eligible for the roll-over, is a common stakeholder for the arrangement.

94. These additional rules will not apply as, under subsection 124-783(5), no CPL shareholder or CPT unitholder will be a common stakeholder by virtue of CPL having more than 300 members and CPT having more than 300 beneficiaries before the arrangement started.

95. **Roll-over under Subdivision 124-M of the ITAA 1997 is not available if any of the exceptions in section 124-795 apply.**

96. Subsection 124-795(1) provides that roll-over for non-resident interest holders is not available if their replacement interests are in an entity that is not an Australian resident or a resident trust for CGT purposes. Non-residents are not within the class of persons to whom this Ruling applies: refer to paragraph 3(a) of this Ruling.

97. Paragraph 124-795(2)(a) provides that roll-over is not available if any capital gain an interest holder might make from the interest holder's replacement interest would be disregarded (except because of a roll-over). This Ruling only applies to those shareholders who might make a capital gain from a replacement interest in PPM, and those unitholders who might make a capital gain from a replacement interest in PRX, which would not be disregarded (except because of a roll-over) – refer to paragraph 34 of this Ruling.

98. Paragraph 124-795(2)(b) provides that, in the case of shares, roll-over is not available if the original interest holder (CPL shareholder) and the acquiring entity (PPM) are members of the same wholly-owned group just before the original interest holder stops owning the original interest, and the acquiring entity is a foreign resident. PPM is not a foreign resident and therefore the exception in paragraph 124-795(2)(b) does not apply.

## Detailed contents list

99. Below is a detailed contents list for this Class Ruling:

	<b>Paragraph</b>
<b>What this Class Ruling is about</b>	<b>1</b>
Tax law(s)	2
Class of persons	3
Qualifications	4
<b>Date of effect</b>	<b>8</b>
<b>Withdrawal</b>	<b>9</b>
<b>Arrangement</b>	<b>10</b>
Step 1 – distribution by CPT of units in PRX to CPT unitholders	12
Step 2 – disposal by CPT of shares in PPM to CPL shareholders	15
Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction	17
Residency of relevant entities	21
<b>Ruling</b>	<b>22</b>
Step 1 – distribution by CPT of units in PRX to CPT unitholders	23
Step 2 – disposal by CPT of shares in PPM to CPL shareholders	29
Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction	33
<b>Explanation</b>	<b>35</b>
Step 1 – distribution by CPT of units in PRX to CPT unitholders	35
<i>CGT event E4</i>	35
<i>Demerger relief</i>	41
<i>Is CPT the head entity of a demerger group?</i>	42
<i>Has a demerger happened to the demerger group?</i>	45
<i>Replacement interests in demerged entity</i>	46
<i>Cost base adjustments</i>	48
<i>Time of acquisition of PRX units – CGT discount</i>	50



Step 2 – disposal by CPT of shares in PPM to CPL shareholders	51
<i>Dividend</i>	51
<i>Section 45B – schemes to provide certain benefits</i>	54
<i>CGT event G1</i>	61
Step 3 – acquisition of CPL shares and CPT units by PPM and PRX under a scrip for scrip transaction	64
<b>Detailed contents list</b>	<b>99</b>

**Commissioner of Taxation**

3 November 2004

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