

CR 2024/58 - QV Equities Limited - scheme of arrangement



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Status: **legally binding**

Class Ruling

QV Equities Limited – scheme of arrangement

① 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 shareholders in QV Equities Limited (QVE) in relation to the scheme of arrangement where shareholders, in exchange for their shares in QVE, received cash, or shares in WAM Leaders Limited (WAM Leaders), or both, on 15 July 2024 (Implementation Date).
2. Details of this scheme are set out in paragraphs 29 to 49 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:
 - QVE shares registered on QVE's share register on 8 July 2024 (Record Date), and
 - your QVE shares on capital account – that is, you did not hold your QVE shares as revenue assets (as defined in section 977-50) nor as trading stock (as defined in subsection 995-1(1)).
5. This Ruling does not apply to you if you are subject to the:
 - investment manager regime in Subdivision 842-I, or
 - taxation of financial arrangements rules in Division 230 in relation to the scheme outlined in paragraphs 29 to 49 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 2024 to 30 June 2025.

Ruling

CGT event A1 happened on the disposal of shares in QV Equities Limited

7. CGT event A1 happened when you disposed of your QVE shares to WAM Leaders (section 104-10).

8. CGT event A1 happened on the Implementation Date (paragraph 104-10(3)(b)).

Capital proceeds

9. If you received cash when you disposed of your QVE shares, the capital proceeds is \$0.9576 for each QVE share (paragraph 116-20(1)(a)).

10. If you received WAM Leaders shares when you disposed of your QVE shares, the capital proceeds is the market value of the WAM Leaders shares received (paragraph 116-20(1)(b)). The market value of the WAM Leaders shares is worked out at the time of CGT event A1.

11. We accept that the market value of each WAM Leaders share at the time of CGT event A1 was \$1.3053.

Capital gain or capital loss

12. You made a capital gain if the capital proceeds from the disposal of each of your QVE shares exceeded the cost base of that share at the time of CGT event A1 (subsection 104-10(4)). The capital gain is the amount of the excess.

13. You made a capital loss if the capital proceeds from the disposal of each of your QVE shares were less than its reduced cost base at the time of CGT event A1 (subsection 104-10(4)). The capital loss is the amount of the difference.

14. If you made a capital gain on the disposal of your QVE shares, you can treat the capital gain as a 'discount capital gain' provided that:

- you are an individual, a complying superannuation entity or a trust (section 115-10), and
- you acquired your QVE shares on or before 14 July 2023, which was at least 12 months before the Implementation Date (subsection 115-25(1)).

Status: **legally binding**

Foreign resident shareholders generally disregard a capital gain or capital loss

15. You disregard a capital gain or capital loss made from CGT event A1 when you disposed of your QVE shares (section 855-10) if:

- you were a foreign resident or the trustee of a foreign trust for CGT purposes (as defined in subsection 995-1(1)), just before the Implementation Date, and
- your QVE shares were not 'taxable Australian property' (as defined in section 855-15).

16. Your QVE shares were not taxable Australian property (table items 1, 2 or 4 of section 855-15). However, your QVE shares were taxable Australian property if they were either:

- used by you at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or
- a CGT asset 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).

Availability of scrip for scrip roll-over

17. Subject to paragraphs 18 and 19 of this Ruling, if you received WAM Leaders shares for your QVE shares and you made a capital gain from the disposal of those QVE shares, you may choose to obtain scrip for scrip roll-over for that capital gain (sections 124-780 and 124-785). Scrip for scrip roll-over is not available if you made a capital loss.

18. You cannot choose scrip for scrip roll-over if any capital gain you might subsequently make from the replacement WAM Leaders shares would be disregarded, except because of a roll-over (paragraph 124-795(2)(a)).

19. If you were a foreign resident just before the Implementation Date, you cannot choose scrip for scrip roll-over unless the replacement WAM Leaders shares were taxable Australian property (as defined in section 855-15) just after the Implementation Date (subsection 124-795(1)).

Consequences if you choose scrip for scrip roll-over

20. If you choose scrip for scrip roll-over and you received WAM Leaders shares for your QVE shares, the capital gain made from the disposal of those QVE shares is disregarded (subsection 124-785(1)).

21. If you choose scrip for scrip roll-over and you received WAM Leaders shares, the first element of the cost base and reduced cost base of each replacement WAM Leaders share you received is worked out by reasonably attributing to it the cost base and reduced cost base (respectively) of your original QVE shares exchanged for those WAM Leaders shares (subsections 124-785(2) and (4)).

22. We accept a reasonable method of attribution would be to calculate the first element of the cost base and reduced cost base of each replacement WAM Leaders share by dividing the total cost bases of your QVE shares which were replaced by WAM Leaders shares, by the number of replacement WAM Leaders shares you received.

Status: **legally binding**

23. For the purpose of determining whether a capital gain made from any later disposal of your WAM Leaders shares is a discount capital gain, if you choose scrip for scrip roll-over, you are taken to have acquired your WAM Leaders shares on the date you acquired your original QVE shares (table item 2 of subsection 115-30(1)).

Consequences if you do not, or cannot, choose scrip for scrip roll-over

24. If you do not, or cannot, choose scrip for scrip roll-over, any capital gain or capital loss from the disposal of your QVE shares is taken into account in working out your net capital gain or net capital loss for the income year in which CGT event A1 happened (sections 102-5 and 102-10).

25. If you made a capital gain where you do not choose, or cannot choose, scrip for scrip roll-over, you can treat the capital gain as a discount capital gain provided that the conditions of Subdivision 115-A are met (see paragraph 14 of this Ruling). In particular, the QVE shares you disposed of must have been acquired on or before 14 July 2023 (section 115-25).

26. If you do not choose, or cannot choose, scrip for scrip roll-over, and you received WAM Leaders shares for your QVE shares, the first element of the cost base and reduced cost base of the replacement WAM Leaders shares that you received is equal to the market value of the QVE shares you gave in order to acquire the WAM Leaders shares (subsections 110-25(2) and 110-55(2)).

27. The market value of the QVE shares you gave is to be worked out at the time when you acquired the WAM Leaders shares, which is on the Implementation Date (paragraph 110-25(2)(b) and subsection 110-55(2)). We accept that the market value of a QVE share at that time was \$0.935.

28. If you do not, or cannot, choose scrip for scrip roll-over and you received WAM Leaders shares for your QVE shares, you are taken to have acquired the WAM Leaders shares on the Implementation Date (table item 2 of section 109-10 and paragraph 104-35(5)(c)).

Scheme

29. 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.

QV Equities Limited

30. QVE is an Australian-resident company incorporated on 17 April 2014 and listed on the Australian Securities Exchange (ASX).

31. Its principal activity is making investments in a diversified portfolio of entities listed on the ASX which are not included in the S&P/ASX 20 Accumulation Index.

32. As at 1 July 2024, QVE had 227,412,619 ordinary shares on issue.

Status: **legally binding**

WAM Leaders Limited

33. WAM Leaders is an Australian-resident company that is one of 8 ASX-listed investment companies that is managed by the Wilson Asset Management group.
34. The principal activity of WAM Leaders is investing in top 200 S&P/ASX companies.

Acquisition of QV Equities Limited shares by WAM Leaders Limited

35. On 12 March 2024, QVE and WAM Leaders entered into a Scheme Implementation Agreement for WAM Leaders to acquire 100% of the shares in QVE by way of a scheme of arrangement pursuant to Part 5.1 of the *Corporations Act 2001*.
36. In exchange for their QVE shares, QVE shareholders could elect to receive WAM Leaders shares, cash, or a combination of both. QVE shareholders who did not make a valid election received WAM Leaders shares.
37. On 28 June 2024, the scheme of arrangement was approved by QVE shareholders at the shareholders meeting.
38. On 4 July 2024, the Federal Court of Australia approved the scheme of arrangement and provided orders pursuant to Part 5.1 of the *Corporations Act 2001*.
39. The scheme of arrangement became effective on 4 July 2024.
40. QVE shares were transferred to WAM Leaders and QVE shareholders received WAM Leaders shares, cash, or both, on 15 July 2024.
41. QVE shareholders who received replacement WAM Leaders shares received 0.7323 of a WAM Leaders share for each QVE share held on the Record Date with any resulting fractional entitlement of:
- 0.5 or more of a replacement WAM Leaders share being rounded up to the nearest whole number, and
 - less than 0.5 of a replacement WAM Leaders share being rounded down to the nearest whole number.
42. QVE shareholders who received cash received \$0.9576 for each QVE share held on the Record Date.
43. For QVE shareholders who received a combination of WAM Leaders shares and cash for their QVE shares, the amount of shares and cash they received was relative to the percentage of QVE shares they held on the Record Date and calculated in accordance with paragraphs 41 and 42 of this Ruling.
44. For QVE shareholders who were considered to be ineligible overseas shareholders, any replacement WAM Leaders shares they would otherwise have been issued with were to be issued to a nominee who would sell them on their behalf and provide them with the net proceeds of sale.

Other matters

45. QVE and WAM Leaders did not have a 'significant stakeholder' or 'common stakeholder' for the scheme of arrangement within the meaning of those terms in section 124-783.

Status: **legally binding**

46. Neither WAM Leaders nor any of its wholly owned subsidiaries issued equity (other than the WAM Leaders shares issued to QVE shareholders in exchange for their QVE shares), or owed new debt under the scheme of arrangement, to an entity that was not a member of the group and in relation to the issuing of the replacement WAM Leaders shares (paragraph 124-780(3)(f)).

47. WAM Leaders did not make a choice so that QVE shareholders could not obtain roll-over under Subdivision 124-M (subsection 124-795(4)).

48. QVE shareholders and WAM Leaders dealt with each other at arm's length in relation to the disposal and acquisition of the QVE shares (subsection 124-780(4)).

49. On the Implementation Date:

- no foreign resident QVE shareholder and their associates together held 10% or more of the issued shares in QVE
- the sum of QVE's assets which were taxable Australian real property did not exceed the sum of the market values of its assets that were not taxable Australian real property (for the purposes of section 855-30)
- the 5-day volume-weighted average price of a WAM Leaders share was \$1.3053, and
- the 5-day volume-weighted average price of a QVE share was \$0.935.

Commissioner of Taxation

18 September 2024

Status: **not legally binding**

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.*

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Capital proceeds

50. The capital proceeds from a CGT event is the total of the money and the market value of any property received, or entitled to be received (worked out at the time of the event happening) in respect of the event happening (subsections 116-20(1)(a) and (b)).

Example – capital proceeds

51. On the Record Date, Jase holds 10,000 QVE shares with a cost base of \$0.90 each of which were purchased on 26 May 2023.

52. Under the scheme of arrangement, Jase elects to receive WAM Leaders shares in respect of 70% of the total number of QVE shares he holds (7,000 QVE shares), with cash for the remaining 30% of the QVE shares held (3,000 QVE shares).

53. As a result, Jase receives 5,126 replacement WAM Leaders shares and cash of \$2,872.80¹ with the capital proceeds calculated as follows:

Table 1: Capital proceeds

Exchange option taken	Capital proceeds
WAM Leaders shares	\$6,690.97 (5,126 WAM Leaders shares × \$1.3053)
Cash	\$2,872.80 (3,000 QVE shares × \$0.9576)
Total	\$9,563.77

54. Jase chooses scrip for scrip roll-over in respect of the replacement WAM Leaders shares he receives. Therefore, the capital gain of \$390.97 (that is, \$6,690.97 – \$6,300) made from the disposal of the QVE shares is disregarded.

55. However, Jase cannot choose roll-over in respect of the cash he receives. Therefore, the capital gain of \$172.80 (that is, \$2,872.80 – \$2,700) he makes from the disposal of the QVE shares is taken into account in working out his net capital gain or net capital loss. As Jase is a resident individual, the capital gain is reduced by 50% because the QVE shares were acquired on or before 14 July 2023.

¹ Calculated in accordance with the formula set out at paragraph 41 and 42 of this Ruling.

Status: **not legally binding**

Availability of scrip for scrip roll-over

56. Scrip for scrip roll-over under Subdivision 124-M enables a shareholder to disregard a capital gain from a share that is disposed of if the shareholder receives a replacement share in exchange. It also provides special rules for calculating the cost base of the replacement share.

57. Subdivision 124-M contains a number of conditions for, and exceptions to, a shareholder being eligible to choose scrip for scrip roll-over. The main requirements that are relevant to the scheme that is the subject of this Ruling are:

- an entity exchanges shares in a company for shares in another company (paragraph 124-780(1)(a))
- the exchange is in consequence of a single arrangement that satisfies subsection 124-780(2) or (2A)
- the conditions for the roll-over in subsection 124-780(3) are satisfied
- further conditions in subsection 124-780(5), if applicable, are satisfied, and
- exceptions to obtaining scrip for scrip roll-over are not applicable.

58. The scheme that is the subject of this Ruling satisfies the requirements for a roll-over under Subdivision 124-M.

Status: **not legally binding**

References

Legislative references:

- 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 104-35(5)(c)
 - ITAA 1997 104-165(3)
 - ITAA 1997 109-10
 - ITAA 1997 110-25(2)
 - ITAA 1997 110-25(2)(b)
 - ITAA 1997 110-55(2)
 - ITAA 1997 Subdiv 115-A
 - ITAA 1997 115-10
 - ITAA 1997 115-25
 - ITAA 1997 115-25(1)
 - ITAA 1997 115-30(1)
 - ITAA 1997 116-20(1)(a)
 - ITAA 1997 116-20(1)(b)
 - ITAA 1997 Subdiv 124-M
 - ITAA 1997 124-780
 - ITAA 1997 124-780(1)(a)
 - ITAA 1997 124-780(2)
 - ITAA 1997 124-780(2A)
 - ITAA 1997 124-780(3)
 - ITAA 1997 124-780(3)(f)
 - ITAA 1997 124-780(4)
 - ITAA 1997 124-780(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(1)
 - ITAA 1997 124-795(2)(a)
 - ITAA 1997 124-795(4)
 - ITAA 1997 Div 230
 - ITAA 1997 Subdiv 842-I
 - ITAA 1997 855-10
 - ITAA 1997 855-15
 - ITAA 1997 855-30
 - ITAA 1997 977-50
 - ITAA 1997 995-1(1)
 - Corporations Act 2001 Pt 5.1
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ATO references

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