

CR 2004/65A - Addendum - Income tax: Share buy-back: Commonwealth Bank of Australia

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Addendum

Class Ruling

Income tax: Share buy-back: Commonwealth Bank of Australia

This Addendum amends Class Ruling CR 2004/65 to incorporate amendments to Part 3-6 of the *Income Tax Assessment Act 1997* introduced by *Tax Laws Amendment (2004 Measures No 2) Act 2004*. The amendments operate from 29 June 2002.

CR 2004/65 is amended as follows:

1. Paragraph 2

Omit the following dot point:

- section 207-40 of the ITAA 1997;

Insert the following dot points:

- section 207-35 of the ITAA 1997;
- section 207-45 of the ITAA 1997;

2. Omit Paragraph 36 and insert new Paragraph 36

36. In a case where an individual partner, corporate partner, or a trustee partner specified by paragraphs 207-45(c) or (d) of the ITAA 1997 (certain trustees, and certain superannuation funds, approved deposit funds and pooled superannuation trusts) has an individual interest in the net income of the partnership, or in the partnership loss, the partner will be entitled to a tax offset equal to the partner's share of the franking credit on the Dividend Component, provided that the partner's share of the Dividend Component is a positive amount.

3. Omit Paragraph 38 and insert new Paragraph 38

38. In a case where an individual beneficiary, corporate beneficiary, or a trustee beneficiary specified by paragraphs 207-45(c) or (d) of the ITAA 1997 (certain trustees, and certain superannuation funds, approved deposit funds and pooled superannuation trusts) has a share of, or an individual interest in, the net income of the trust, the beneficiary is entitled to a tax offset equal to the beneficiary's share of the franking credit on the Dividend Component, provided that that share of the Dividend Component is a positive amount.

4. Paragraph 42

Omit '[Taxation Determination TD 2004/D1]' and substitute with '[Taxation Determination TD2004/22]'.

5. Omit Paragraph 65 and insert new Paragraph 65

65. In general terms, pursuant to subsection 207-50(2) of the ITAA 1997, a franked distribution will flow indirectly to a partner in a partnership where:

- the distribution is made to, or flows indirectly to, the partnership;
- the partner has an individual interest in the net income of the partnership or the partnership loss; and
- the partner's share of the distribution is a positive amount.

6. Omit Paragraph 66 and insert new Paragraph 66

66. In general terms, pursuant to subsection 207-50(3) of the ITAA 1997, a franked distribution will flow indirectly to a beneficiary of a trust where:

- the distribution is made to, or flows indirectly to, the trustee;
- the beneficiary has a share or individual interest in the net income of the trust; and
- the beneficiary's share of the distribution is a positive amount.

7. Paragraph 69

Omit 'subsection 207-40(1)' and substitute with 'subsection 207-35(1)'.

8. Omit Paragraph 70 and insert new Paragraph 70

70. In the case where an individual partner, corporate partner, or a trustee partner specified by subparagraphs 207-45(c) or (d) of the ITAA 1997 (that is, trustees liable to be assessed under section 98, 99 or 99A of the ITAA 1936, or certain superannuation funds, approved deposit funds and pooled superannuation trusts) has an individual interest in the net income of the partnership, or in the partnership loss, the partner will be entitled to a tax offset equal to the partner's share of the franking credit on the Dividend Component pursuant to section 207-45 of the ITAA 1997. This is on the proviso stated in paragraph 207-50(2)(c) of the ITAA 1997 that the partner's share of the Dividend Component is a positive amount.

9. Paragraph 72

Omit 'subsection 207-40(2)' and substitute with 'subsection 207-35(1)'.

10. Omit Paragraph 73 and insert new Paragraph 73

73. In the case where an individual beneficiary, corporate beneficiary, or a trustee beneficiary specified by subparagraphs 207-45(c) or (d) of the ITAA 1997 (that is, trustees liable to be assessed under section 98, 99 or 99A of the ITAA 1936, or certain superannuation funds, approved deposit funds and pooled superannuation trusts) has a share of the net income of the trust (under paragraph 97(1)(a) of the ITAA 1936, or an individual interest in the trust's net income under paragraphs 98A(1)(a) or (b), or paragraphs 100(1)(a) or (b) of the ITAA 1936), the beneficiary is entitled to a tax offset equal to the beneficiary's share of the franking credit on the Dividend Component pursuant to section 207-45 of the ITAA 1997. This is on the proviso stated in paragraph 207-50(3)(c) of the ITAA 1997 that the beneficiary's share of the distribution is a positive amount.

11. Paragraph 84

Omit '(Taxation Determination TD 2004/D1)' and substitute with '(Taxation Determination TD 2004/22)'.

This Addendum applies to the year ended 30 June 2004.

Commissioner of Taxation13 October 2004

ATO references

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