

CR 2024/31 - Link Administration Holdings Limited - scheme of arrangement and special dividend



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Class Ruling

Link Administration Holdings Limited – scheme of arrangement and special dividend

❶ 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 for the holders of ordinary shares in Link Administration Holdings Limited (Link) in relation to the payment of a special dividend of \$0.16 per Link ordinary share (Special Dividend) on 13 May 2024, and the disposal of all the ordinary shares in Link to Mitsubishi UFJ Trust and Banking Corporation (MUTB) on 16 May 2024 (Implementation Date).
2. Details of this scheme are set out in paragraphs 36 to 57 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

Note: By issuing this Ruling, the ATO is not endorsing this scheme. Potential users must form their own view about the scheme.

Who this Ruling applies to

4. This Ruling applies to you if you:
 - received the Special Dividend from Link
 - were a holder of an ordinary share in Link on 14 May 2024 (Scheme Record Date)
 - disposed of your shares in Link to MUTB
 - held your Link shares on capital account – that is, your Link shares were neither held as revenue assets (as defined in section 977-50) nor as trading stock (as defined in subsection 995-1(1))
 - are not exempt from Australian income tax

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- did not acquire your Link shares under an employee share scheme (as defined in section 83A-10)
- are not a non-resident whose Link shares are covered by subsection 104-165(3), and
- are not subject to the investment manager regime in Subdivision 842-I.

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 36 to 57 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 2023 to 30 June 2024.

Ruling

Special Dividend paid by Link Administration Holdings Limited

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

8. The Special Dividend is a frankable distribution under section 202-40 as it is not unfrankable under section 202-45.

Assessability of the Special Dividend, franking credits and tax offset

Resident shareholders

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 (subparagraph 44(1)(a)(i) of the ITAA 1936).

10. If you satisfy the residency requirement in section 207-75, you include the franking credits on the Special Dividend in your assessable income, and you are entitled to a tax offset equal to the amount of those franking credits (section 207-20), provided you are a 'qualified person' as defined in Division 1A of former Part IIIA of the ITAA 1936.

11. If you received the Special Dividend as a trustee of a trust (not being a complying superannuation entity) or as a partnership, and you are not a corporate tax entity, the franking credits on the Special Dividend are included in your assessable income, provided you are a qualified person (subsection 207-35(1)).

12. Your entitlement to the franking credit tax offset under Division 207 in relation to the Special Dividend is subject to the refundable tax offset rules in Division 67, provided you are not excluded by the operation of section 67-25.

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Non-resident shareholders

Special Dividend attributable to a permanent establishment in Australia

13. If you are a non-resident and the Special Dividend is attributable to a permanent establishment in Australia, you include the Special Dividend in your assessable income (paragraph 44(1)(c) of the ITAA 1936) and are not liable to pay withholding tax in respect of the Special Dividend (subsection 128B(3E) of the ITAA 1936).

14. If you are also a qualified person (as defined in Division 1A of former Part IIIAA of the ITAA 1936), you include the amount of the franking credits on the Special Dividend in your assessable income and you are entitled to a tax offset equal to the amount of those franking credits (section 207-20 and subsection 207-75(2)).

15. The franking credit tax offset is not refundable (subsection 67-25(1DA)).

Special Dividend not attributable to a permanent establishment in Australia

16. If you are a non-resident and the Special Dividend is not attributable to a permanent establishment in Australia, the Special Dividend is not included in your assessable income to the extent that it is franked (section 128D of the ITAA 1936), and you are not liable to withholding tax in respect of the Special Dividend to the extent that it is franked (subparagraph 128B(3)(ga)(i) of the ITAA 1936).

17. You do not include the amount of the franking credits on the Special Dividend in your assessable income and you are not entitled to a tax offset for those franking credits (sections 207-20 and 207-70).

Qualified person

18. Paragraph 207-145(1)(a) refers to Division 1A of former Part IIIAA of the ITAA 1936, which contains the conditions you must satisfy to be a qualified person in relation to a franked distribution you have received. The main way in which you can be a qualified person is by satisfying the holding period rule.

19. The Special Dividend you received does not constitute a 'related payment' for the purposes of former section 160APHN of the ITAA 1936.

20. You will satisfy the holding period rule in relation to the Special Dividend only if you held your Link shares for a continuous period of at least 45 days during the primary qualification period for the Special Dividend (former paragraph 160APHO(2)(a) of the ITAA 1936).

21. The primary qualification period begins on the day after the date of acquisition of the share and ends 45 days after the day on which a share becomes ex dividend (former section 160APHD of the ITAA 1936).

22. A share in respect of which a dividend is to be paid becomes ex dividend on the day after the last day on which the acquisition by a person of the share will entitle the person to receive the dividend (former subsection 160APHE(1) of the ITAA 1936).

23. In relation to the Special Dividend, the Link shares became ex dividend on 8 May 2024.

24. Therefore, you satisfy the holding period rule in relation to the Special Dividend if, during the period beginning from the day after the day on which you acquired your shares to 22 June 2024 (inclusive), you held each of your Link shares for a continuous period of at least 45 days, not counting the day on which you acquired the Link share or the day on

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which you disposed of the Link share, and not counting the days, if any, on which you had 'materially diminished risks of loss or opportunities for gain' (as defined in former section 160APHM of the ITAA 1936) in respect of the Link share.

25. However, you had materially diminished risks of loss or opportunities for gain on and after the Scheme Record Date, when you became committed to disposing of your shares in Link in exchange for the scheme consideration. Therefore, the primary qualification period ended on 13 May 2024 (that is, the day before the Scheme Record Date).

26. In this context, there are 45 clear days in the period from 29 March 2024 until the Scheme Record Date.

Exempting entity and former exempting entity

27. As Link was not an exempting entity (section 208-20), or a former exempting entity (section 208-50), at the time when it paid the Special Dividend to you, section 208-195 will not apply to prevent the inclusion in your assessable income of the amount of the franking credit on the Special Dividend you received, nor to deny the franking credit tax offset to which you are otherwise entitled, under Division 207.

Integrity rules in relation to franking credits

28. The Commissioner will not make a determination to deny the whole, or any part, of the imputation benefits you received in relation to the Special Dividend under:

- paragraph 177EA(5)(b) of the ITAA 1936 because the purpose condition in paragraph 177EA(3)(e) of the ITAA 1936 is not satisfied, and
- paragraph 204-30(3)(c) because there is no streaming of distributions.

29. Paragraph 207-145(1)(d) will not apply to the whole, or any part, of the Special Dividend.

Capital gains tax consequences

CGT event A1 happened on the disposal of each Link Administration Holdings Limited share

30. CGT event A1 happened on the Implementation Date when you disposed of each of your Link shares to MUTB (section 104-10).

Resident shareholders

31. The capital proceeds you received in respect of CGT event A1 happening to your Link shares is \$2.10 for each Link share (subsection 116-20(1)).

32. You made a capital gain from CGT event A1 happening if the capital proceeds from the disposal of a Link share exceeded the cost base of that Link share (subsection 104-10(4)). The capital gain is the amount of the excess.

33. If you made a capital gain from CGT event A1 happening, you can treat it as a discount capital gain provided that the conditions of Subdivision 115-A are met.

34. You made a capital loss from CGT event A1 happening if the capital proceeds from the disposal of a Link share were less than the reduced cost base of that Link share at the

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time of CGT event A1 (subsection 104-10(4)). The capital loss is the amount of the difference.

Foreign resident shareholders

35. If you were a foreign resident, or the trustee of a foreign trust for CGT purposes as defined in subsection 995-1(1), on the Implementation Date, you disregard a capital gain or capital loss you made from CGT event A1 happening to your Link shares, pursuant to section 855-10, unless you have used your Link shares at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15).

Scheme

36. 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.

Link Administration Holdings Limited

37. Link is a company incorporated in Australia on 28 July 2006. Link was listed on the Australian Securities Exchange on 27 October 2015.

38. Link is the head company of an income tax consolidated group under Part 3-90.

39. Link's business consists of share registry services, superannuation and retirement services and funds management, in Australia and overseas.

40. As at the Implementation Date, Link had 527,558,247 ordinary shares on issue.

Mitsubishi UFJ Trust and Banking Corporation

41. MUTB is a company incorporated in Japan and is wholly owned by Mitsubishi UFJ Financial Group, Inc. (MUFG).

42. MUFG is a company incorporated in Japan and is listed on the Tokyo Stock Exchange, Nagoya Stock Exchange as well as the New York Stock Exchange.

Acquisition of Link Administration Holdings Limited shares by Mitsubishi UFJ Trust and Banking Corporation

43. On 18 December 2023, Link entered into a Scheme Implementation Deed with MUTB pursuant to which MUTB would acquire all of the ordinary shares in Link by means of a scheme of arrangement under Part 5.1 of the *Corporations Act 2001* between Link and its shareholders.

44. On 24 April 2024, a resolution in favour of the scheme of arrangement was passed by the shareholders of Link as required by subparagraph 411(4)(a)(ii) of the *Corporations Act 2001*.

45. The scheme of arrangement was approved by the Supreme Court of New South Wales under paragraph 411(4)(b) of the *Corporations Act 2001* on 30 April 2024.

46. On the Implementation Date, shareholders of Link received \$2.10 for each Link share they disposed of to MUTB.

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47. Link was removed from the official list of the Australian Securities Exchange on 17 May 2024.

Special Dividend

48. On 1 May 2024, the directors of Link declared the Special Dividend (being \$0.16 per Link share) to be paid to shareholders who held their Link shares on 7 May 2024 (Special Dividend Record Date).

49. The Special Dividend was franked at 25%.

50. The Special Dividend was paid by Link on 13 May 2024.

51. The Special Dividend was funded by existing debt facilities and cash reserves of Link. The entire amount of the Special Dividend was debited to Link's retained earnings account.

52. Neither MUTB nor any of its associates funded, or were in any way connected to the funding of, the Special Dividend.

53. The Special Dividend was paid at the discretion of the directors of Link. Neither MUTB nor any of its associates had any influence or control over the payment of the Special Dividend.

Other matters

54. All shares in Link were issued after 19 September 1985.

55. On the Implementation Date, the sum of the market values of the assets of Link that were 'taxable Australian real property' (as defined in section 855-20) did not exceed the sum of the market values of the assets of Link that were not taxable Australian real property.

56. No proceeds from an equity issue by MUFG or its subsidiaries has been, or will be, applied towards the repayment of any portion of the debt incurred to pay the Special Dividend, or to replenish the money expended by Link in paying the Special Dividend.

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57. The following table is a summary of the key dates for the Special Dividend and the scheme of arrangement.

Table 1: Summary of the key dates for the scheme of arrangement and the Special Dividend

Date	Event
18 December 2023	Scheme Implementation Deed executed
24 April 2024	Scheme meeting
30 April 2024	Court hearing to approve the scheme
7 May 2024	Special Dividend Record Date
13 May 2024	Special Dividend Payment Date
14 May 2024	Scheme Record Date
16 May 2024	Scheme Implementation Date

Commissioner of Taxation

29 May 2024

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References

Legislative references:

- ITAA 1936 6(1)
 - ITAA 1936 44(1)(a)(i)
 - ITAA 1936 44(1)(c)
 - ITAA 1936 128B(3E)
 - ITAA 1936 128B(3)(ga)(i)
 - ITAA 1936 128D
 - ITAA 1936 former Part IIIAA Div 1A
 - ITAA 1936 former 160APHD
 - ITAA 1936 former 160APHE(1)
 - ITAA 1936 former 160APHM
 - ITAA 1936 former 160APHN
 - ITAA 1936 former 160APHO(2)(a)
 - ITAA 1936 177EA(3)(e)
 - ITAA 1936 177EA(5)(b)
 - ITAA 1997 Div 67
 - ITAA 1997 67-25
 - ITAA 1997 67-25(1DA)
 - ITAA 1997 83A-10
 - ITAA 1997 104-10
 - ITAA 1997 104-10(4)
 - ITAA 1997 104-165(3)
 - ITAA 1997 Subdiv 115-A
 - ITAA 1997 116-20(1)
 - ITAA 1997 202-40
 - ITAA 1997 202-45
 - ITAA 1997 204-30(3)(c)
 - ITAA 1997 Div 207
 - ITAA 1997 207-20
 - ITAA 1997 207-35(1)
 - ITAA 1997 207-70
 - ITAA 1997 207-75
 - ITAA 1997 207-75(2)
 - ITAA 1997 207-145(1)(a)
 - ITAA 1997 207-145(1)(d)
 - ITAA 1997 208-20
 - ITAA 1997 208-50
 - ITAA 1997 208-195
 - ITAA 1997 Div 230
 - ITAA 1997 Part 3-90
 - ITAA 1997 Subdiv 842-I
 - ITAA 1997 855-10
 - ITAA 1997 855-15
 - ITAA 1997 855-20
 - ITAA 1997 977-50
 - ITAA 1997 995-1(1)
 - Corporations Act 2001 Part 5.1
 - Corporations Act 2001 411(4)(a)(ii)
 - Corporations Act 2001 411(4)(b)
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ATO references

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