


# ***CR 2025/92 - Leo Lithium Limited - return of capital and special dividend***

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Status: **legally binding**

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## Class Ruling

# Leo Lithium 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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### **What this Ruling is about**

1. This Ruling sets out the income tax consequences of the distribution of \$0.054 per share (Distribution) to Leo Lithium Limited (Leo Lithium) shareholders on 11 November 2025 (Payment Date), which comprised a special dividend of \$0.007 per share (Dividend) and a capital return of \$0.047 per share (Capital Return).
2. Details of this scheme are set out in paragraphs 24 to 44 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:
  - held Leo Lithium shares on 31 October 2025 (Record Date) and received the Distribution on the Payment Date, and
  - held your Leo Lithium shares on capital account – that is, you did not hold your Leo Lithium shares as ‘revenue assets’ (as defined in section 977-50) or as ‘trading stock’ (as defined in subsection 995-1(1)).
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 24 to 44 of this Ruling.

Note: Division 230 will not apply to individuals unless they have made an election for it to apply.

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**When this Ruling applies**

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

**Ruling****Dividend**

8. The 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 Dividend in your assessable income (subparagraph 44(1)(a)(i) of the ITAA 1936).

10. If you are a non-resident, the Dividend is non-assessable non-exempt income and not included in your assessable income (paragraph 802-15(1)(a)). You are also not liable to pay withholding tax in respect of the Dividend (paragraph 802-15(1)(b)).

**Capital Return is not assessable income**

11. The Capital Return that you received from Leo Lithium on the Payment Date is not a 'dividend' as defined in subsection 6(1) of the ITAA 1936.

12. As the Capital Return is not a dividend, it is not required to be included in your assessable income under subsection 44(1) of the ITAA 1936.

**Section 45B of the ITAA 1936 does not apply to the Capital Return**

13. We will not make a determination under subsection 45B(3) of the ITAA 1936 that section 45C of the ITAA 1936 applies to any part of the Capital Return you received from Leo Lithium on the Payment Date.

**Capital gains tax consequences****CGT event G1**

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

15. You made a capital gain from CGT event G1 happening if the Capital Return per Leo Lithium share was more than the share's cost base (subsection 104-135(3)). The capital gain is the difference and you reduce both the cost base and reduced cost base of your Leo Lithium share to nil.

16. If the Capital Return per Leo Lithium share was not more than the share's cost base, you reduce the cost base and reduced cost base of the share (but not below nil) by the amount of the Capital Return (subsection 104-135(4)).

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

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**CGT event C2**

18. CGT event C2 happened on the Payment Date when you received the Capital Return for each Leo Lithium share you owned at the Record Date but ceased to own before the Payment Date (section 104-25), given that the right to receive the Capital Return is a separate CGT asset from the Leo Lithium share you disposed of.

19. You made a capital gain from 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, and you made a capital loss if the capital proceeds were less than the reduced cost base of the right (subsection 104-25(3)).

20. In working out the capital gain or capital loss, the capital proceeds are equal to the amount of the Capital Return (being \$0.047 per Leo Lithium share) (subsection 116-20(1)).

21. The cost base of your right to receive the Capital Return does not include the cost base or reduced cost base of the Leo Lithium share that you disposed of, to the extent that it was applied in working out your capital gain or capital loss when you disposed of the share (Division 110, as modified by Division 112). If the cost base or reduced cost base of your share had been fully applied in working out the capital gain or capital loss on its disposal, your right will have a nil cost base and you will have made a capital gain of \$0.047 per Leo Lithium share that you owned on the Record Date but disposed of before the Payment Date.

**Discount capital gain**

22. You can treat a capital gain made when CGT event G1 or CGT event C2 happened as a discount capital gain if you acquired your Leo Lithium shares at least 12 months before the Payment Date (subsection 115-25(1)), and the other conditions in Subdivision 115-A are satisfied.

**Foreign resident shareholders**

23. If you were a foreign resident or the trustee of a foreign trust for CGT purposes (as defined in subsection 995-1(1)) immediately before the Payment Date, you disregard any capital gain made from CGT event G1 or any capital gain or capital loss made from CGT event C2 under subsection 855-10(1), provided:

- you did not use your Leo Lithium shares (or, if CGT event C2 happened, your right to receive the Capital Return) at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), or
- your Leo Lithium shares or right to receive the Capital Return were not covered by subsection 104-165(3) (about individuals who disregard capital gains on ceasing to be Australian residents) (table item 5 of section 855-15).

**Scheme**

24. 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.

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### **Background**

25. Leo Lithium is a company that was incorporated in Australia in 2019 and an Australian resident for tax purposes.
26. Leo Lithium's ordinary shares were listed on the Australian Securities Exchange until 22 September 2025, when it was delisted.
27. Leo Lithium and an unrelated company, GFL International Co., Ltd (Ganfeng), were in a joint venture to develop and operate the Goulamina Lithium Project (Goulamina), an undeveloped deposit of lithium resources located in Mali.
28. The joint venture was conducted through a company incorporated in the Netherlands called Mali Lithium BV (MLBV) with Leo Lithium and Ganfeng each having a 50% shareholding initially (Leo Lithium's shareholding was later diluted to 45% in January 2024 when MLBV issued additional shares to Ganfeng to fund Goulamina's expected capital costs – Goulamina was solely funded by Ganfeng from that point onwards).
29. On 7 May 2024, as part of a settlement of a dispute with the government of Mali, Leo Lithium entered into a binding share sale agreement with Ganfeng to sell its remaining interest in MLBV for a total consideration of US\$342.7 million.
30. Leo Lithium received the consideration from the share sale agreement in 3 instalments:
- a US\$10.5 million non-refundable deposit was received on 17 May 2024
  - a US\$161 million instalment, of which US\$116.3 million (after the deduction of taxes) was received on 26 November 2024 (Tranche 1 Consideration), and
  - a final payment of US\$177.6 million (which included US\$6.4 million of interest) was received on 3 July 2025 (Tranche 2 Consideration).
31. Following the sale of its interest in MLBV, Leo Lithium's assets comprised only of cash and a trailing product sales fee right which entitles it to receive from Ganfeng (via an affiliate) 1.5% of the gross revenue from the sale of up to 500,000 tonnes of spodumene concentrate per annum from Goulamina for a term of 20 years.

### **Capital management and structure**

32. Leo Lithium raised capital of \$96.7 million (after issue costs) during its initial public offering in 2022, of which \$33.7 million was spent on Goulamina. The funds that had not been spent in relation to Goulamina were intended to fund future investments but were ultimately retained.
33. On and immediately before the Payment Date, Leo Lithium had:
- 1,204,827,813 ordinary shares on issue (the only class of shares on issue)
  - approximately 2.70% of its issued shares were held by foreign residents
  - retained earnings of \$17,845,476
  - no franking credits, and
  - issued share capital of \$88,576,013.
34. On 31 January 2025, Leo Lithium paid \$207,154,518 to its shareholders which consisted of a \$189,931,788 dividend and a \$17,222,730 capital return. The payment was

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funded by the US\$10.5 million non-refundable deposit, the net proceeds from the Tranche 1 Consideration and \$11.5 million that was received from Firefinch Limited in connection with the settlement with the government of Mali. The income tax consequences of this distribution are set out in Class Ruling CR 2025/17 *Leo Lithium Limited – return of capital and special dividend*.

35. On 14 October 2025, Leo Lithium paid \$265,062,119 to its shareholders which consisted of a \$4.8 million franked dividend and a \$260.2 million unfranked dividend. The payment was funded by the Tranche 2 Consideration.

### **Distribution**

36. On 18 September 2025, Leo Lithium announced that it had terminated its search for a replacement business asset and that it would return surplus cash to its shareholders. Leo Lithium also announced that it would seek to monetise the trailing product sales fee right and return all net proceeds from the sale to its shareholders.

37. On 7 November 2025, at a general meeting, it was resolved that Leo Lithium would make a return of capital of up to \$65.1 million.

38. On the Payment Date, Leo Lithium made the Distribution of a total amount of \$65,060,702, which equated to \$0.054 per Leo Lithium share, comprising the:

- Dividend totalling \$8,433,802, or \$0.007 per share, and
- Capital Return totalling \$56,626,915, or \$0.047 per share.

39. The Dividend was unfranked and was declared by Leo Lithium in the distribution statement issued to be 'conduit foreign income' (as defined in Subdivision 802-A).

40. The Distribution was funded by the remaining funds from the Tranche 2 Consideration and Leo Lithium's existing cash reserves (which was mostly attributable to funds that were retained from its initial public offering).

41. The Capital Return was debited against Leo Lithium's contributed equity account which is a 'share capital account' (as defined in section 975-300).

42. The Dividend was debited against Leo Lithium's retained earnings account which is not a 'share capital account' (as defined in section 975-300).

### **Other matters**

43. Leo Lithium's contributed equity account was not 'tainted' (within the meaning of Division 197) as at the Payment Date.

44. On and immediately before the Payment Date, the sum of the market values of Leo Lithium's assets that were 'taxable Australian real property' (as defined in section 855-20) did not exceed the sum of the market values of its other assets for the purposes of section 855-30.

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**Commissioner of Taxation**

17 December 2025

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## References

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*Related rulings and determinations:*

CR 2025/17

- 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
  - ITAA 1997 Div 230
  - ITAA 1997 Subdiv 802-A
  - ITAA 1997 802-15(1)(a)
  - ITAA 1997 802-15(1)(b)
  - ITAA 1997 855-10(1)
  - ITAA 1997 855-15
  - ITAA 1997 855-20
  - ITAA 1997 855-30
  - ITAA 1997 975-300
  - ITAA 1997 977-50
  - ITAA 1997 995-1(1)
- 

*Legislative references:*

- ITAA 1936 6(1)
  - ITAA 1936 44(1)
  - ITAA 1936 44(1)(a)(i)
  - ITAA 1936 45B
  - ITAA 1936 45B(3)
  - 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)
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ATO references

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