


CR 2025/60 - Euroz Hartleys Group Limited - employee share scheme - return of capital

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Status: **legally binding**

Class Ruling

Euroz Hartleys Group Limited – employee share scheme – return of capital

📌 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 Euroz Hartleys Group Limited (EZL) who received a return of capital payment of \$0.14 (Capital Return) on 5 August 2025 (Payment Date) for each share in EZL they held a beneficial interest in under the terms of the EZL Performance Rights Plan (PRP).
2. Details of this scheme are set out in paragraphs 20 to 40 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:
 - held a beneficial interest in an EZL share acquired after the exercise of a performance right granted under the PRP (Plan Share) on the Payment Date, which had not previously been subject to a deferred taxing event under Division 83A
 - received the Capital Return on the Payment Date
 - held your Plan Share on capital account – that is, you did not hold your Plan Share as a revenue asset (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1))
 - are a ‘resident of Australia’ as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936), and

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- are not a 'temporary resident' of Australia within the meaning of subsection 995-1(1).

5. This Ruling does not apply to anyone who is subject to the taxation of financial arrangements rules in Division 230 or Subdivision 842-I in relation to the scheme outlined in paragraphs 20 to 40 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 2025 to 30 June 2026.

Ruling

ESS deferred taxing point

7. The PRP is an employee share scheme as defined in subsection 83A-10(2).

8. Performance rights granted under the PRP are ESS interests, as defined in paragraph 83A-10(1)(b).

9. Subdivision 83A-C applied to the performance rights granted to you as the requirements set out in section 83A-105 for tax deferral were satisfied. Subdivision 83A-C continued to apply to Plan Shares acquired after the exercise of a performance right.

10. The Capital Return will not cause an ESS deferred taxing point under section 83A-120 and Subdivision 83A-C will continue to apply to Plan Shares.

Capital Return is not a dividend

11. No part of the Capital Return you received is a dividend as defined in subsection 6(1) of the ITAA 1936. This is because the entire amount of the Capital Return has been debited against an amount standing to the credit of EZL's share capital account.

12. Therefore, no part of the Capital Return is included in your assessable income as a dividend under subparagraph 44(1)(a)(i) of the ITAA 1936.

Sections 45A, 45B and 45C of the ITAA 1936 do not apply

13. The Commissioner will not make a determination that section 45C of the ITAA 1936 applies to any part of the Capital Return you received under either:

- subsection 45A(2) of the ITAA 1936 because there was no streaming of capital benefits to some EZL shareholders and dividends to other EZL shareholders as required by subsection 45A(1), or
- paragraph 45B(3)(b) of the ITAA 1936 because the requirements of subsection 45B(2) were not satisfied.

14. Therefore, no part of the Capital Return you received is taken to be an unfranked dividend.

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Capital gains tax consequences

Absolute entitlement

15. Where you were allocated a Plan Share held by CPU Share Plans Pty Limited as trustee for the Euroz Limited Employee Share Trust (PRP Trustee), you are treated as being absolutely entitled as against PRP Trustee to the relevant Plan Share, which is treated as being your asset for the purposes of Division 83A, Part 3-1 and Part 3-3 (subsection 130-85(2)).

CGT event G1

16. CGT event G1 happened on the Payment Date when EZL paid the Capital Return in respect of each Plan Share you held on 29 July 2025 (Record Date) and continued to hold on the Payment Date (section 104-135).

17. You made a capital gain under CGT event G1 if the amount of the Capital Return (being \$0.14 per Plan Share) was more than the cost base of your Plan Share (subsection 104-135(3)). The amount of the capital gain is equal to the excess. If you made a capital gain, the cost base and reduced cost base of your Plan Share are reduced to nil (subsection 104-135(3)).

18. If the Capital Return amount received for each Plan Share was equal to or less than the cost base of your Plan Share, the cost base and reduced cost base of your Plan Share are reduced by the amount of the Capital Return (subsection 104-135(4)). You cannot make a capital loss when CGT event G1 happens (Note 1 to subsection 104-135(3)).

Discount capital gain

19. You can treat a capital gain you made when CGT event G1 happened as a discount capital gain under Subdivision 115-A if you acquired your Plan Share on or before 4 August 2024 – at least 12 months before the Payment Date (subsection 115-25(1)), provided the other conditions in Subdivision 115-A are satisfied.

Scheme

20. 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

21. EZL is an Australian-resident company limited by shares and listed on the Australian Securities Exchange.

22. EZL carries on a stockbroking, corporate finance and wealth management business.

EZL Performance Rights Plan

23. EZL established the PRP to assist in the reward, retention and motivation of employees.

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24. Under the PRP, employees:
- may be granted a right to acquire one or more EZL shares (Performance Right) for no consideration, and
 - who were granted a Performance Right (Participants)
 - held the Performance Right subject to such vesting and performance conditions as stipulated in the invitation document, and
 - were prohibited from disposing of or otherwise dealing with the Performance Right.
25. Upon vesting and exercise of a Performance Right, a Participant may acquire Plan Shares, but they remain subject to:
- vesting and performance conditions, and
 - disposal restrictions.
26. Plan Shares may be held by a Participant directly, or by the PRP Trustee on behalf of a Participant.

Sale of shares

27. On 21 April 2022, EZL received shares in WAM Capital Limited (WAM) as consideration for the sale of its investment in Westoz Investment Company Limited and Ozgrowth Limited, in which they held 26.25% and 41.58% of the issued shares respectively.
28. On 19 May 2022, EZL completed the sale of 100% of the WAM shares on market, receiving total cash consideration of approximately \$103.9 million.
29. As EZL determined it had share capital surplus to its requirements resulting from the sale of the WAM shares, it returned approximately \$80 million to its shareholders in 2 components. This comprised of a special dividend and return of capital paid on 7 October 2022 and 2 December 2022 respectively.
30. EZL determined to maintain a surplus cash balance of approximately \$23 million to facilitate future capital acquisitions.

Capital Return

31. EZL did not find a commercial use for the surplus cash balance of approximately \$23 million from the sale of WAM shares.
32. On 13 June 2025, EZL made an announcement on the Australian Securities Exchange of its intention to seek shareholder approval at the company's annual general meeting to distribute up to approximately \$23 million (or \$0.14 per EZL share) of the net proceeds from the sale of WAM to shareholders by way of an equal reduction of share capital, in accordance with sections 256B and 256C of the *Corporations Act 2001*.
33. The Capital Return was approved by EZL shareholders on 18 July 2025.
34. On the Payment Date, EZL shareholders received the Capital Return, being \$0.14 for each EZL share they held on the Record Date.
35. The total Capital Return amount of \$23,075,164 was paid from EZL's available cash balance and was debited to EZL's share capital account.

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36. The Capital Return did not result in the cancellation of any EZL shares and there was no change to the proportionate interest of each EZL shareholder following the Capital Return.

Other matters

37. As at 30 June 2025, EZL had:

- retained earnings of \$7.5 million
- share based payments reserve of \$6.6 million, and
- share capital of \$101.7 million.

38. EZL's share capital account (as defined in section 975-300) is not tainted (within the meaning of Division 197).

39. EZL has consistently paid dividends to shareholders and intends to continue paying them in the future.

40. As at the Payment Date, the majority of EZL's shareholders resided in Australia, with 448,547 EZL shares (0.2721% of all shares on issue) held by shareholders with an address outside of Australia on the EZL share register.

Commissioner of Taxation

10 September 2025

Status: **not legally binding**

References

Legislative references:

- ITAA 1936 6(1)
 - ITAA 1936 44(1)(a)(i)
 - ITAA 1936 45A
 - ITAA 1936 45A(1)
 - ITAA 1936 45A(2)
 - ITAA 1936 45B
 - ITAA 1936 45B(2)
 - ITAA 1936 45B(3)(b)
 - ITAA 1936 45C
 - ITAA 1997 Div 83A
 - ITAA 1997 83A-10(1)(b)
 - ITAA 1997 83A-10(2)
 - ITAA 1997 Subdiv 83A-C
 - ITAA 1997 83A-105
 - ITAA 1997 83A-120
 - ITAA 1997 Pt 3-1
 - ITAA 1997 104-135
 - ITAA 1997 104-135(3)
 - ITAA 1997 104-135(4)
 - ITAA 1997 Subdiv 115-A
 - ITAA 1997 115-25(1)
 - ITAA 1997 Pt 3-3
 - ITAA 1997 130-85(2)
 - ITAA 1997 Div 197
 - ITAA 1997 Div 230
 - ITAA 1997 Subdiv 842-I
 - ITAA 1997 975-300
 - ITAA 1997 977-50
 - ITAA 1997 995-1(1)
 - Corporations Act 2001 256B
 - Corporations Act 2001 256C
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ATO references

NO: 1-17XQHRDX
 ISSN: 2205-5517
 BSL: PG
 ATOLaw topic: Income tax ~~ Capital management ~~ Share capital return
 Capital gains tax ~~ CGT events ~~ G1 to G3 - shares

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