

CR 2008/22ER - Erratum - Income tax: Qantas Deferred Share Plan - 2006 Retention Plan

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Erratum

Class Ruling

Income tax: Qantas Deferred Share Plan – 2006 Retention Plan

This Erratum corrects one typographical error in the table of contents and paragraph formatting errors in paragraphs 43, 70 and 76 of Class Ruling CR 2008/22.

CR 2008/22 is corrected as follows:

1. Table of contents

Omit '88'; substitute '89'.

2. Paragraph 43

Omit the paragraph; substitute:

43. Pursuant to subsection 139CA(2), the cessation time will be the earliest of the following times:

- when the participant disposes (including by forfeiture) of a share;
- when the participant ceases to be employed by their employer, a holding company of their employer, or a subsidiary of their employer or of a holding company of their employer;
- the end of the 10 year period starting when the participant acquired the share; and
- the later of the following times:
 - when the holding lock on a share is removed by the board;
 - when any forfeiture conditions on a share cease to have effect;

- when any additional disposal restrictions imposed under the Code, cease to have effect, that are in effect or imposed on participants who are nominated employees or other employees. This will only be the case where any additional disposal restrictions applied at the time the holding lock on any share is removed by the board:
 - (i) from 1 July 2009 in respect of up to one-third of the shares acquired;
 - (ii) from 1 October 2009 in respect of up to two-third of the shares acquired; and
 - (iii) from 1 January 2010 in respect of all the remaining shares;
 - (iv) in relation to participants who are nominated employees or other employees; and
 - (v) who are in possession of material, non-public information (at the time the holding lock restrictions are removed).

3. Paragraph 70

Omit the paragraph; substitute:

70. Section 115-30 of the ITAA 1997 contains special rules about the time of acquisition of some CGT assets for the purposes of determining whether a capital gain is a discount capital gain. Item 8 of the table in subsection 115-30(1) of the ITAA 1997 provides that:

- where an employee acquires a share under an employee share scheme from an employee share trust; and
- where the share is a qualifying share and the employee has made an election under section 139E covering the share;

then, for the purposes of determining whether a capital gain is a discount capital gain, the employee will be treated as having acquired the share at the time they first acquired a beneficial interest in the share.

4. Paragraph 76

Omit the paragraph; substitute:

76. As shares acquired under the Plan are subject to disposal restrictions and may be forfeited, the cessation time will be determined pursuant to subsection 139CA(2) and will be the earliest of the following times:

- when the participant disposes of the share (including by forfeiture of their interest in the share);
- when the participant ceases to be employed by either their employer (being their employer at the time they acquired the share), a holding company of their employer, or a subsidiary of their employer or of a holding company of their employer;
- the end of the 10 year period starting when the participant acquired the share; and
- the later of the following times:
 - when the holding lock on any share is removed, where the board on request by a participant, exercises its discretion in accordance with paragraph 21 of this Ruling;
 - when any forfeiture conditions on a share cease to have effect;
 - when any additional disposal restrictions under the Code cease to have effect, that are in effect or imposed on a participant who is a nominated employee or other employee. This will only apply to additional disposal restrictions imposed or in place at the time the holding lock on any share is removed by the board:
 - (i) from 1 July 2009 in respect of up to one-third of the shares acquired;
 - (ii) from 1 October 2009 in respect of up to two-thirds of the shares acquired; and
 - (iii) from 1 January 2010 in respect of all the remaining shares;
 - (iv) in relation to participants who are nominated employees or other employees; and

- (v) who are in possession of material, non-public information (at the time the holding lock restrictions are removed).

This Erratum applies on and from 5 March 2008.

Commissioner of Taxation

2 April 2008

ATO references

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