CR 2026/47 - Central Waste Group - employee share scheme - minimum holding period

Status: **legally binding**

Class Ruling

Central Waste Group – employee share scheme – minimum holding period

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.

Table of Contents **Paragraph**

What this Ruling is about

1. This Ruling sets out the income tax consequences for employees of the Central Waste Group (CWG) who acquired Options under the Central Waste Group Employee Option Plan (EOP) directly, or via an entity controlled by them, which were subsequently cancelled pursuant to an Option Cancellation Deed.

2. Details of this scheme are set out in paragraphs 9 to 20 of this Ruling.

3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated. Terms which are defined in the Central Waste Group Employee Option Plan Rules dated 18 June 2021 (Plan Rules) have been capitalised in this Ruling.

Who this Ruling applies to

4. This Ruling applies to you if you were:

- a Participating Employee under the Plan Rules, having acquired Options (or been treated as having acquired Options for the purposes of Division 83A by application of section 83A-305) in the CWG under the EOP on or around 18 September 2021, which you held at all times until their cancellation
- an employee[1] of the CWG at all times from the date you acquired the Options (or were treated as having acquired Options) until their cancellation
- entitled to reduce the amount included in your assessable income in accordance with section 83A-33 (with the exception of the condition in subsection 83A-45(4) – minimum holding period) when you acquired the Options (or were treated as having acquired Options), and

[1] Employee includes any individual covered by the table in section 83A-325.

Status: **legally binding**

- a resident of Australia (as defined in subsection 6(1) of the *Income Tax Assessment Act 1936*) on the date your Options were cancelled pursuant to an Option Cancellation Deed.

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 9 to 20 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 2021 to 30 June 2024.

Ruling

Minimum holding period

7. The Commissioner will allow the minimum holding period in respect of the Options you acquired (or were treated as having acquired) under the EOP to end at the time of their cancellation on 27 May 2024 (paragraph 83A-45(5)(a)).

8. Therefore, you remain entitled to reduce the amount included in your assessable income, in accordance with section 83A-33.

Scheme

9. This description of the scheme is based on information provided by the applicant. If the scheme was not carried out as described, this Ruling cannot be relied upon.

10. The CWG refers to a group of entities comprising of private companies and a private unit trust which operate in the waste management sector. Each of these entities are residents of Australia for income tax purposes.

11. The CWG established the EOP as a long-term employee incentive and retention arrangement under which select key employees of the CWG, as determined by the Board, were invited by an Offer Letter to apply for Options (either personally or through a Controlled Entity[2]). When vested, the Options provided for the right to subscribe for and be issued Group Securities, referring to ordinary shares in the corporate members of the CWG and ordinary units in the unit trust – a stapled security for the purposes of section 83A-335.

12. Pursuant to the terms of the Plan Rules, Option Holders were granted Options under the EOP on or around 18 September 2021 and were not required to pay for any Option they acquired under the EOP.

13. Subject to the circumstances referred to in paragraphs 14 and 15 of this Ruling, the Option Holder could exercise an Option after the Option had vested, being the fifth anniversary after the date of its issue, and before the Option's expiry date.

[2] The Controlled Entity is an associate of the employee for the purposes of section 83A-305.

14. Where a Liquidity Event occurred, each Option would vest and each Option Holder may at that time exercise all Options held by them. If the Options were not exercised at the time of or before the Liquidity Event, each Option held by the Option Holder automatically expired. A Liquidity Event was defined in the Plan Rules to include a trade sale of 50% or more of the shares and units in the CWG or an initial public offering.

15. In the absence of a Liquidity Event, each Option held by an Option Holder would automatically expire if unexercised by the tenth anniversary of the date of its issue or on the date the Participating Employee left the employ of the CWG (unless it was due to their ill health or death and the Board in its absolute discretion determined otherwise).

16. The Exercise Price to be paid by the Option Holder to the CWG for each Group Security was set out in the Offer Letter and was set at the market value of the Group Securities at the time the Options were issued.

17. On 15 February 2024, the owners of the CWG at the time entered into a Sale and Purchase Agreement (SPA) which included the sale of all (or substantially all) of their full legal and beneficial interest in all of the issued shares and units in the CWG entities to unrelated buyers.

18. As a condition of the SPA, all Options issued under the EOP were required to be cancelled at the time of completion of the SPA and the Option Holders were entitled to receive an 'option cancellation amount'. To satisfy this condition, each of the CWG entities in which Options were held under the EOP entered into an Option Cancellation Deed with the Option Holders on 29 February 2024. The terms of the Option Cancellation Deed provided that the:

- Option Holder was not entitled to exercise any Options
- Options were to be cancelled immediately before completion of the SPA occurs, and
- Option Holder will be entitled to receive a completion payment based on the fair market value of the Option Holder's entitlements at the time of the sale.

19. At the time the Options were granted under the EOP, there was no indication or expectation that a Liquidity Event would occur within the minimum holding period.

20. Completion of the SPA and the associated cancellation of the Options immediately beforehand occurred on 27 May 2024 (within 3 years of the Options being granted under the EOP).

Commissioner of Taxation
5 August 2026

Status: **not legally binding**

References

Legislative references:
- ITAA 1936 6(1)
- ITAA 1997 Div 83A
- ITAA 1997 83A-33
- ITAA 1997 83A-45(4)
- ITAA 1997 83A-45(5)(a)
- ITAA 1997 83A-305
- ITAA 1997 83A-325
- ITAA 1997 83A-335
- ITAA 1997 Div 230

ATO references

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