

# ***CR 2022/66 - Amalgamated Australian Investment Group Limited - demerger of Halo Technologies Holdings Ltd***

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## Class Ruling

# Amalgamated Australian Investment Group Limited – demerger of Halo Technologies Holdings Ltd

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### **📌 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 of the demerger of Halo Technologies Holdings Ltd (Halo) by Amalgamated Australian Investment Group Limited (AAIG), which was implemented on 28 March 2022 (Implementation Date).
2. Full details of this demerger are set out in paragraphs 21 to 42 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 ordinary shares in AAIG and you:
  - were registered on the AAIG share register on 27 March 2022 (Record Date)
  - did not hold your shares in AAIG as revenue assets (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1)) on the Record Date; that is, you held your shares on capital account, and
  - were a resident of Australia (as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936)).
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 42 of this Ruling.

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**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**

### **Demerger happened**

7. A demerger, as defined in section 125-70, happened to the AAIG demerger group (which included AAIG and Halo) under the scheme described in paragraphs 21 to 42 of this Ruling.

### **Capital gains tax consequences**

#### **CGT event G1**

8. CGT event G1 happened when you were paid an amount by AAIG in respect of your AAIG shares by way of the transfer to you of Halo shares on the Implementation Date (section 104-135).

9. You made a capital gain from CGT event G1 happening if the amount of the reduction of share capital for each AAIG share (7.41 cents) was more than the cost base of the AAIG share. If so, the capital gain is equal to the amount of the excess. No capital loss can be made from CGT event G1 (subsection 104-135(3)).

### **Demerger roll-over**

10. You can choose to obtain demerger roll-over under subsection 125-55(1) for your AAIG shares.

### **Choosing demerger roll-over**

11. If you choose demerger roll-over for your AAIG shares:

- any capital gain you made when CGT event G1 happened to your AAIG shares under the demerger is disregarded (subsection 125-80(1)), and
- you must recalculate the first element of the cost base and reduced cost base of your AAIG shares, and calculate the first element of the cost base and reduced cost base of the corresponding Halo shares you acquired under the demerger (subsection 125-80(2)) (see paragraphs 13 to 15 of this Ruling).

### **Not choosing demerger roll-over**

12. If you do not choose demerger roll-over for your AAIG shares, you:

- cannot disregard any capital gain you made when CGT event G1 happened to your AAIG shares under the demerger, and

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- must recalculate the first element of the cost base and reduced cost base of your AAIG shares, and calculate the first element of the cost base and reduced cost base of the corresponding Halo shares you acquired under the demerger (subsections 125-85(1) and (2)) (see paragraphs 13 to 15 of this Ruling).

***Cost base and reduced cost base of your shares in Australian Amalgamated Investment Group Limited and Halo Technologies Holdings Ltd***

13. The first element of the cost base and reduced cost base of each AAIG share and corresponding Halo share is worked out by:

- taking the total of the cost bases of your AAIG shares just before the demerger, and
- apportioning that total between your AAIG shares and the Halo shares you acquired under the demerger.

14. The apportionment is done on a reasonable basis having regard to the market values of the AAIG shares and Halo shares just after the demerger or an anticipated reasonable approximation of those market values (subsections 125-80(2) and (3)).

15. The Commissioner accepts that a reasonable apportionment is to attribute:

- 72.55% of the total of the cost bases of your AAIG shares just before the demerger to the AAIG shares, and
- 27.45% of the total of the cost bases of your AAIG shares just before the demerger to the corresponding Halo shares you acquired under the demerger.

***Acquisition date of your shares in Halo Technologies Holdings Ltd for discount capital gain purposes***

16. For the purpose of determining whether you can make a discount capital gain from a future CGT event that happens to a Halo share you acquired under the demerger, you will be taken to have acquired the Halo share on the date you acquired, for CGT purposes, the corresponding AAIG share (table item 2 of subsection 115-30(1)). This will be the case whether or not you choose demerger roll-over.

***Not an assessable dividend***

17. No part of the value of a Halo share transferred to you under the demerger will be included in your assessable income under subsection 44(1) of the ITAA 1936.

***Specific anti-avoidance provisions will not apply to deem an assessable dividend***

18. Section 45 of the ITAA 1936 will not apply to treat the value of Halo shares transferred to you as an unfrankable dividend, as there is no streaming of shares and minimally franked dividends.

19. The Commissioner will not make a determination under subsection 45A(2) of the ITAA 1936 that section 45C of the ITAA 1936 applies in relation to the whole, or a part, of the capital benefits provided to you under the demerger. This is because there was no

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streaming of capital benefits and dividends to the shareholders of AAIG under the demerger (subsection 45A(1) of the ITAA 1936).

20. As the purpose condition in paragraph 45B(2)(c) of the ITAA 1936 is not satisfied, the Commissioner will not make a determination under subsection 45B(3) of the ITAA 1936 that:

- section 45BA of the ITAA 1936 applies to the whole, or any part, of the demerger benefit provided to you under the demerger, or
- section 45C of the ITAA 1936 applies to the whole, or any part, of the capital benefit provided to you under the demerger.

## **Scheme**

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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.

### **Amalgamated Australian Investment Group Limited**

22. AAIG is a company that was incorporated in Australia on 26 October 2009.
23. AAIG is an investment company that is primarily focused on the financial services sector.
24. As at 27 March 2022, AAIG had:
- 391,295,675 fully-paid ordinary shares on issue
  - \$71,379,903.88 credited to its share capital account, and
  - \$49,279,370 of accumulated accounting losses.
25. The ordinary shares are the only ownership interests (as defined in subsection 125-60(1)) in AAIG.

### **Halo Technologies Holdings Ltd**

26. Halo is a company incorporated in Australia. It focuses on developing equities research and investment software solutions for its clients.
27. Immediately before the Implementation Date, AAIG owned 29% of the ordinary shares in Halo.

### **The demerger of Halo Technologies Holdings Ltd**

28. The demerger of Halo was undertaken by a reduction of share capital under section 256B of the *Corporations Act 2001*.
29. The shareholders of AAIG voted at a meeting on 25 March 2022 to approve an ordinary resolution under section 256C of the *Corporations Act 2001* to reduce the share capital of AAIG as an equal reduction.
30. The reduction of share capital equated to 7.41 cents for each share in AAIG.
31. The date for determining the entitlement of AAIG shareholders to receive Halo shares was 27 March 2022 (Record Date).

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32. On 28 March 2022 (Implementation Date), AAIG satisfied the reduction of share capital by transferring 80% of its Halo shares to the shareholders of AAIG.
33. The shareholders of AAIG received one Halo share for every 16.19 AAIG shares they held on the Record Date, and nothing else.
34. After the demerger, AAIG retained 6,041,666 shares in Halo.
35. As a result of the demerger, AAIG shareholders owned shares in both AAIG and Halo.
36. Shares in Halo were listed for quotation on the Australian Securities Exchange (ASX) on 26 April 2022.

**Accounting treatment**

37. AAIG accounted for the demerger by debiting its share capital account by \$29 million.

**Reasons for the demerger**

38. The directors of AAIG formed the opinion that the demerger would:
- allow AAIG and Halo to each focus on their separate business strategies
  - allow Halo to attract a higher value on the ASX as a financial technology company, and
  - offer AAIG shareholders an investment choice depending on their individual investment objectives.

**Other matters**

39. All shares in AAIG and Halo were issued after 20 September 1985.
40. Just before the Implementation Date, more than 90% of the shares in AAIG were held by Australian residents.
41. Immediately before the Implementation Date, the share capital account of AAIG was not tainted within the meaning of Division 197.
42. For the purposes of the cost base and reduced cost base apportionment under subsections 125-80(2) and (3), a reasonable approximation of the market values of an AAIG share and a Halo share just after the demerger has been calculated as:
- 19.59 cents for each AAIG share, and
  - 77.54 cents for each Halo share, being the volume-weighted average price of Halo shares as traded on the ASX over the first 5 trading days from (and including) 26 April 2022.

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**Commissioner of Taxation**

20 July 2022

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## References

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### *Legislative references:*

- ITAA 1936 6(1)
  - ITAA 1936 44(1)
  - ITAA 1936 45
  - ITAA 1936 45A(1)
  - ITAA 1936 45A(2)
  - ITAA 1936 45B(2)(c)
  - ITAA 1936 45B(3)
  - ITAA 1936 45BA
  - ITAA 1936 45C
  - ITAA 1997 104-135
  - ITAA 1997 104-135(3)
  - ITAA 1997 115-30(1)
  - ITAA 1997 125-55(1)
  - ITAA 1997 125-60(1)
  - ITAA 1997 125-70
  - ITAA 1997 125-80(1)
  - ITAA 1997 125-80(2)
  - ITAA 1997 125-80(3)
  - ITAA 1997 125-85(1)
  - ITAA 1997 125-85(2)
  - ITAA 1997 Div 197
  - ITAA 1997 Div 230
  - ITAA 1997 977-50
  - ITAA 1997 995-1(1)
  - Corporations Act 2001 256B
  - Corporations Act 2001 256C
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### ATO references

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