


CR 2023/6 - Australia and New Zealand Banking Group Limited - exchange of shares for shares in ANZ Group Holdings Limited

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Status: **legally binding**

Class Ruling

Australia and New Zealand Banking Group Limited – exchange of shares for shares in ANZ Group Holdings Limited

❶ Relying on this Ruling

This publication (excluding appendix) 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 Australia and New Zealand Banking Group Limited (ANZBGL) shareholders who disposed of their ANZBGL shares to ANZ Group Holdings Limited under the scheme to which this Ruling relates.
2. Full details of this scheme are set out in paragraphs 20 to 34 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:
 - were registered on the ANZBGL share register at 7:00 pm AEDT on 22 December 2022 (Record Date)
 - are a resident of Australia within the meaning of subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936), and
 - are not a temporary resident within the meaning of subsection 995-1(1).
5. This Ruling does not apply to you if you:
 - acquired your ANZBGL shares before 20 September 1985 unless you are an individual, or

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- are subject to the taxation of financial arrangements rules in Division 230 in relation to gains and losses on your ANZBGL shares.

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 2022 to 30 June 2023.

Ruling

Shareholders are taken to have chosen Division 615 roll-over relief

7. You are taken to have chosen to obtain a roll-over under Division 615 in relation to the exchange of your ANZBGL shares for ANZ Group Holdings Limited shares (subsection 615-5(2)).

Capital gains tax consequences for shares held as capital assets

Disposal of Australia and New Zealand Banking Group Limited shares – CGT event A1

8. CGT event A1 happens when you dispose of each of your ANZBGL shares to ANZ Group Holdings Limited under the scheme described in this Ruling (subsection 104-10(1)).
9. As you are taken to have chosen a roll-over under Division 615, you will disregard any capital gain or capital loss made from the disposal of ANZBGL shares in exchange for the ANZ Group Holdings Limited shares (section 615-40, and subsection 124-15(2)).

Cost base and acquisition date for ANZ Group Holdings Limited shares

Australia and New Zealand Banking Group Limited shares acquired before 20 September 1985

10. If you acquired all of your ANZBGL shares before 20 September 1985, you are taken to have acquired the ANZ Group Holdings Limited shares before that day (subsection 124-15(4)).

11. If you acquired some of your ANZBGL shares before 20 September 1985 and some ANZBGL shares on or after 20 September 1985, you are taken to have acquired a number of ANZ Group Holdings Limited shares before 20 September 1985. It is the maximum possible that does not exceed the following formula (subsection 124-15(5)):

$$\text{No of ANZ Group Holdings Limited shares} \times (\text{No of ANZBGL shares acquired before 20 September 1985} \div \text{Total no of ANZBGL shares})$$

12. For the remaining ANZ Group Holdings Limited shares, the first element of the cost base (and reduced cost base) of each ANZ Group Holdings Limited share is (subsection 124-15(6)):

Total of the cost bases of all the ANZBGL shares you acquired on or after 20 September 1985 ÷ No of remaining ANZ Group Holdings Limited shares

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Australia and New Zealand Banking Group Limited shares acquired on or after 20 September 1985

13. If you acquired all of your ANZBGL shares on or after 20 September 1985, the first element of the cost base and reduced cost base of each ANZ Group Holdings Limited share that you acquired under the scheme will equal the total of the cost bases of all your ANZBGL shares (worked out at the time of their disposal) divided by the number of ANZ Group Holdings Limited shares issued to you (section 615-40 and subsection 124-15(3)).

14. For the purpose of determining any discount capital gains under Division 115, you are taken to have acquired those ANZ Group Holdings Limited shares on the same date you acquired your corresponding ANZBGL shares (table item 2 of subsection 115-30(1)).

Shares held as trading stock

15. If you held your ANZBGL shares as trading stock (as defined in subsection 995-1(1)), and subsequently hold the ANZ Group Holdings Limited shares acquired as trading stock, the amount included in your assessable income on disposal of each of your ANZBGL shares is its:

- value as trading stock (as defined in sections 70-40 and 70-45) at the start of the income year and the amount (if any) by which its cost has increased since the start of the income year, if the share has been held as trading stock since the start of the income year that included the disposal time, or
- cost at the time of the disposal (subsection 615-50(1)).

16. The amount taken to have been paid by you for each of the ANZ Group Holdings Limited shares acquired as trading stock is equal to the amount included in assessable income on disposal of the ANZBGL shares (as calculated in paragraph 15 of this Ruling) divided by the number of ANZ Group Holdings Limited shares acquired as trading stock (subsection 615-50(2)).

Shares held as revenue assets

17. If you held your ANZBGL shares as revenue assets (as defined in section 977-50), and subsequently hold your ANZ Group Holdings Limited shares acquired as revenue assets, the gross proceeds received for the disposal of each ANZBGL share is taken to be the amount needed to have a nil profit and nil loss for that disposal (subsection 615-55(1)).

18. For the purpose of calculating any profit or loss on the future disposal of each ANZ Group Holdings Limited share acquired that is a revenue asset, the amount taken to have been paid for each ANZ Group Holdings Limited share is the amount needed to have a nil profit and nil loss for that disposal (as calculated in paragraph 17 of this Ruling) divided by the number of ANZ Group Holdings Limited shares acquired as revenue assets (subsection 615-55(2)).

No determination will be made under section 45B of the ITAA 1936

19. The Commissioner will not make a determination under section 45B of the ITAA 1936 that section 45C of the ITAA 1936 applies to the ANZ Group Holdings Limited shares you received under the share exchange.

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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.

Australia and New Zealand Banking Group Limited

21. Prior to the restructure:

- ANZBGL was a public company listed on the Australian Securities Exchange (ASX).
- ANZBGL was the head company of a diversified financial services group that provides banking and financial products and services to retail and business customers.
- ANZBGL was the head company of the tax consolidated group, which consisted of itself and its wholly-owned subsidiaries.
- ANZBGL had ordinary shares on issue and did not have any preference shares or other classes of shares on issue.

22. ANZBGL is an authorised deposit-taking institution under the *Banking Act 1959*.

23. As an authorised deposit-taking institution, ANZBGL is subject to the prudential supervision of the Australian Prudential Regulation Authority and must comply with the relevant prudential standards determined and regulated by the Australian Prudential Regulation Authority.

ANZ Group Holdings Limited

24. ANZ Group Holdings Limited is a public company limited by shares. Prior to the restructure it had one ordinary share on issue, which was owned by ANZBGL.

Restructure of Australia and New Zealand Banking Group Limited

25. On 4 May 2022, ANZBGL announced its plans to undertake a restructure with the following components:

- the interposition of ANZ Group Holdings Limited as the ultimate holding company of ANZBGL group's businesses
- ANZ Group Holdings Limited being admitted to the official list of the ASX and ANZBGL's listing on the ASX being converted to a debt listing only, and
- an internal restructure, involving the establishment of 2 groups – banking and non-banking (including) services.

26. The interposition of ANZ Group Holdings Limited as the ultimate holding company was achieved by ANZBGL shareholders exchanging their shares in ANZBGL for shares in ANZ Group Holdings Limited (Share Exchange).

27. The restructure was implemented on 3 January 2023 via a court-approved scheme of arrangement in accordance with the *Corporations Act 2001* (Implementation Date).

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28. On the Implementation Date:

- Ineligible Foreign Shareholders transferred their ANZBGL shares to the Sale Agent.
- ANZ Group Holdings Limited issued ordinary shares to eligible ANZBGL shareholders (and the Sale Agent) on a one-for-one basis.
- At the same time ANZ Group Holdings Limited issued shares to eligible ANZBGL shareholders (and the Sale Agent), the single share held by ANZBGL in ANZ Group Holdings Limited was bought back and cancelled.
- Eligible ANZBGL shareholders (and the Sale Agent) transferred all their shares in ANZBGL to ANZ Group Holdings Limited.

Ineligible Foreign Shareholders

29. Certain overseas shareholders (Ineligible Foreign Shareholders) were ineligible to receive ANZ Group Holdings Limited shares under the scheme.

30. Instead of participating in the Share Exchange, on the Implementation Date:

- The Ineligible Foreign Shareholders transferred their ANZBGL shares to the Sale Agent.
- The Sale Agent participated in the Exchange as nominee in respect of the Ineligible Foreign Shareholders.

31. After the Implementation Date, the Sale Agent sold or procured the sale of all the ANZ Group Holdings Limited shares that it held and it remitted the net proceeds to Ineligible Foreign Shareholders.

Other matters

32. ANZBGL was suspended from trading on the ASX from close of the Effective Date (as defined in ANZ Group's Explanatory Memorandum) and its listing was converted to a debt-only listing on or shortly after the Implementation Date.

33. ANZ Group Holdings Limited was admitted to the Official List of the ASX shortly after the Effective Date and commenced normal trading after the Implementation Date.

34. ANZ Group Holdings Limited has chosen under subsection 615-30(2) that the tax consolidated group originally comprising of ANZBGL (as head company) and its member entities will continue in existence after the scheme with ANZ Group Holdings Limited as its head company.

Commissioner of Taxation

15 February 2023

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Appendix – Explanation

❶ *This Explanation 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.*

Division 615 roll-over

35. The ANZBGL shareholders who participate in the Share Exchange will be taken, under subsection 615-5(2), to have chosen to obtain the roll-over because:

- the Share Exchange satisfies the necessary conditions in subsection 615-5(1) and Subdivision 615-B as discussed in paragraphs 36 and 37 of this Ruling
- immediately before the completion time (as defined in section 615-15), ANZBGL is the head company of the tax consolidated group, and
- immediately after the completion time (as defined in section 615-15), ANZ Group Holdings Limited is the head company of the tax consolidated group.

36. Division 615 contains a number of conditions for eligibility for roll-over. The main conditions that are relevant to the ANZBGL shareholders who participate in the Share Exchange are:

- at least 2 entities must own all the shares or units in the 'original entity' (ANZBGL) (paragraphs 615-5(1)(a) and (b))
- there must be a scheme for reorganising the original entity's affairs, and consideration for the disposal of the shares or units in the original entity must consist only of receiving shares in another company (the interposed company) (ANZ Group Holdings Limited) and nothing else (paragraph 615-5(1)(c))
- the interposed company must own all the shares or units in the original entity immediately after the time (the completion time) all the exchanging members have disposed of their shares or units in the original entity (section 615-15)
- immediately after the completion time, each exchanging member must own a whole number of shares in the interposed company (paragraph 615-20(1)(a))
- immediately after the completion time, each exchanging member must own a percentage of the shares in the interposed company that were issued to all the exchanging members of the original entity that is equal to the percentage of the shares or units in the original entity that the exchanging member owned (paragraph 615-20(1)(b))
- the market value ratio tests in subsection 615-20(2) are satisfied
- the shares issued in the interposed company must not be redeemable shares (subsection 615-25(1)), and
- immediately after the completion time, the exchanging members must own all the shares in the interposed company, or entities other than the exchanging members must own no more than 5 shares in the interposed company and the market value of those shares is such that it is reasonable

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to treat the exchanging members as owning all the shares
(subsection 615-25(3)).

37. Under the scheme, each ANZBGL shareholder receives ANZ Group Holdings Limited shares in exchange for all of their ANZBGL shares and nothing else. Immediately after the completion time, ANZ Group Holdings Limited owned all the shares in ANZBGL and each ANZBGL shareholder had the same percentage interest in and market value ratio of shares in ANZ Group Holdings Limited immediately after the completion time as they had in ANZBGL before the completion time. All shareholders own a whole number of shares in ANZ Group Holdings Limited immediately after the completion time.

38. All other relevant conditions under Division 615 are satisfied under the Scheme.

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References

Legislative references:

- ITAA 1936 6(1)
- ITAA 1936 45B
- ITAA 1936 45C
- ITAA 1997 70-40
- ITAA 1997 70-45
- ITAA 1997 104-10(1)
- ITAA 1997 Div 115
- ITAA 1997 115-30(1)
- ITAA 1997 124-15(2)
- ITAA 1997 124-15(3)
- ITAA 1997 124-15(4)
- ITAA 1997 124-15(5)
- ITAA 1997 124-15(6)
- ITAA 1997 Div 230
- ITAA 1997 Div 615
- ITAA 1997 615-5(1)
- ITAA 1997 615-5(1)(a)
- ITAA 1997 615-5(1)(b)
- ITAA 1997 615-5(1)(c)
- ITAA 1997 615-5(2)
- ITAA 1997 Subdiv 615-B
- ITAA 1997 615-15
- ITAA 1997 615-20(1)(a)
- ITAA 1997 615-20(1)(b)
- ITAA 1997 615-20(2)
- ITAA 1997 615-25(1)
- ITAA 1997 615-25(3)
- ITAA 1997 615-30(2)
- ITAA 1997 615-40
- ITAA 1997 615-50(1)
- ITAA 1997 615-50(2)
- ITAA 1997 615-55(1)
- ITAA 1997 615-55(2)
- ITAA 1997 977-50
- ITAA 1997 995-1(1)
- Corporations Act 2001
- Banking Act 1959

ATO references

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