



CR 2006/92 - Income tax: scrip for scrip rollover: acquisition of Brambles Industries Limited by Brambles Limited

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Class Ruling

Income tax: scrip for scrip rollover: acquisition of Brambles Industries Limited by Brambles Limited

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ⓘ This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:
- section 104-10 of the *Income Tax Assessment Act 1997* (ITAA 1997);
 - section 104-230 of the ITAA 1997;
 - Subdivision 124-M of the ITAA 1997; and
 - section 177E of the *Income Tax Assessment Act 1936* (ITAA 1936).

All references are to the ITAA 1997 unless otherwise stated.

Class of entities

3. The class of entities to which this Ruling applies in relation to section 177E of the ITAA 1936 is all of the shareholders in Brambles Industries Limited (BIL). The class of entities to which this Ruling applies, in relation to section 104-10 and Subdivision 124-M is the shareholders in BIL that:

- (a) hold their BIL shares on capital account;
- (b) participate in the BIL Scheme of Arrangement under which Brambles Limited (New Brambles) will acquire those shares;
- (c) are 'residents of Australia' as that term is defined in subsection 6(1) of the ITAA 1936, or are 'non-residents' of Australia within the meaning of that expression in subsection 6(1) of the ITAA 1936 but would be subject to capital gains tax because the shares in BIL being disposed of have the necessary connection with Australia under any of the categories of CGT assets in section 136-25; and
- (d) are not 'significant stakeholders' or 'common stakeholders' within the meaning of those expressions in Subdivision 124-M.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 13 to 20 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled; and
- this Ruling may be withdrawn or modified.

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Date of effect

8. This Ruling applies to the year ended 30 June 2007 or substituted accounting period. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling.

Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

9. If this Class Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

10. If this Class Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Class Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

11. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

Withdrawal

12. This Ruling is withdrawn immediately after 30 June 2007. The Ruling continues to apply, in respect of the relevant provisions relied upon, to all persons within the specified class who enter into the arrangement during the term of the Ruling.

Scheme

13. The scheme that is the subject of this Ruling is described below. This description is based on, and includes, the following documents:

- (a) Class Ruling application dated 26 May 2006 from Allens Arthur Robinson requesting the Tax Office to make a Class Ruling in relation to the scrip for scrip rollover provisions and the dividend stripping provision as they apply to the acquisition of BIL by New Brambles;

- (b) Brambles' announcement dated 29 November 2005 which was entitled 'Brambles to focus on CHEP and Recall and unify DLC';
- (c) Brambles' announcement dated 29 November 2005 which was entitled 'Announcement of on-market buy backs and purchases';
- (d) the documentation accompanying the application:
 - the draft Implementation Deed Poll to be executed by New Brambles in favour of the holders of shares in BIL; and
 - the draft Scheme of Arrangement between BIL and the holders of shares in BIL ('the BIL Scheme of Arrangement');
- (e) Correspondence dated 31 July 2006 from Allens Arthur Robinson to the Tax Office;
- (f) Email correspondence dated 25 August 2006 from Allens Arthur Robinson to the Tax Office, including the draft 'Brambles Information Memorandum on Unification Proposal';
- (g) Correspondence dated 4 September 2006 from Allens Arthur Robinson to the Tax Office; and
- (h) Email correspondence dated 13 September 2006 from Allens Arthur Robinson to the Tax Office.

Note: Certain information received from Allens Arthur Robinson has been provided on a commercial-in-confidence basis and will not be disclosed or released under the Freedom of Information legislation.

14. BIL and Brambles Industries plc (BIP) have been parties to a dual listed companies (DLC) structure since 7 August 2001.

15. On 29 November 2005, Brambles announced that it would take steps to streamline the Brambles group and unify its DLC structure through the creation of a new single holding company focused on its premium growth businesses, CHEP and Recall. This process will involve:

- Firstly, the divestment of Brambles' other businesses – Cleanaway, Brambles Industrial Services and the Regional Businesses;
- Secondly, the unification of the DLC under a single Australian holding company (New Brambles) with a primary listing on the Australian Stock Exchange (ASX) and a secondary listing on the London Stock Exchange.

The proposed divestment and unification were expected to be completed within 12 months of being announced.

16. When the proposed unification happens, all of the BIL shares will be transferred to New Brambles with effect from the unification implementation date such that BIL will become a 100% subsidiary of New Brambles.

17. In consideration for the transfer of BIL shares to New Brambles, New Brambles will issue to BIL shareholders one New Brambles share for each BIL share (except as noted in paragraphs 18 and 19 of this Ruling).

18. In addition, shareholders in BIL and BIP can elect to receive a cash alternative for their shareholdings (Cash Alternative). The Cash Alternative will be subject to a limit which will apply to the BIP and the BIL schemes on an aggregate basis. If such elections exceed the applicable limit, participation in the Cash Alternative will be scaled back on a pro rata basis, except where the resulting shareholding would be less than a minimum number of New Brambles shares. Such shareholders will receive cash for all of their BIL and BIP shares for which the Cash Alternative is elected. The Cash Alternative is expected to be priced at or around the prevailing market prices at the time of unification.

19. BIL shareholders resident in countries other than Australia, New Zealand, the United Kingdom, the United States of America, Belgium, Canada, France, Germany, Hong Kong, Ireland, Malaysia, Singapore, South Africa or Spain will not be entitled to receive New Brambles shares as consideration for the disposal of their BIL shares. The New Brambles shares that would otherwise have been issued to them will instead be issued to a nominee. Those shares will then be sold on the ASX with the net sale proceeds being remitted to the relevant foreign shareholders.

20. Both BIL and New Brambles are residents of Australia within the meaning of that expression in subsection 6(1) of the ITAA 1936.

Ruling

Disposal of BIL shares to New Brambles

21. CGT event A1 will happen when a BIL shareholder disposes of their shares to New Brambles on the unification implementation date under the scheme described in this Ruling (subsections 104-10(1), 104-10(2) and 104-10(3)).

22. A shareholder will make a capital gain from CGT event A1 happening if the capital proceeds for a BIL share exceeds its cost base. The shareholder will make a capital loss if those capital proceeds are less than the share's reduced cost base (subsection 104-10(4)).

23. Where a BIL shareholder receives the Cash Alternative in respect of some or all of their BIL shares, the capital proceeds for each of those BIL shares will be the amount of cash received (paragraph 116-20(1)(a)).

24. Where a BIL shareholder does not receive the Cash Alternative in respect of some or all of their BIL shares, the capital proceeds for each BIL share will be the market value of one New Brambles share at the time when CGT event A1 happens to the BIL share (paragraph 116-20(1)(b)).

Availability of scrip for scrip rollover

25. BIL shareholders will be eligible to choose scrip for scrip rollover to the extent that they receive New Brambles shares in exchange for their BIL shares if:

- (a) they acquired their BIL shares on or after 20 September 1985 (paragraph 124-780(3)(a));
- (b) apart from the rollover under Subdivision 124-M, they would make a capital gain from the CGT event A1 (section 104-10) that happens to their BIL shares (paragraph 124-780(3)(b)); and
- (c) they could not disregard (except because of a rollover) any capital gain they might make from a replacement New Brambles share (subsection 124-795(2)).

26. If a BIL shareholder chooses rollover, a capital gain from a BIL share is disregarded to the extent that the shareholder received a New Brambles share. The capital gain is not disregarded to the extent that the shareholder received cash for the disposal of their BIL share under the Cash Alternative (section 124-790).

27. If a BIL shareholder chooses rollover, the cost base of a replacement New Brambles share is worked out by reasonably attributing to it the cost base of any BIL share for which it was exchanged (subsection 124-785(2)).

Example

28. The following example provides guidance for shareholders to work out their capital gains consequences in respect of the disposal of their BIL shares to New Brambles.

29. The example shows shareholders how to work out:

- the first element of the cost base of their replacement New Brambles shares where they have chosen rollover; and
- a capital gain attributable to the ineligible proceeds (the amount of cash) they receive under the Cash Alternative.

30. Where a BIL shareholder works out the first element of the cost base and reduced cost base of their New Brambles shares in accordance with the approach adopted in this example, the Tax Office will accept that the calculation represents a reasonable attribution of the cost base of each BIL share. However it is recognised that this approach may not be the only reasonable method.

31. George acquired 1,000 shares in BIL for \$7,000 in September 2002. Assume that:

- the shares are transferred to New Brambles under the Scheme of Arrangement on 4 December 2006; and
- the market value of a New Brambles share on the ASX is \$10.00.

George elects to receive the Cash Alternative in respect of 100 of his shares and receives \$1,000 cash ($\10.00×100) and 900 New Brambles shares.

(The example, including figures used, is only to illustrate the application of the relevant taxation provisions and does not refer to any particular BIL shareholder or to any particular share price. BIL shareholders will need to determine the market value of a New Brambles share at the time they dispose of their BIL shares, in accordance with the approved market valuation methodology.)

Cost base of New Brambles shares

32. The first element of the cost base for each of George's 900 New Brambles shares will be calculated from the cost bases of the 900 BIL shares that were exchanged for the New Brambles shares. The cost base of each of George's New Brambles shares will therefore be:

$$\begin{aligned}\text{Cost base of BIL shares} &= 900 \times \$7.00 \\ &= \$6,300\end{aligned}$$

$$\begin{aligned}\text{First element of cost base of each New Brambles share} &= \$7.00 \\ &\text{(ie } (\$6,300)/900\text{)}\end{aligned}$$

33. The first element of the reduced cost base of George's New Brambles shares will be calculated in a similar manner.

Capital gain attributable to ineligible proceeds

34. George works out the capital gain from the 100 BIL shares that are disposed of for cash under the Cash Alternative as follows:

$$\begin{aligned}\text{Capital gain} &= (\text{Ineligible capital proceeds}) \text{ less} \\ &\quad (\text{cost base of BIL shares that are disposed of for cash}) \\ &= (100 \times \$10) - (100 \times \$7) \\ &= \$1,000 - \$700 \\ &= \$300.00\end{aligned}$$

CGT event K6

35. CGT event K6 will not happen when the BIL shares are transferred to New Brambles on the unification implementation date (paragraph 104-230(9)(a)).

Dividend stripping

36. The scheme will not be regarded as a scheme by way of or in the nature of dividend stripping, or a scheme having substantially the effect of a scheme by way of or in the nature of a dividend stripping to which section 177E of the ITAA 1936 is applicable.

Commissioner of Taxation

27 September 2006

Appendix 1 – Explanation

❶ *This Appendix 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.*

37. CGT event A1 happens if there is a change in the ownership of an asset from one entity to another. The event happens when a contract to dispose of the asset is entered into or, if there is no contract, when the change of ownership occurs.

38. The time when CGT event A1 happens determines the income year in which any capital gain or loss is made.

39. CGT event A1 will happen to all BIL shareholders when their shares are transferred to New Brambles on the unification implementation date.

40. A BIL shareholder will make a capital gain from CGT event A1 happening if the capital proceeds in respect of the disposal of their BIL share exceeds its cost base. A BIL shareholder will make a capital loss if the capital proceeds in respect of the disposal of a BIL share are less than the BIL share's reduced cost base (subsection 104-10(4)).

41. The time of CGT event A1 happening is also relevant to determining the capital proceeds received for each BIL share. Subsection 116-20(1) provides that capital proceeds from a CGT event are the money received and the market value of any property received or entitled to be received (worked out at the time of the event happening).

Market value of the New Brambles shares

42. BIL shareholders will acquire New Brambles shares under the scheme on the unification implementation date. The Commissioner of Taxation will accept the volume weighted average price (VWAP) of a New Brambles share on the ASX over the 5 trading days before the unification implementation date, as indicative of the market value of the New Brambles shares on the unification implementation date.

Availability of scrip for scrip rollover

43. Where scrip for scrip rollover is chosen in respect of the capital gain arising on the disposal of a BIL share, the capital gain from the disposal is disregarded to the extent that the shareholder receives a New Brambles share.

44. The capital gain is disregarded completely if the only capital proceeds the shareholder receives is a replacement share. If the shareholder receives some other form of capital proceeds, the capital gain in respect of those proceeds is not disregarded.

45. If the BIL shareholder chooses rollover, the cost base of each New Brambles share is worked out by reasonably attributing to it a proportion of the cost base of the BIL share for which it is exchanged and for which rollover is obtained (subsection 124-785(2)). The reduced cost base of each New Brambles share is worked out on a similar basis (subsection 124-785(4)).

46. Subdivision 124-M contains a number of conditions for, and exceptions to, the eligibility of a shareholder to choose scrip for scrip rollover. Below is an outline of the main conditions and exceptions which are relevant to the circumstances of the scheme that is the subject of this Ruling.

Subparagraph 124-780(1)(a)(i) requires an entity (a BIL shareholder) to exchange a share in a company for a share in another company

47. This requirement will be satisfied to the extent that the consideration that BIL shareholders receive for each BIL share is a New Brambles share. Rollover will not be available in respect of shares for which a BIL shareholder receives cash.

Paragraphs 124-780(1)(b) and 124-780(2)(a) require that shares in an entity (BIL – the original entity) be exchanged in consequence of a single arrangement that results in another entity (New Brambles – the acquiring entity) becoming the owner of 80% or more of the voting shares in the original entity

48. In the context of the scrip for scrip provisions, the acquisition of BIL by New Brambles under the BIL Scheme of Arrangement is considered to be a single arrangement.

49. The only issued shares in BIL upon completion of the arrangement will be its ordinary shares. These shares satisfy the definition of voting shares in subsection 995-1(1). Although BIL issued a special voting share to a special purpose company as part of the DLC structure to enable all the shareholders to vote together as a joint electorate on certain matters, that share will cease to confer any right to attend or vote at any general meeting of BIL upon the unification of the DLC structure brought about by the acquisition of BIL (and BIP) by New Brambles.

50. If the BIL Scheme of Arrangement proceeds, New Brambles will acquire all of the ordinary shares, which will be 100% of the voting shares in BIL, and therefore this requirement will be satisfied.

Paragraphs 124-780(1)(b) and 124-780(2)(b) require that the exchange of shares be in consequence of a single arrangement in which at least all owners of voting shares in the original entity (BIL) could participate

51. This requirement will be satisfied as all of the shareholders in BIL are able to participate in the BIL Scheme of Arrangement.

Paragraphs 124-780(1)(b) and 124-780(2)(c) require that participation in the arrangement be on substantially the same terms for all the owners of interests of a particular type in the original entity

52. This requirement will be satisfied as the BIL Scheme of Arrangement provides for the same consideration to be paid to all BIL shareholders.

53. Issuing the New Brambles shares to which certain foreign shareholders are entitled to a nominee will not prevent the arrangement being on substantially the same terms for all owners of shares in BIL.

Paragraphs 124-780(1)(c) and 124-780(3)(a) require the original interest holder (a BIL shareholder) to have acquired its original interest (BIL shares) on or after 20 September 1985

54. Rollover will only be available for those BIL shares that were acquired on or after 20 September 1985. Paragraph 25(a) of this Ruling limits the Ruling in this regard.

Paragraphs 124-780(1)(c) and 124-780(3)(b) require that, apart from the rollover, the original interest holder (a BIL shareholder) would make a capital gain from a CGT event happening in relation to the original interest (its BIL shares)

55. Whether a BIL shareholder would, apart from the rollover, make a capital gain from the disposal of any of their shares to New Brambles is a question of fact that is dependent on the specific circumstances of each shareholder – in particular, the cost base of each BIL share and the value of the capital proceeds received. Paragraph 25(b) of this Ruling limits the Ruling in this regard.

Paragraphs 124-780(1)(c) and 124-780(3)(c) require that the replacement interest is in the acquiring entity

56. This requirement will be satisfied as the replacement shares received by BIL shareholders will be in New Brambles which is the acquiring entity and the ultimate holding company of a wholly owned group upon completion of the arrangement.

Paragraphs 124-780(1)(c) and 124-780(3)(d) require that the original interest holder (BIL shareholder) choose to obtain the rollover relief

57. Whether a BIL shareholder chooses rollover is a question of fact.

Additional requirements in subsection 124-780(5) must be satisfied if the original interest holder (a BIL shareholder) and an acquiring entity (New Brambles) did not deal with each other at arm's length and:

(a) neither the original entity (BIL) nor the replacement entity (New Brambles) had at least 300 members just before the arrangement started: paragraph 124-780(4)(a); or

(b) the original interest holder (a BIL shareholder), the original entity (BIL) and the acquiring entity (New Brambles) were all members of the same linked group just before the arrangement started: paragraph 124-780(4)(b)

58. If BIL and New Brambles are dealing with each other at arm's length, then paragraphs 124-780(4)(a) and 124-780(4)(b) do not apply.

59. Even if BIL and New Brambles were not dealing with each other at arms length, paragraph 124-780(4)(a) will not apply because BIL has at least 300 members just before the arrangement started. Section 124-810 will not apply to BIL as its ownership is not concentrated in the manner contemplated by section 124-810.

60. Paragraph 124-780(4)(b) will also not apply because even if BIL and New Brambles were members of the same linked group (within the meaning of section 170-260) just before the arrangement started, no BIL shareholder would have been a member of that group.

Exceptions to obtaining scrip for scrip rollover

Subsection 124-795(1) provides that rollover for non-resident shareholders is not available if their replacement interests are in an company that is not an Australian resident for CGT purposes

61. New Brambles is an Australian resident. If a non-resident shareholder in BIL chooses scrip for scrip rollover, Category number 9 in the table in section 136-25 modifies the usual requirement for a replacement share to have the necessary connection with Australia. The effect of Category number 9, if it applies, is that it treats a non-resident shareholder's replacement interest as having the necessary connection with Australia if their original interest had such a connection. So each share in New Brambles that a non-resident shareholder in BIL receives in exchange for the shareholder's share in BIL, where that BIL share had the necessary connection with Australia, is treated as having the necessary connection with Australia.

Paragraph 124-795(2)(a) provides that the rollover is not available if any capital gain the original interest holder (a BIL shareholder) might make from their replacement interest (a New Brambles share) would be disregarded (except because of a rollover)

62. This exception may apply if, for example, the shareholder holds their BIL shares as trading stock. Paragraph 25(c) limits the Ruling in this regard.

Paragraph 124-795(2)(b) provides that the rollover is not available if the original interest holder (a BIL shareholder) and the acquiring entity (New Brambles) are members of the same wholly-owned group just before the original interest holder stops owning their original interest (a BIL share), and the acquiring entity is a foreign resident

63. New Brambles is an Australian resident. Therefore this exception will not apply.

Subsection 124-795(4) provides that rollover is not available for an original interest (a BIL share) in an original entity (BIL) that is a company if, just before the arrangement started, the original entity is not an Australian resident and did not have at least 300 members

64. This exception will not apply as BIL is an Australian resident and will have at least 300 members just before the commencement of the arrangement.

Consequences of rollover

65. Scrip for scrip rollover enables a shareholder to disregard a capital gain from a share that is disposed of as part of a corporate takeover or merger if the shareholder receives a replacement share in exchange. The cost base of the replacement share is determined by attributing on a reasonable basis the cost base of the original share which is exchanged for it (subsections 124-785(2) and 124-785(4)).

66. If the only capital proceeds the shareholder receives for some of their original shares are replacement shares, the capital gain on those shares is disregarded completely (subsection 124-785(1)). All of the cost base of those original shares can be allocated to the replacement shares (subsection 124-785(2)).

67. If the shareholder receives cash for some of their original shares, the capital gain in respect of those shares will not be disregarded (subparagraph 124-780(1)(a)(i)).

68. Under the BIL Scheme of Arrangement, BIL shareholders may receive New Brambles shares in respect of some of their original shares in BIL, on a one for one basis, and cash in respect of the rest of their original shares in BIL.

Consequences of rollover where New Brambles shares are received

69. A BIL shareholder who receives New Brambles shares for the disposal of their BIL shares can choose to roll over all of the capital gain arising from the disposal of those BIL shares.

70. The cost base, or reduced cost base, of the BIL shares that are exchanged for New Brambles shares will form the first element of the cost base, or reduced cost base, of the New Brambles shares (subsections 124-785(2) and (4)).

Consequences of rollover where cash is received

71. Rollover will not be available in respect of the disposal of BIL shares where the BIL shareholder receives cash (ineligible proceeds) for those BIL shares.

72. In calculating the capital gain attributable to their ineligible proceeds, a BIL shareholder should deduct from the value of those proceeds, the cost base of their BIL shares that were exchanged for cash.

Pre-CGT shareholders

73. Paragraph 124-780(3)(a) requires as a condition for rollover that the original interest holder (a BIL shareholder) acquired their original interest (a share in BIL) on or after 20 September 1985. Therefore, a rollover will not be available for BIL shares that were acquired before 20 September 1985.

74. For BIL shareholders who acquired their BIL shares before 20 September 1985, the cost base and reduced cost base of each New Brambles share issued in relation to each BIL share that was acquired by the BIL shareholder before 20 September 1985 is its market value just after it was acquired (subsection 124-800(1)).

75. In determining the market value, the Commissioner of Taxation will accept the market value determined under paragraph 42 of this Ruling.

CGT event K6

76. CGT event K6 in section 104-230 happens if one of a number of CGT events (including CGT event A1) happens in relation to shares or trust interests acquired before 20 September 1985, there is no rollover for the other CGT event, and at least 75% of the net value of the company or trust is represented by property acquired on or after 20 September 1985.

77. CGT event A1 will happen to BIL shares when they are transferred to New Brambles on the unification implementation date. There will be no rollover for the A1 event for BIL shares acquired before 20 September 1985.

78. However, CGT event K6 will not happen as the BIL shares will be listed on the ASX on the unification implementation date and will have been listed at all times in the 5 years prior to the unification implementation date. Therefore, the exception to CGT event K6 provided by paragraph 104-230(9)(a) applies.

Dividend stripping

79. Section 177E of the ITAA 1936 deals with situations where any property of a company is disposed of as a result of a scheme entered into after 27 May 1981, whether in Australia or outside Australia:

- by way of or in the nature of dividend stripping; or
- having substantially the effect of a scheme by way of or in the nature of a dividend stripping.

80. Having regard to the purpose of the BIL Scheme of Arrangement under which shareholders dispose of their BIL shares for either shares in New Brambles or cash, the scheme will not be a scheme by way of or in the nature of dividend stripping, or a scheme having substantially the effect of a scheme by way of or in the nature of a dividend stripping to which section 177E of the ITAA 1936 is applicable.

Appendix 2 – Detailed contents list

81. The following is a detailed contents list for this Ruling:

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References

<i>Previous draft:</i>	- ITAA 1997 116-20(1)(b)
Not previously issued as a draft	- ITAA 1997 Subdiv 124-M
	- ITAA 1997 124-780(1)(a)(i)
<i>Subject references:</i>	- ITAA 1997 124-780(1)(b)
- arrangement	- ITAA 1997 124-780(1)(c)
- capital proceeds	- ITAA 1997 124-780(2)(a)
- CGT event	- ITAA 1997 124-780(2)(b)
- company	- ITAA 1997 124-780(2)(c)
- cost base	- ITAA 1997 124-780(3)(a)
- interests	- ITAA 1997 124-780(3)(b)
- ordinary share	- ITAA 1997 124-780(3)(c)
- original interest	- ITAA 1997 124-780(3)(d)
- replacement interest	- ITAA 1997 124-780(4)(a)
- resident	- ITAA 1997 124-780(4)(b)
- rollover	- ITAA 1997 124-780(5)
- scrip for scrip rollover	- ITAA 1997 124-785(1)
- share	- ITAA 1997 124-785(2)
- shareholder	- ITAA 1997 124-785(4)
	- ITAA 1997 124-790
<i>Legislative references:</i>	- ITAA 1997 124-795(1)
- ITAA 1936 6(1)	- ITAA 1997 124-795(2)
- ITAA 1936 177E	- ITAA 1997 124-795(2)(a)
- ITAA 1997 104-10	- ITAA 1997 124-795(2)(b)
- ITAA 1997 104-10(1)	- ITAA 1997 124-795(4)
- ITAA 1997 104-10(2)	- ITAA 1997 124-800(1)
- ITAA 1997 104-10(3)	- ITAA 1997 124-810
- ITAA 1997 104-10(3)(b)	- ITAA 1997 136-25
- ITAA 1997 104-10(4)	- ITAA 1997 170-260
- ITAA 1997 104-230	- ITAA 1997 995-1
- ITAA 1997 104-230(9)(a)	- TAA 1953
- ITAA 1997 116-20	- TAA 1953 Sch 1 357-75(1)
- ITAA 1997 116-20(1)	- Copyright Act 1968
- ITAA 1997 116-20(1)(a)	

ATO references

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