


***CR 2018/45 - Income tax: scrip for scrip roll-over:
exchange of CHESSE Depositary Interests in fourteen
BlackRock iShares Funds for units in fourteen new
BlackRock Trusts***

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Class Ruling

Income tax: scrip for scrip roll-over: exchange of CHESSE Depository Interests in fourteen BlackRock iShares Funds for units in fourteen new BlackRock Trusts

Contents	Para
LEGALLY BINDING SECTION:	
Summary – what this Ruling is about	1
Date of effect	7
Scheme	8
Ruling	23
NOT LEGALLY BINDING SECTION:	
Appendix 1:	
Explanation	35
Appendix 2:	
Detailed contents list	39

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, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is 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.

Summary – what this Ruling is about

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

Relevant provisions

2. The relevant provisions dealt with in this Ruling are:
- section 104-10 of the *Income Tax Assessment Act 1997* (ITAA 1997)
 - section 106-50 of the ITAA 1997
 - Division 110 of the ITAA 1997
 - Subdivision 115-A of the ITAA 1997
 - section 116-20 of the ITAA 1997
 - Subdivision 124-M of the ITAA 1997.

All legislative references in this Ruling are to the ITAA 1997 unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies are the holders of CHESS Depository Interests in:

- iShares Asia 50 ETF (IAA)
- iShares China Large-Cap ETF (IZZ)
- iShares Europe ETF (IEU)
- iShares Global 100 ETF (IOO)
- iShares Global Consumer Staples ETF (IXI)
- iShares Global Healthcare ETF (IXJ)
- iShares MSCI EAFE ETF (IVE)
- iShares MSCI Emerging Markets ETF (IEM)
- iShares MSCI Japan ETF (IJP)
- iShares MSCI South Korea ETF (IKO)
- iShares MSCI Taiwan ETF (ITW)
- iShares S&P 500 ETF (IVV)
- iShares S&P Mid-Cap ETF (IJH)
- iShares S&P Small-Cap ETF (IJR)

who:

- participate in the scheme that is the subject of this Ruling
- are a 'resident of Australia' as that term is defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936)
- did not hold their CHESS Depository Interests as revenue assets (as defined in section 977-50) nor as trading stock (as defined in subsection 995-1(1)) – that is, the holders held their CHESS Depository Interests broadly on capital account, and
- are not subject to the taxation of financial arrangements (TOFA) rules in Division 230 in relation to gains and losses on their CHESS Depository Interests.

(Note: Division 230 will generally not apply to individuals, unless they have made an election for it to apply to them.)

In this Ruling, a person belonging to this class of entities is referred to as a CDI holder.

Qualifications

4. The Commissioner makes this Ruling based on the precise arrangements 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 8 to 22 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.

Date of effect

7. This Ruling applies from 1 July 2018 to 30 June 2019. The Ruling continues to apply after 30 June 2019 to all entities within the specified class who entered into the specified scheme during the term of the Ruling. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

Scheme

8. The following description of the scheme is based on information provided by the applicant (Greenwoods and Herbert Smith Freehills Pty Ltd):

- Class Ruling application dated 28 March 2018
- the Custody Agreement between the nominee and Computershare Trust Company, N.A.
- the Custody Agreement between Computershare Trust Company, N.A. and CHESS Depository Nominees Pty Ltd, and
- correspondence with the applicant.

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

The fourteen iShares Funds

9. Legal title to the interests that constitute each of the fourteen iShares Funds listed in paragraph 3 of this Ruling is held by a nominee who is based in the United States of America. Legal title to the interests that constitute each iShares Fund can never be transferred to any entity other than another nominee.

10. The current nominee holds the underlying Australian investors' interests in each iShares Fund in the account of a custodian who participates in the current nominee's system.

11. To facilitate liquidity for underlying Australian investors, the custodian's rights as against the current nominee are held on behalf of CHESS Depository Nominees Pty Ltd.

12. In turn, CHESS Depository Nominees Pty Ltd holds its beneficial interest in the custodian's rights as against the current nominee on behalf of the holders of CHESS Depository Interests (CDIs). This means that the underlying Australian investors hold their interests in the iShares Fund by way of CDIs. The CDIs are traded on the Australian Securities Exchange (ASX) and settle through the Clearing House Electronic Subregister System (CHESS), the settlement system for financial products traded on the ASX.

13. CDIs are units of beneficial ownership in securities. In this case, each CDI economically represents an underlying interest in an iShares Fund (but, in legal form, constitutes a beneficial interest in the custodian's rights as against the current nominee).

The restructure

14. The holdings of the underlying Australian investors in the fourteen iShares Funds that are the subject of this Class Ruling have been restructured, with the object of reducing the administrative requirements for Australian investors in relation to their obligations under the tax laws of the United States of America. The restructure has provided a more accessible investment structure for Australian investors, which is expected to improve liquidity.

15. On the Implementation Date for the relevant iShares Fund (set out in the table below), all of the CDI holders were issued with one unit in a new unit trust (a New Trust) that corresponds to that iShares Fund in exchange for each CDI they held that represents an underlying interest in that iShares Fund. The CDIs in each iShares Fund were acquired by the Trustee of the relevant New Trust.

Name of the iShares Fund	Implementation Date
iShares Asia 50 ETF (IAA)	20 July 2018
iShares China Large-Cap ETF (IZZ)	7 September 2018
iShares S&P 500 ETF (IVV)	7 September 2018
iShares S&P Mid-Cap ETF (IJH)	7 September 2018
iShares S&P Small-Cap ETF (IJR)	7 September 2018
iShares Europe ETF (IEU)	21 September 2018
iShares Global 100 ETF (IOO)	21 September 2018
iShares Global Consumer Staples ETF (IXI)	21 September 2018
iShares Global Healthcare ETF (IXJ)	21 September 2018
iShares MSCI EAFE ETF (IVE)	19 October 2018
iShares MSCI Emerging Markets ETF (IEM)	19 October 2018
iShares MSCI Japan ETF (IJP)	19 October 2018
iShares MSCI South Korea ETF (IKO)	19 October 2018
iShares MSCI Taiwan ETF (ITW)	19 October 2018

16. Each New Trust is a managed investment scheme that is registered under Chapter 5C of the *Corporations Act 2001*. BlackRock Investment Management (Australia) Limited is the Trustee and Responsible Entity of each New Trust. Units in each of the New Trusts are listed on the AQUA trading platform of the ASX.

Other matters

17. All of the CDI holders in each iShares Fund were offered the opportunity to participate in the restructure, and the offer was available to all of the CDI holders in each iShares Fund on the same terms.

18. For the purposes of subsection 124-781(5), the CDIs are not a Chess Unit of Foreign Security under the Settlement Rules of ASX Settlement & Transfer Corporation Pty Ltd.

19. The interests that constitute each iShares Fund were issued after 20 September 1985.
20. No entity has a 'significant stake' or a 'common stake' in any New Trust within the meaning of those expressions in section 124-783.
21. The Trustee of each New Trust will not make a choice that the corresponding CDI holders cannot obtain Subdivision 124-M roll-over for CGT event A1 happening in relation to the exchange of their CDIs (for the purposes of subsection 124-795(4)).
22. The CDI holders and the Trustee of the relevant New Trust dealt with each other at arm's length (for the purposes of subsection 124-781(4)).

Ruling

CGT event A1 will happen to CDI holders

23. CGT event A1 will happen as a result of the disposal by a CDI holder of a CDI to the Trustee of the relevant New Trust (section 104-10). The time of CGT event A1 is on the Implementation Date for the relevant iShares Fund (paragraph 104-10(3)(b)).
24. A CDI holder will make a capital gain from CGT event A1 happening if the capital proceeds from the disposal of a CDI exceeded its cost base. A CDI holder will make a capital loss if the capital proceeds from the disposal of a CDI are less than its reduced cost base (subsection 104-10(4)).
25. Under subsection 116-20(1), the capital proceeds from CGT event A1 happening will be the market value of the property (a unit in the relevant New Trust) received, or entitled to be received, in respect of the disposal of a CDI. The market value of the New Trust units is worked out as at the time of CGT event A1, which is on the Implementation Date for the relevant iShares Fund.

Availability of scrip for scrip roll-over if a capital gain is made

26. On the basis that the CDI holders will not be absolutely entitled under section 106-50 to the interests that constitute each iShares Fund, and subject to the qualification in the following paragraph, a CDI holder who makes a capital gain from the disposal of a CDI (which constitutes an interest in a trust, the subject matter of which is the beneficial interest held by CHES Depositary Nominees Pty Ltd in the custodian's rights as against the current nominee) to the Trustee of the relevant New Trust is eligible to choose scrip for scrip roll-over (section 124-781 and section 124-785).

27. Scrip for scrip roll-over cannot be chosen if any capital gain a CDI holder might make from their replacement New Trust units would be disregarded, except because of a roll-over (paragraph 124-795(2)(a)).

Consequences if scrip for scrip roll-over is chosen

28. The only capital proceeds received by a CDI holder will be New Trust units. Therefore, if a CDI holder chooses scrip for scrip roll-over, the capital gain they make upon the disposal of a CDI to the Trustee of the relevant New Trust is disregarded (subsection 124-785(1)).

Consequences if scrip for scrip roll-over is not chosen, or cannot be chosen

29. A CDI holder who does not choose roll-over, or cannot choose roll-over, must take into account any capital gain or capital loss from CGT event A1 happening on the disposal of their CDIs in working out their net capital gain or net capital loss for the income year in which CGT event A1 happens (section 102-5 and 102-10).

30. A CDI holder who makes a capital gain where roll-over is not chosen, or cannot be chosen, can treat the capital gain as a 'discount capital gain' provided that the conditions of Subdivision 115-A are met. In particular, the CDIs must have been acquired by the CDI holder at least 12 months before their disposal to the Trustee of the relevant New Trust.

Cost base of New Trust units received

31. The method for calculating the cost base of the New Trust units received under the scheme for the disposal of CDIs will depend on whether scrip for scrip roll-over is chosen.

32. Where scrip for scrip roll-over is chosen, the first element of the cost base and reduced cost base of each replacement New Trust unit received is calculated by reasonably attributing to it the cost base and reduced cost base of the CDIs for which it was exchanged (subsections 124-785(2) and 124-785(4)).

33. A CDI holder can calculate the first element of the cost base and reduced cost base of each replacement New Trust unit by dividing the aggregate cost bases or reduced cost bases of their respective CDIs by the number of replacement New Trust units they receive.

34. Where scrip for scrip roll-over is not chosen, or cannot be chosen, the first element of the cost base and reduced cost base of each replacement New Trust unit received is equal to the market value of the CDI given in respect of acquiring each New Trust unit, worked out as at the time of their acquisition (subsections 110-25(2) and 110-55(2)).

Commissioner of Taxation

14 November 2018

Appendix 1 – Explanation

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.*

35. The tax consequences that arise concerning the scheme that is subject of this Ruling are outlined in the Ruling part of this document.

36. The significant tax consequence that is the subject of this Ruling is the availability of scrip for scrip roll-over under Subdivision 124-M. The roll-over enables the holder of a unit or other interest in a trust to disregard a capital gain from the unit or other interest that is disposed of if the holder receives a replacement interest in another trust in exchange. It also provides special rules for calculating the cost base and reduced cost base of the replacement interest.

37. Subdivision 124-M contains a number of conditions for, and exceptions to, the holder of an interest in a trust being eligible to choose scrip for scrip roll-over. The main requirements that are relevant to the scheme that is subject of this ruling are:

- units/interests are exchanged for units/interests in another trust
- entities have fixed entitlements to all of the income and capital of the original trust and the acquiring trust
- the exchange is in consequence of an arrangement
- conditions for the roll-over are satisfied
- further conditions, if applicable, are satisfied, and
- exceptions for obtaining scrip for scrip roll-over are not applicable.

38. The scheme satisfies the requirements for the roll-over under Subdivision 124-M.

Appendix 2 – Detailed contents list

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

	Paragraph
Summary – what this Ruling is about	1
Relevant provisions	2
Class of entities	3
Qualifications	4
Date of effect	7
Scheme	8
The fourteen iShares Funds	9
The restructure	14
Other matters	17
Ruling	23
CGT event A1 will happen to CDI holders	23
Availability of scrip for scrip roll-over if a capital gain is made	26
Consequences if scrip for scrip roll-over is chosen	28
Consequences if scrip for scrip roll-over is not chosen, or cannot be chosen	29
Cost base of New Trust units received	31
Appendix 1 – Explanation	35
Appendix 2 – Detailed contents list	39

References

- Previous draft:*
- Not previously issued as a draft
- Related Rulings/Determinations:*
- TR 2006/10
- Legislative references:*
- ITAA 1997
 - ITAA 1997 102-5
 - ITAA 1997 102-10
 - ITAA 1997 104-10
 - ITAA 1997 104-10(3)(b)
 - ITAA 1997 104-10(4)
 - ITAA 1997 106-50
 - ITAA 1997 Div 110
 - ITAA 1997 110-25(2)
 - ITAA 1997 110-55(2)
 - ITAA 1997 Subdiv 115-A
 - ITAA 1997 116-20
 - ITAA 1997 116-20(1)
 - ITAA 1997 Subdiv 124-M
 - ITAA 1997 124-781
 - ITAA 1997 124-781(4)
 - ITAA 1997 124-781(5)
 - ITAA 1997 124-783
 - ITAA 1997 124-785
 - ITAA 1997 124-785(1)
 - ITAA 1997 124-785(2)
 - ITAA 1997 124-785(4)
 - ITAA 1997 124-795(2)(a)
 - ITAA 1997 124-795(4)
 - ITAA 1997 Div 230
 - ITAA 1997 977-50
 - ITAA 1997 995-1(1)
 - ITAA 1936
 - ITAA 1936 6(1)
 - Corporations Act 2001
 - Corporations Act 2001 Ch 5C
-

ATO references

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