


CR 2024/5 - Shriro Holdings Limited - return of capital

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Status: **legally binding**

Class Ruling

Shriro Holdings Limited – return of capital

① 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 shareholders of Shriro Holdings Limited (Shriro) who received the return of share capital of \$0.185 per Shriro share (Capital Return) on 4 January 2024 (Payment Date).
2. Details of this scheme are set out in paragraphs 16 to 33 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:
 - received the Capital Return payment on the Payment Date, and
 - held your Shriro shares on capital account – that is, you did not hold your Shriro shares as revenue assets (as defined in section 977-50) or as trading stock (as defined in 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 in relation to the scheme outlined in paragraphs 16 to 33 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 2023 to 30 June 2024.

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Ruling

Return of capital is not a dividend

7. No part of the Capital Return you received from Shriro on the Payment Date is a dividend as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936). This is because the entire amount of the Capital Return has been debited against an amount standing to the credit of Shriro's share capital account. Therefore, no part of the Capital Return is included in your assessable income as a dividend under subsection 44(1) of the ITAA 1936.

Anti-avoidance provisions

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

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

Capital gains tax consequences

CGT event G1

9. CGT event G1 happened on the Payment Date when Shriro paid you the Capital Return in respect of each Shriro share you owned on 27 December 2023 (Record Date) and continued to own on the Payment Date (section 104-135).

10. You made a capital gain when CGT event G1 happened if the Capital Return you received was more than your Shriro share's cost base (subsection 104-135(3)).

11. If the Capital Return you received was not more than the cost base of your Shriro share, the cost base or reduced cost base of your Shriro share is reduced by the amount of the Capital Return (subsection 104-135(4)).

CGT event C2

12. CGT event C2 happened to your right to receive the Capital Return on the Payment Date when Shriro paid you the Capital Return in respect of each Shriro share you owned on the Record Date but ceased to own before the Payment Date (section 104-25).

13. You made a capital gain under CGT event C2 if the capital proceeds from the ending of the right (being the Capital Return amount) were more than the cost base of the right. You made a capital loss if the capital proceeds from the ending of the right were less than the reduced cost base of the right (subsection 104-25(3)).

Discounted capital gain

14. You treat a capital gain made when CGT event G1 or CGT event C2 happened as a discount capital gain if you acquired your Shriro shares at least 12 months before the

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Payment Date (subsection 115-25(1)), provided the other conditions in Subdivision 115-A are satisfied.

Foreign-resident shareholders

15. If you were a foreign resident or the trustee of a foreign trust for CGT purposes as defined in subsection 995-1(1) on the Payment Date, you disregard any capital gain made from CGT event G1 or any capital gain or capital loss from CGT event C2 happening to your Shriro shares, pursuant to subsection 855-10(1), unless you:

- have used your Shriro shares at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or
- are an individual and your Shriro shares were covered by subsection 104-165(3) (choosing to disregard a capital gain or capital loss on ceasing to be an Australian resident) (table item 5 of section 855-15).

Scheme

16. 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.

Shriro Holdings Limited

17. Shriro is a public company incorporated in Australia on 14 April 2015. It has been listed on the Australian Securities Exchange since 23 June 2015.

18. Shriro is a consumer products marketing and distribution business which operates in Australia and New Zealand. It is the head company of an income tax consolidated group under Part 3-90.

19. As at 30 June 2023, Shriro had approximately:

- \$95.8 million credited to its share capital
- \$50.0 million in retained earnings, and
- \$77.6 million debited to reserves.

20. At 30 June 2023, Shriro had 96,415,670 ordinary shares on issue. Approximately 46% of the Shriro shares on issue were held by non-resident shareholders.

21. Shriro has a target dividend payout ratio of approximately 60% to 70% of its net profit after tax. Since listing on the Australian Securities Exchange, Shriro has paid fully franked dividends to its shareholders every year, and its average dividend payout ratio is approximately 68%.

22. For the income year ended 30 June 2023, Shriro paid approximately \$7,199,000 in fully franked dividends.

23. Shriro has not previously returned any share capital to its shareholders.

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Disposal of the appliance businesses

24. On 1 May 2022 and 31 March 2023, respectively, Shiro exited its appliance businesses, consisting of its Blanco distribution business and the Omega business.
25. The proceeds from the disposal of the appliance businesses were in excess of Shiro's business requirements. As a result, the directors of Shiro decided to return the surplus funds back to Shiro shareholders.

Return of capital

26. On 22 September 2023, Shiro announced that it would distribute approximately \$17.8 million by way of an equal reduction of share capital under sections 256B and 256C of the *Corporations Act 2001*.
27. The Capital Return was approved by the shareholders of Shiro on 26 October 2023.
28. On the Payment Date, Shiro shareholders received the Capital Return (being \$0.185 per share) in respect of each Shiro share they held on the Record Date.
29. The Capital Return was paid from Shiro's available cash balance.
30. The total Capital Return amount of \$17,836,898.95 was debited to Shiro's share capital account.
31. There was no change to the proportionate interest of each shareholder in Shiro following the Capital Return.

Other matters

32. The share capital account (as defined in section 975-300) of Shiro is not tainted within the meaning of Division 197.
33. Less than 50% of the market value of Shiro's assets were 'taxable Australian real property' (as defined in section 855-20).

Commissioner of Taxation

31 January 2024

Status: **not legally binding**

References

Legislative references:

- ITAA 1936 6(1)
 - ITAA 1936 44(1)
 - ITAA 1936 45A(1)
 - ITAA 1936 45A(2)
 - ITAA 1936 45B(2)
 - ITAA 1936 45B(3)(b)
 - ITAA 1936 45C
 - ITAA 1997 104-25
 - ITAA 1997 104-25(3)
 - ITAA 1997 104-135
 - ITAA 1997 104-135(3)
 - ITAA 1997 104-135(4)
 - ITAA 1997 104-165(3)
 - ITAA 1997 Subdiv 115-A
 - ITAA 1997 115-25(1)
 - ITAA 1997 Div 197
 - ITAA 1997 Div 230
 - ITAA 1997 Pt 3-90
 - ITAA 1997 855-10(1)
 - ITAA 1997 855-15
 - ITAA 1997 855-20
 - 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

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