



# ***CR 2006/127 - Income tax: Becton Property Group: Becton Property Group Limited and Becton Property Trust Stapled Security Initial Public Offering***

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 November 2006*



## Class Ruling

### Income tax: Becton Property Group: Becton Property Group Limited and Becton Property Trust Stapled Security Initial Public Offering

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**1 This publication provides you with the following level of protection:**

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (unless we are satisfied that the ruling is incorrect and disadvantages you, in which case we may apply the law in a way that is more favourable for you – provided we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

## What this Ruling is about

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1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

### Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- section 109-10 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- section 110-25 of the ITAA 1997;
- section 110-55 of the ITAA 1997; and
- subsection 112-30(1) of the ITAA 1997.

## Class of entities

3. The class of entities to which this Ruling applies is the Australian resident investors who have subscribed for a Becton Property Group security which consists of ordinary shares in Becton Property Group Limited (BPGL) and units in Becton Property Trust (BPT) under the initial public offering which was announced by BPGL on 12 September 2006 and who hold their shares in BPGL and units in BPT on capital account. In this Ruling, this class of entities are referred to as 'Investors'.

## Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 13 to 26 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

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## Date of effect

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8. This Ruling applies from 1 November 2006. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling. Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

9. If this Class Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

10. If this Class Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Class Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

11. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

## **Withdrawal**

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12. This Class Ruling is withdrawn and ceases to have effect after 30 June 2007. However, the Ruling continues to apply after its withdrawal in respect of the tax laws ruled upon, to all persons within the specified class who entered into the specified scheme during the term of the Ruling, subject to there being no change in the scheme or in the person's involvement in the scheme.

## **Scheme**

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13. The scheme that is the subject of this Ruling is described below. This description is based on the following documents listed below. These documents, or relevant parts of them, as the case may be, form part of and are to be read with this description. The relevant documents or parts of documents incorporated into this description of the scheme are:

- the application for a Class Ruling dated 25 September 2006;
- BPGL/Becton Management Investment Limited (BMIL) Stapling Deed dated 24 July 2006;
- BPT Trust Deed dated 23 August 2006;
- BPGL/BPT Product Disclosure Statement (PDS) dated 4 October 2006; and
- additional information supplied from 29 August 2006 to 5 December 2006.

**Note:** certain information has been provided on a commercial-in-confidence basis and will not be disclosed or released under the Freedom of Information legislation.

14. BPGL is an Australian public company listed on the Australian Stock Exchange (ASX).

15. The BPGL group operates three core businesses:

- property development and construction;
- property funds management; and
- ownership and management of retirement villages.

16. On 12 September 2006, BPGL announced a restructure of the BPGL corporate group to establish a stapled security comprising a share in BPGL and a unit in BPT (Becton Property Group security) and an initial public offering (IPO) of the stapled securities. The stapled security is considered in CR 2006/128.

17. Under the restructure, a new unit trust (BPT) has been created by BPGL, with BPGL owning 100% of the units in BPT. BPGL will also undertake a four for one share consolidation.

18. Prior to the stapling, BMIL and BPGL will jointly apply to the ASX for trading of BPGL shares to cease and quotation of Becton Property Group securities to commence upon stapling.

19. The rules governing the stapling have been set out in the constitution of both BPGL and BPT and in the Stapling Deed entered into by BPGL and BMIL (as the Responsible Entity of BPT).

20. On 4 October 2006, BPGL announced that stapling would take effect on 21 November 2006; BPGL shares would cease trading on the ASX on 30 November 2006 and the Becton Property Group Securities will commence trading on the ASX on 1 December 2006. Shareholders were expected to vote on the proposal at the Annual General Meeting on 18 October 2006.

21. On 18 October 2006 BPGL announced that shareholders had approved the proposed scheme.

22. The IPO invited subscriptions for Becton Property Group securities comprising one unit in BPT and one share in BPGL. If the demand for Becton Property Group securities exceeded the number on offer under the IPO, the Lead Manager in conjunction with the BPGL Group could consider scaling back applications. This means that applicants may have been allocated fewer Becton Property Group securities than applied for, and possibly fewer than the minimum application of \$5,000.

23. The basis of the stapled security allocation and the scale back was announced on 6 November 2006.

24. The stapling was implemented by the directors of BPGL and BMIL each resolving that the stapling shall commence. Stapling commenced on 13 November 2006, and at that time BPGL ceased to own units in BPT.

25. The IPO raised \$173 million. Pursuant to the Stapling Deed, the proceeds raised from the IPO will be invested into BPGL and BPT based on the respective market values of the two entities. It is expected that the relative values of the two entities will result in BPGL receiving 46.938% of the funds and BPT receiving 53.062% of the funds.

26. The issue price of the Becton Property Group security was \$2.55 and the stapled securities were issued on 13 November 2006.

## **Ruling**

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27. The cost base and reduced cost base of each BPGL share and BPT unit comprising a Becton stapled security acquired under the IPO is determined in accordance with sections 110-25 (cost base) and 110-55 (reduced cost base) of the ITAA 1997.

28. The expenditure incurred to acquire the Becton Property Group security must be apportioned on a reasonable basis to determine the first element of the cost base and reduced cost base of each BPGL share and BPT unit comprising the stapled security (subsection 112-30(1) of the ITAA 1997).

29. Each Investor is taken to have acquired their stapled security at the time they entered into the contract to acquire the Becton stapled securities (section 109-10 of the ITAA 1997).

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**Commissioner of Taxation**

20 December 2006

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## Appendix 1 – Explanation

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**❶** *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

30. Sections 110-25 and 110-55 of the ITAA 1997 provide that the first element of the cost base and reduced cost base, respectively, of a capital gains tax (CGT) asset is the money paid in respect of its acquisition.

31. Investors paid \$2.55 for each new Becton Property Group security (consisting of a share in BPGL and a unit in BPT).

32. The effect of stapling is that each individual security retains its legal character and there is no variation to the rights or obligations attaching to the individual securities. Therefore, the Investors have acquired two CGT assets.

33. Subsection 112-30(1) of the ITAA 1997 states that where only part of the expenditure incurred under a transaction relates to the acquisition of an asset, the first element of the cost base and reduced cost base of the asset is that part of the expenditure that is reasonably attributable to the acquisition of the asset.

34. Consequently, the expenditure incurred to acquire the Becton stapled security must be apportioned in accordance with subsection 112-30(1) of the ITAA 1997 to determine the first element of the cost base and reduced cost base of the BPGL share and the BPT unit.

35. If a company issues or allots equity interests in circumstances where a contract is entered into in respect of the acquisition, the equity interests are taken to have been acquired when the contract is entered into. The contract is entered into when it becomes unconditional. The contract became unconditional when the method of allocation of the equities was determined.

36. Accordingly, Investors of the Becton Stapled Securities acquired each new stapled security on 6 November 2006, being the date the method of allocation was settled.

## **Appendix 2 – Detailed contents list**

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37. The following is a detailed contents list for this Ruling:

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## References

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*Previous draft:*

Not previously issued as a draft

*Related Rulings/Determinations:*

CR 2006/128

*Subject references:*

- acquisition date
- allotment and issue of securities
- CGT cost base

- reduced cost base

*Legislative references:*

- ITAA 1997 109-10
- ITAA 1997 110-25
- ITAA 1997 110-55
- ITAA 1997 112-30(1)
- TAA 1953
- TAA 1953 Sch 1 357-75(1)
- Copyright Act 1968

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ATO references

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