

CR 2025/42 - ConocoPhillips Australia Operations Pty Ltd - employee share scheme - transfer to new plan



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Class Ruling

ConocoPhillips Australia Operations Pty Ltd – employee share scheme – transfer to new plan

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 employees of ConocoPhillips Australia Operations Pty Ltd (COP Australia) and subsidiaries of ConocoPhillips with principal operations in Australia who are participants to the Australian Sub-Plan of the ConocoPhillips Overseas Stock Savings Plan (Former Plan), and whose interests under the Former Plan have been transferred to the ConocoPhillips Australian Employee Share Plan (New Plan).
2. Details of this scheme are set out in paragraphs 13 to 42 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.
4. Terms capitalised in this Ruling take their meaning from the ConocoPhillips Australian Employee Share Plan.

Note: by issuing this Ruling, the ATO is not endorsing the Former Plan or the New Plan.

Who this Ruling applies to

5. This Ruling applies to you if you are an employee who:
 - participated in the Former Plan
 - held shares in ConocoPhillips, a company incorporated under the laws of the State of Delaware, United States of America under the Former Plan which have been transferred to the New Plan
 - is a resident of Australia (as defined in subsection 6(1) of the *Income Tax Assessment Act 1936*), and

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- is not a temporary resident (as defined in subsection 995-1(1)).

6. 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 13 to 42 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

7. This Ruling applies from 29 November 2024 to 30 June 2025.

Ruling

8. The Former Plan and New Plan are each an employee share scheme as defined in subsection 83A-10(2).

9. An Employee Stock, Allocated Stock or Vested Stock granted to you under the Former Plan (collectively, a ConocoPhillips share acquired under the Former Plan) is an 'ESS interest' as defined in subsection 83A-10(1).

10. Subdivision 83A-C applies to the ConocoPhillips shares acquired under the Former Plan as the requirements set out in section 83A-105 for tax deferral are satisfied.

11. The transfer of ConocoPhillips shares from the Former Plan to the New Plan will not give rise to an ESS deferred taxing point under section 83A-115.

12. The ESS deferred taxing point for the ConocoPhillips shares under the New Plan will continue to be determined under section 83A-115.

Scheme

13. 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.

ConocoPhillips Australia Operations Pty Ltd

14. COP Australia is a wholly owned subsidiary of ConocoPhillips.

15. ConocoPhillips is a company incorporated under the laws of the State of Delaware, United States of America and listed on the New York Stock Exchange.

16. The predominant business of ConocoPhillips is not the acquisition, sale or holding of shares, securities, or other investments, whether directly or indirectly through one or more companies, partnerships, or trusts.

Australian Sub-Plan of the ConocoPhillips Overseas Stock Savings Plan

17. COP Australia has an employee incentive scheme that operated under the Former Plan.

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18. The Former Plan is administered by EES Trustees Limited (Former Trustee) as trustee for the ConocoPhillips Overseas Stock Savings Trust, a United Kingdom domiciled trust established on 8 February 1993, in accordance with the Former Plan Rules and the ConocoPhillips Overseas Stock Savings Trust Deed (Former Trust Deed).

19. COP Australia invited employees to:

- purchase ConocoPhillips shares via a salary sacrifice arrangement by contributing an amount of their pre-tax salary or cash bonus award (where applicable) of up to \$5,000 for a financial year, or a post-tax contribution (if applicable) (Employee Stock), and
- obtain further ConocoPhillips shares which are subject to vesting and forfeiture conditions (Allocated Stock).

20. No consideration was payable upon the granting and allocation of the Employee Stock and Allocated Stock.

21. No participant has been able to hold a legal or beneficial interest in more than 5% of ConocoPhillips shares, or be in a position to cast, or control the casting of, more than 5% of the votes that may be cast at a general meeting of ConocoPhillips.

Employee Stock

22. Employee Stock acquired by the Former Trustee on behalf of participants are held on trust in accordance with the Former Trust Deed and Rules and is restricted from sale or transfer for a period of 3 years, unless elected by a participant to only apply for 12 months.

23. COP Australia advises that Employee Stock acquired under the Former Plan is an effective salary sacrifice arrangement in accordance with Taxation Ruling TR 2001/10: *Income tax: fringe benefits tax and superannuation guarantee: salary sacrifice arrangements.*

Allocated Stock and Vested Stock

24. In the same financial year ending 30 June as Employee Shares are acquired, participants also become entitled to Allocated Stock which are subject to vesting and forfeiture conditions.

25. Once the vesting and forfeiture conditions have been satisfied, the Allocated Stock becomes Vested Stock, and the participant is able to direct the Former Trustee to sell or transfer the Vested Stock that the Former Trustee holds on behalf of the participant.

26. The vesting date for Allocated Stock is the earlier of:

- 3 years to the day the Allocated Stock was first allocated to the participant under the Former Trust Deed and Plan Rules
- the date on which the participant ceases to be an employee by reason of retirement, becoming totally and permanently disabled, redundancy as determined by COP Australia, their death or the sale of the business (Good Leaver), or
- the date of termination of the Former Plan.

27. A participant who ceases employment by COP Australia for any reason other than being a Good Leaver, shall forfeit any entitlement to Allocated Stock that has not become Vested Stock on or before the date the participant ceases employment.

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28. When the disposal restrictions and vesting conditions are satisfied, the Former Trustee continues to hold Employee Stock and Vested Stock on trust on behalf of participants, until directed to sell or transfer them.

Supplemental Employee Stock

29. To the extent the total of an employees' pre-tax salary or cash bonus award (where applicable) exceeds \$5,000 for a financial year, COP Australia will deduct that amount from the employee's salary or cash bonus award from which applicable income tax withholding has been deducted and pay the amount deducted to the Former Trustee to acquire ConocoPhillips shares on behalf of that employee (Supplemental Employee Shares).

30. Supplemental Employee Stock is held on trust by the Former Trustee in accordance with the Former Trust Deed and Former Plan Rules and is restricted from sale or transfer until the requirements of the disposal restriction have been met.

31. While the disposal restriction applies, the participant will be entitled to:

- receive all dividends paid in respect of the Supplemental Employee Stock that the Former Trustee holds on behalf of that Participant, and
- direct the Former Trustee on how to exercise their voting rights in respect of the Supplemental Employee Stock.

32. When the disposal restrictions are satisfied, the Former Trustee continues to hold the Supplemental Employee Stock on trust on behalf of the participant, until directed to sell or transfer them.

2023 Omnibus Stock and Performance Incentive Plan

33. On 16 May 2023, ConocoPhillips established the 2023 Omnibus Stock and Performance Incentive Plan (2023 Omnibus Plan) which authorises the adoption of sub-plans for the purpose of awarding ConocoPhillips shares to persons outside of the United States.

34. The Former Plan Rules and the Former Trust Deed were amended to permit the transfer of, among other things, eligible employees, participants, ConocoPhillips shares to the New Plan, to be administered by a new stand-alone Australian domiciled trust to be established by COP Australia.

ConocoPhillips Australian Employee Share Trust

35. On 29 November 2024, COP Australia established the ConocoPhillips Australian Employee Share Trust under the ConocoPhillips Australian Employee Share Trust Deed (New Trust Deed) for the purpose of holding ConocoPhillips shares for the benefit of its' employees who are, or become, entitled to acquire ConocoPhillips shares pursuant to an employee incentive plan.

ConocoPhillips Australian Employee Share Plan

36. On 28 November 2024, the New Plan was adopted as a sub-plan of the 2023 Omnibus Plan to provide employees of COP Australia and other subsidiaries of ConocoPhillips with principal operations in Australia, with a means of acquiring

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ConocoPhillips shares, thereby increasing their involvement with ConocoPhillips and sharing in its future. The New Plan comprises the Contributory Plan and Supplemental Plan.

Supplemental Employee Shares

37. To the extent the total of an employees' pre-tax salary or cash bonus award (where applicable) exceeds \$5,000 for a financial year, COP Australia will deduct that amount from the employee's salary or cash bonus award from which applicable income tax withholding has been deducted and pay the amount deducted to CPU Share Plans Pty Limited as trustee for the ConocoPhillips Australian Employee Share Trust to acquire ConocoPhillips shares to be held on behalf of the existing participant in accordance with the New Trust Deed.

Transfer of existing participants, shares and balances from Former Plan to New Plan

38. COP Australia must notify CPU Share Plans Pty Limited that participants of the Former Plan are to be transferred to the New Plan and recognised as participants under the New Trust Deed.

39. On the transfer of an Employee Stock from the Former Plan to the New Plan, the Employee Stock will be recognised as Employee Shares and subject to the New Trust Deed and New Plan Rules. The disposal restrictions which applied under the Former Plan will continue to apply under the New Plan, such as they are non-transferrable and will continue to be subject to the 3-year disposal restriction under the Former Plan unless the participant had instead elected for a 12-month disposal restriction to apply.

40. On the transfer of an Allocated Stock from the Former Plan to the New Plan, the Allocated Stock will continue to be recognised as Allocated Stock and subject to the terms of the New Trust Deed and New Plan Rules. The original forfeiture and vesting conditions under the Former Plan will continue to apply to the Allocated Stock under the New Plan. Once vested, the Allocated Stock become Matching Shares.

41. On the transfer of a Vested Stock from the Former Plan to the New Plan, the Vested Stock will be recognised as Matching Shares and subject to the New Trust Deed and New Plan Rules. An ESS deferred taxing point or cessation time would have occurred prior to the transfer of Allocated Stock to the New Plan when it became Vested Stock under the Former Plan.

42. On the transfer of a Supplemental Employee Stock under the Former Plan to the New Plan (if any), the Supplemental Employee Stock will be recognised as Supplemental Employee Shares and subject to the New Trust Deed and New Plan Rules.

Commissioner of Taxation

25 June 2025

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References

Related rulings and determinations:

TR 2001/10

- ITAA 1997 83A-10(2)
- ITAA 1997 Subdiv 83A-C

Legislative references:

- ITAA 1936 6(1)
- ITAA 1997 83A-10(1)

- ITAA 1997 83A-105
 - ITAA 1997 83A-115
 - ITAA 1997 Div 230
 - ITAA 1997 995-1(1)
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ATO references

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