


# ***CR 2025/81 - Firefinch Limited - return of capital and special dividend***

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## Class Ruling

# Firefinch Limited – return of capital and special dividend

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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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<b>Table of Contents</b>	<b>Paragraph</b>
What this Ruling is about	1
Who this Ruling applies to	5
When this Ruling applies	7
<b>Ruling</b>	<b>8</b>
<b>Scheme</b>	<b>23</b>

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### **What this Ruling is about**

1. This Ruling sets out the income tax consequences for shareholders of Firefinch Limited (Firefinch) who received the following payments:
  - unfranked special dividend of \$0.0225 per ordinary Firefinch share (Special Dividend) on 26 September 2025 (Special Dividend Payment Date), and
  - capital return of \$0.01735 per ordinary Firefinch share (Capital Return) on 11 November 2025 (Capital Return Payment Date).
2. Details of this scheme are set out in paragraphs 23 to 50 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.
4. The references to monetary values contained in this Ruling are expressed in Australian dollars, unless otherwise indicated.

### **Who this Ruling applies to**

5. This Ruling applies to you if you:
  - were a registered Firefinch shareholder on 12 September 2025 (Record Date)
  - held your Firefinch shares on capital account – that is, you did not hold your Firefinch shares as ‘revenue assets’ (as defined in section 977-50) or as ‘trading stock’ (as defined in subsection 995-1(1))
  - received the Capital Return of \$0.01735 per share on 11 November 2025, and

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- received the Special Dividend of \$0.0225 per share on 26 September 2025.

6. 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 23 to 50 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**

7. This Ruling applies from 1 July 2025 to 30 June 2026.

## **Ruling**

### **Special dividend**

8. The Special Dividend is a 'dividend' as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936).

9. If you are a 'resident of Australia' (as defined in subsection 6(1) of the ITAA 1936), you include the Special Dividend in your assessable income (paragraph 44(1)(a) of the ITAA 1936).

10. If you are a 'non-resident' (as defined in subsection 6(1) of the ITAA 1936), the Special Dividend is non-assessable non-exempt income and not included in your assessable income as the distribution statement associated with the Special Dividend declared 100% of the Special Dividend to be conduit foreign income (paragraph 802-15(1)(a)). You are also not liable to pay withholding tax in respect of the Special Dividend (paragraph 802-15(1)(b)).

### **Capital return is not a dividend**

11. No part of the Capital Return that you received from Firefinch on the Capital Return Payment Date is a 'dividend' as defined in subsection 6(1) of the ITAA 1936.

12. Therefore, no part of the Capital Return is included in your assessable income under section 44 of the ITAA 1936.

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

13. The Commissioner will not make a determination under paragraph 45B(3)(b) of the ITAA 1936 that section 45C applies to any part of the Capital Return you received on the Capital Return Payment Date. Accordingly, no part of the Capital Return will be taken to be an unfranked dividend.

### **Capital gains tax consequences**

#### **CGT event G1**

14. CGT event G1 happened on the Capital Return Payment Date when you received the Capital Return in respect of each Firefinch share you owned at the Record Date and continued to own at the Capital Return Payment Date (section 104-135).

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15. You made a capital gain when CGT event G1 happened if the Capital Return you received was more than your Firefinch share's cost base. The amount of the capital gain is equal to the excess. If you made a capital gain, the share's cost base and reduced cost base is reduced to nil (subsection 104-135(3)).

16. If the Capital Return you received was equal to or less than the cost base of your Firefinch share, the cost base and the reduced cost base of the share is reduced by the amount of the Capital Return, but not below nil (subsection 104-135(4)).

17. You cannot make a capital loss from CGT event G1 happening (Note 1 to subsection 104-135(3)).

### **CGT event C2**

18. CGT event C2 happened on the Capital Return Payment Date when you received the Capital Return for each Firefinch share you owned at the Record Date but ceased to own before the Capital Return Payment Date (section 104-25).

19. You made a capital gain under CGT event C2 if the capital proceeds from the ending of your right to receive the Capital Return 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)).

20. In working out the capital gain or capital loss when CGT event C2 happened:

- The capital proceeds are equal to the amount of the Capital Return for each share you owned on the Record Date but ceased to own before the Capital Return Payment Date (\$0.01735 per Firefinch share) (subsection 116-20(1)).
- The cost base of your right to receive the Capital Return is worked out under Division 110 (modified by Division 112). The cost base of the right does not include the cost base or reduced cost base of the Firefinch share previously owned by you, to the extent that it was applied in working out a capital gain or capital loss made when a CGT event happened to that share – for example, when you disposed of the share after the Record Date but before the Capital Return Payment Date. Therefore, if the cost base or reduced cost base of the Firefinch share previously owned by you has been fully applied in working out a capital gain or capital loss on the share, the right to receive the Capital Return will have a nil cost base. As a result, you will, in those circumstances, make a capital gain equal to the capital proceeds, being \$0.01735 per Firefinch share owned at the Record Date.

### **Discount capital gain**

21. If you made a capital gain when CGT event G1 or CGT event C2 happened to your Firefinch shares, you are entitled to treat the capital gain as a discount capital gain under Subdivision 115-A provided you acquired your Firefinch share at least 12 months before the Capital Return Payment Date (subsection 115-25(1)) and the other conditions in that Subdivision are satisfied.

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### **Foreign resident shareholders**

22. If you were a non-resident or the trustee of a foreign trust (for capital gains tax purposes, as defined in subsection 995-1(1)) just before the Capital Return Payment Date, you disregard any capital gain made from CGT event G1, unless you:

- have used your Firefinch 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 Firefinch 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**

23. The following description of the scheme is based on information provided by Firefinch. If the scheme is not carried out as described, this Ruling cannot be relied upon.

### **Background**

24. Firefinch is an Australian company incorporated in 2005.

25. Firefinch shares were listed on the Australian Securities Exchange (ASX) from December 2006.

26. Firefinch was a gold mining and minerals exploration company with assets at various levels of development, all located in Mali, West Africa. The key assets held were the Birimian Gold Project, the Goulamina Lithium Project and the Morila Gold Project.

27. On 27 June 2022, Firefinch requested a trading halt pending a market update by Firefinch on the operational performance of and production guidance for the Morila Gold Project, which, following the demerging of Leo Lithium Limited (LLL), represented Firefinch's only productive asset.

28. Firefinch's shares have not traded on the ASX since that date. Firefinch was removed from the official list of the ASX effective 1 July 2024 following a prolonged period of suspension. The shares in Firefinch were not listed on the ASX at the time of the Special Dividend Payment Date or the Capital Return Payment Date.

### **Morila Gold Project**

29. On 10 November 2020, Firefinch acquired an 80% interest in the Morila Gold Project, a gold deposit site in Mali, from Barrick Gold Corporation and AngloGold Ashanti Limited.

30. It effected this acquisition by purchasing 100% of the shares in Morila Ltd which holds 800 B class shares in Societe des Mines de Morila SA (MSA). The Government of Mali owns 200 A class shares in MSA. MSA, in turn, owns the Morila Gold Project.

31. Between April 2021 and May 2025, Firefinch provided working capital advances to MSA amounting to US\$102,668,563.

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32. Firefinch undertook several capital raisings to fund the operations of MSA as well as the Goulamina Lithium Project:

- On 28 June 2021, Firefinch completed a placement to raise \$47 million (before costs), resulting in the issue of 117,187,206 ordinary fully paid shares at an issue price of \$0.40 per share.
- On 26 November 2021, Firefinch issued 88,560,906 ordinary fully paid shares under a share purchase plan at an issue price of \$0.58 per share, raising \$51 million.
- On 13 December 2021, Firefinch completed a \$100 institutional placement, whereby 149,253,732 ordinary fully paid shares were issued at \$0.67 offer price per share.

33. The Morila Gold Project generated operating losses which continued through to when Firefinch stopped its funding of MSA.

### **Goulamina Lithium Project**

34. Firefinch holds a 17.51% share in LLL, which was previously a wholly owned subsidiary of Firefinch prior to it being demerged from the Firefinch group in 2022.

35. LLL operated the Goulamina Lithium Project, a deposit of lithium resources located in Mali, through a joint venture with GFL International Co., Ltd (Ganfeng).

### **Disposal of Goulamina Lithium Project and Morila Gold Project**

36. On 6 May 2024, Firefinch entered into a memorandum of understanding with the Government of Mali, LLL, Ganfeng and other parties involved in the Goulamina Lithium Project and Morila Gold Project operational structures. A deed of covenant and release was also entered into between Firefinch, LLL and Ganfeng.

37. The memorandum of understanding and deed of covenant and release provided the following:

- (a) Ganfeng agreed to pay an amount to the government of Mali on LLL's behalf and Firefinch agreed to pay \$11.5 million to LLL, subject to Firefinch shareholder approval as Firefinch's contribution to the amount (Firefinch Payment). Firefinch agreed to do so by reimbursing LLL and forgiving the payment of a sum of \$574,124.05, as well as ceasing to accrue a debt of \$939,532.54 it had recorded as being owed to it by LLL.
- (b) Firefinch agreed to transfer its interest in MSA and all mining titles its subsidiaries hold in Mali for nominal consideration of US\$1 to SOREM SA, a company owned by the Government of Mali and to assign the benefit of all loans which Firefinch had made to its subsidiaries, including MSA and SOREM SA, for US\$1.
- (c) Firefinch and LLL agreed to mutually release each other from liability under the demerger deed between them, dated 29 April 2022, including in relation to the settlement outlined in subparagraphs 37(a) and (b) of this Ruling, with LLL's release of Firefinch to take effect after the Firefinch Payment outlined in subparagraph 37(a) of this Ruling.

38. LLL also entered into a binding share sale agreement with Ganfeng to sell its remaining interest in Mali Lithium BV, the company through which the joint venture in

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relation to the Goulamina Lithium Project was conducted, for a total consideration of US\$342.7 million, in 3 instalments. These instalments consisted of a US\$10.5 million non-refundable deposit and a total of US\$332.2 million in 2 tranches.

39. LLL received the US\$10.5 million non-refundable deposit on 17 May 2024 and part of the tranche 1 consideration on 26 November 2024, being US\$116.3 million of a US\$161 million instalment.

40. On 31 January 2025, LLL made a distribution of \$0.172 per share to its shareholders, which comprised a special dividend of \$0.1577 per share and a return of capital of \$0.0143 per share. This distribution was funded by the proceeds received from Ganfeng under the binding share sale agreement and the Firefinch Payment.

### **Distribution of capital return and special dividend**

41. On 12 June 2025, Firefinch announced that it would undertake to distribute the existing cash balance to its shareholders via the payment of the Special Dividend and Capital Return.

42. This Special Dividend and Capital Return consisted of a:

- distribution of proceeds received from LLL being tranche 1 of the consideration owed under the binding share sale agreement with Ganfeng, and
- distribution of Firefinch's historic cash balance being excess cash from prior capital raisings directed at funding the operations of MSA.

43. The Capital Return (being an equal reduction of capital under section 256B of the *Corporations Act 2001*) was approved by the shareholders of Firefinch on 27 October 2025.

44. On 26 September 2025, Firefinch shareholders received the Special Dividend. On 11 November 2025, Firefinch shareholders received the Capital Return.

45. The Capital Return was distributed to shareholders on an equal basis. The Special Dividend is unfranked and was declared by Firefinch in the distribution statement issued to be 'conduit foreign income' (as defined in Subdivision 802-A).

46. The Special Dividend and Capital Return was paid from Firefinch's available cash balance. The total amount of the Special Dividend of \$26,614,048 was debited to Retained Earnings. The entire Capital Return of \$20,508,723 was debited to Firefinch's share capital account.

### **Capital structure and policy**

47. As of the Record Date, Firefinch had 1,182,846,577 ordinary fully paid shares on issue to 11,847 shareholders. Approximately 3.1% of Firefinch's issued shares were held by foreign residents.

48. Firefinch's share capital account (as defined in section 975-300) is not tainted (within the meaning of Division 197).

49. Firefinch had never declared or paid a dividend prior to the Special Dividend Payment Date or the Capital Return Payment Date.

# CR 2025/81

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## Other matters

50. Less than 50% of the market value of Firefinch's assets were 'taxable Australian real property' (as defined in section 855-20).

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**Commissioner of Taxation**

26 November 2025

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## References

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### *Legislative references:*

- ITAA 1936 6(1)
  - ITAA 1936 44
  - ITAA 1936 44(1)(a)
  - ITAA 1936 45B
  - 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 Div 110
  - ITAA 1997 Div 112
  - ITAA 1997 Subdiv 115-A
  - ITAA 1997 115-25(1)
  - ITAA 1997 116-20(1)
  - ITAA 1997 Div 197
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  - ITAA 1997 802-15(1)(a)
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  - ITAA 1997 855-15
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  - ITAA1997 975-300
  - ITAA1997 977-50
  - ITAA1997 995-1(1)
  - Corporations Act 2001 256B
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### ATO references

NO: 1-16U7TETV  
 ISSN: 2205-5517  
 BSL: PG  
 ATOLaw topic: Capital gains tax ~~ CGT events ~~ C1 to C3 - end of a CGT asset  
 Capital gains tax ~~ CGT events ~~ G1 to G3 - shares  
 Income tax ~~ Capital management ~~ Share capital return

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