

CR 2022/8 - RAM Australia Medical Property Fund - return of capital and formation of a stapled security

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Page status: **legally binding**

Class Ruling

RAM Australia Medical Property Fund – return of capital and formation of a stapled security

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 unit holders of the RAM Australia Medical Property Fund (RAM Medical Fund) who were entitled to receive a return of capital from the Trustee of RAM Medical Fund which was satisfied by those unit holders acquiring units in the RAM Australia Retail Property Fund (RARPF), followed by the stapling of the RAM Medical Fund units and RARPF units.
2. Full details of this scheme are set out in paragraphs 21 to 38 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 a unit holder of RAM Medical Fund on the Record Date for the return of capital (20 October 2021)
 - were a resident of Australia within the meaning of subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936) on the date of the return of capital (20 October 2021), and
 - did not hold your units in RAM Medical Fund as revenue assets (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1); that is, your units in RAM Medical Fund were held on capital account.

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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 21 to 38 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 2021 to 30 June 2022.

Ruling

Splitting of RAM Australia Medical Property Fund units

7. No CGT event happened as a result of the splitting of RAM Medical Fund units (subsections 112-25(1) and (2)).

8. Each element of the cost base and reduced cost base of a new split RAM Medical Fund unit is worked out by apportioning each element of the cost base and reduced cost base of the original RAM Medical Fund units in a reasonable way to the new RAM Medical Fund units (subsection 112-25(3)).

9. You will be taken to have acquired your new split RAM Medical Fund units at the time that you acquired the original RAM Medical Fund units to which they relate (subsection 109-5(1)).

Return of capital is not assessable income

10. The return of capital is not included in your assessable income either as ordinary income under subsection 6-5(1), or under section 99B of the ITAA 1936.

CGT event E4

11. CGT event E4 will happen to you when the Trustee of RAM Medical Fund made a payment to you of 25.95 cents in respect of each of your units in RAM Medical Fund and none of the payment is included in your assessable income (section 104-70).

12. CGT event E4 happens in the income year in which the payment was made (subsection 104-70(3)). The precise time of CGT event E4 depends on whether or not another CGT event happens in relation to your units in RAM Medical Fund after the payment but before the end of that income year. The time would be either just before the end of the income year or (if another CGT event, except CGT event E4, happens) just before the time of that other CGT event.

13. You will make a capital gain under CGT event E4 if the non-assessable amount of 25.95 cents made by the Trustee of RAM Medical Fund in respect of each unit exceeds the cost base of the unit (subsection 104-70(4)).

14. If you make a capital gain under CGT event E4, the cost base and reduced cost base of your unit in RAM Medical Fund is reduced to nil (subsection 104-70(5)).

Status: **legally binding**

15. If the non-assessable amount of 25.95 cents is less than or equal to the cost base of your unit in RAM Medical Fund, the cost base and reduced cost base of your unit will be reduced by the non-assessable amount (subsection 104-70(6)).

16. You can treat a capital gain made when CGT event E4 happened as a 'discount capital gain' under Subdivision 115-A provided that you acquired your units in RAM Medical Fund at least 12 months before the time of CGT event E4 as described in paragraph 12 of this Ruling (subsection 115-25(1)) and the other conditions in Subdivision 115-A are satisfied.

Cost base of units in RAM Australia Retail Property Fund

17. The first element of the cost base and reduced cost base of the RARPF units you acquired in satisfaction of your entitlement to receive the return of capital will be 25.95 cents per unit (subsections 110-25(2) and 110-55(2)).

Acquisition date of units in RAM Australia Retail Property Fund

18. You acquired your units in RARPF on 20 October 2021 (table item 3 in section 109-10).

CGT event H2 will happen upon stapling of the units

19. CGT event H2 will happen to you as a result of the stapling of the RAM Medical Fund units and the RARPF units because it is an act, transaction or event which occurs in relation to a CGT asset that you own and does not result in an adjustment being made to the cost base or reduced cost base of any of your units (subsection 104-155(1)).

20. However, you will not make a capital gain or capital loss as a result of CGT event H2 happening as you will not receive capital proceeds or incur any incidental costs due to the stapling of the units (subsection 104-155(3)).

Scheme

21. 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.

Background

22. Real Asset Management Group Pty Ltd (RAM Group) is a global funds management firm which was established in 2010.

23. RAM Group caused RAM Medical Fund to be settled in 2018.

24. RAM Group caused RARPF to be settled in 2016.

25. RAM Group decided to form the RAM Essential Services Property Fund (RESPF) by stapling the units in RAM Medical Fund and the units in RARPF, raising capital by issuing new units and listing the stapled units on the Australian Securities Exchange (ASX).

Status: **legally binding**

RAM Australia Medical Property Fund

26. RAM Medical Fund invests in Australian property that involves medical facilities or medical service providers.

27. RAM Medical Fund is a registered managed investment scheme under Chapter 5C of the *Corporations Act 2001*. The Trustee and responsible entity of RAM Medical Fund is RAM Property Funds Management Ltd, a wholly-owned subsidiary of RAM Group.

RAM Australia Retail Property Fund

28. RARPF invests in Australian retail property, with a focus on sub-regional and neighbourhood shopping centres.

29. RARPF is a registered managed investment scheme under Chapter 5C of the *Corporations Act 2001*. The Trustee and responsible entity of RARPF is also RAM Property Funds Management Ltd.

30. RARPF is an attribution managed investment trust under section 276-10.

Return of capital, acquisition of units and stapling

31. The Trustee of RAM Medical Fund split its issued units on the basis of a ratio of 1.2724 to 1, increasing the number of issued units in RAM Medical Fund.

32. On 20 October 2021, the Trustee of RAM Medical Fund made a return of capital to the unit holders of RAM Medical Fund (who were unit holders on the Record Date) of 25.95 cents per unit.

33. The Trustee of RAM Medical Fund accounted for the return of capital by debiting the unitholders' funds account by \$3,333,520.

34. The Trustee of RAM Medical Fund satisfied the unit holders' entitlements to receive the return of capital by compulsorily applying 25.95 cents per unit on behalf of RAM Medical Fund unit holders to subscribe for new units in RARPF.

35. As a result of this subscription, the Trustee of RARPF issued new units to the unit holders of RAM Medical Fund on 20 October 2021. Unit holders held the same number of RAM Medical Fund units and RARPF units.

36. The units in RAM Medical Fund were then stapled to the units in RARPF on a 1:1 basis to form RESPF stapled securities. This means that the units can only be owned and transferred together.

37. 356,926,370 new RESPF stapled securities were also issued to investors through an initial public offering.

38. The units in RAM Medical Fund and RARPF were admitted to the official list of the ASX, and commenced trading as RESPF stapled securities (under the ASX code 'REP') on a conditional and deferred settlement basis on 20 October 2021.

Commissioner of Taxation

9 February 2022

Status: **not legally binding**

References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 2006/10

Legislative references:

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ATO references

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 Income tax ~~ Capital gains tax ~~ Cost base and reduced cost base

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