


CR 2023/7 - Link Administration Holdings Limited - demerger of PEXA Group Limited

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Status: **legally binding**

Class Ruling

Link Administration Holdings Limited – demerger of PEXA Group Limited

📌 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 demerger of PEXA Group Limited (PEXA) by Link Administration Holdings Limited (Link), which was implemented on 10 January 2023 (Implementation Date).
2. Details of this scheme are set out in paragraphs 21 to 46 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

Who this Ruling applies to

4. This Ruling applies to you if you held ordinary shares in Link and you:
 - were registered on the Link share register on 3 January 2023 (Record Date)
 - did not hold your shares in Link as revenue assets (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1)) on the Record Date – that is, you held your shares on capital account, and
 - were a resident of Australia (as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936)).
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 21 to 46 of this Ruling.

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

Status: **legally binding**

When this Ruling applies

6. This Ruling applies from 1 July 2022 to 30 June 2023.

Ruling

Demerger happened

7. A demerger, as defined in section 125-70, happened to the Link demerger group (which included Link, its wholly-owned subsidiaries and PEXA).

Capital gains tax consequences

CGT event G1

8. CGT event G1 happened when you were paid an amount by Link in respect of your Link shares by way of the transfer to you of PEXA shares on the Implementation Date (section 104-135).

9. You made a capital gain from CGT event G1 happening if the amount of the reduction of share capital for each Link share (\$1.59) was more than the cost base of the Link share. If so, the capital gain is equal to the amount of the excess. No capital loss can be made from CGT event G1 (subsection 104-135(3)).

Demerger roll-over

10. You can choose to obtain demerger roll-over under subsection 125-55(1) for your Link shares.

Choosing demerger roll-over

11. If you choose demerger roll-over for your Link shares:
- any capital gain you made when CGT event G1 happened to your Link shares under the demerger is disregarded (subsection 125-80(1)), and
 - you must recalculate the first element of the cost base and reduced cost base of your Link shares, and calculate the first element of the cost base and reduced cost base of the corresponding PEXA shares you acquired under the demerger (subsection 125-80(2)). See paragraphs 13 to 15 of this Ruling for more details.

Not choosing demerger roll-over

12. If you do not choose demerger roll-over for your Link shares:
- you cannot disregard any capital gain you made when CGT event G1 happened to your Link shares under the demerger, and
 - you must recalculate the first element of the cost base and reduced cost base of your Link shares, and calculate the first element of the cost base and reduced cost base of the corresponding PEXA shares you acquired under the demerger (subsections 125-85(1) and (2)) – see paragraphs 13 to 15 of this Ruling for more details.

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Cost base and reduced cost base of your shares in Link Administration Holdings Limited and PEXA Group Limited

13. The first element of the cost base and reduced cost base of each Link share and corresponding PEXA share is worked out by:

- taking the total of the cost bases of your Link shares just before the demerger, and
- apportioning that total between your Link shares and the PEXA shares you acquired under the demerger.

14. The apportionment is done on a reasonable basis having regard to the market values of the Link shares and PEXA shares just after the demerger or an anticipated reasonable approximation of those market values (subsections 125-80(2) and (3)).

15. The Commissioner accepts that a reasonable apportionment is to attribute:

- 54.44% of the total of the cost bases of your Link shares just before the demerger to the Link shares, and
- 45.56% of the total of the cost bases of your Link shares just before the demerger to the corresponding PEXA shares you acquired under the demerger.

Acquisition date of your shares in PEXA Group Limited for discount capital gain purposes

16. For the purpose of determining whether you can make a discount capital gain from a future CGT event that happens to a PEXA share you acquired under the demerger, you will be taken to have acquired the PEXA share on the date you acquired, for capital gains tax purposes, the corresponding Link share (table item 2 in subsection 115-30(1)). This will be the case whether or not you choose demerger roll-over.

Value of PEXA Group Limited shares not included in your assessable income

17. No part of the value of a PEXA share transferred to you under the demerger will be included in your assessable income under subsection 44(1) of the ITAA 1936. This is because the entirety of the value of the PEXA shares transferred by Link to the shareholders of Link was debited to the share capital account of Link, and thus is not a 'dividend' under subsection 6(1) of the ITAA 1936.

Integrity provisions will not apply to deem an assessable dividend

18. Section 45 of the ITAA 1936 will not apply to the demerger. This is because Link does not stream the provision of shares and the payment of minimally franked dividends to its shareholders.

19. The Commissioner will not make a determination under subsection 45A(2) of the ITAA 1936 that section 45C of the ITAA 1936 applies in relation to the whole, or any part, of the distribution of share capital. This is because all shareholders of Link participated in the distribution of share capital based on the number of Link shares they held on the Record Date, so that there was no streaming of capital benefits.

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20. As the purpose condition in paragraph 45B(2)(c) of the ITAA 1936 is not satisfied, the Commissioner will not make a determination under subsection 45B(3) of the ITAA 1936 that:

- section 45BA of the ITAA 1936 applies to the whole, or any part, of the demerger benefit provided to you under the demerger, or
- section 45C of the ITAA 1936 applies to the whole, or any part, of the capital benefit provided to you under the demerger.

Scheme

21. 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

22. Link is a company that was incorporated in Australia on 28 July 2006. Link was listed on the Australian Securities Exchange (ASX) on 27 October 2015.

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

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

25. As at 31 December 2022, Link had:

- 512,987,481 fully-paid ordinary shares on issue, and
- approximately \$1.816 billion credited to its share capital account.

26. Just before the Implementation Date, Link had Performance Share Rights and Share Rights held by its employees representing less than 3% of the number of the total ownership interests (as defined in subsection 125-60(1)) in Link.

27. The ordinary shares, Performance Share Rights and Share Rights are the only ownership interests (as defined in subsection 125-60(1)) in Link.

PEXA Group Limited

28. PEXA is a company incorporated in Australia. It was listed on the ASX on 1 July 2021.

29. PEXA operates an electronic system by which land sales and other land-related transactions are lodged and settled in New South Wales, Victoria, Queensland, Western Australia, South Australia and the Australian Capital Territory.

30. Prior to the restructuring of the Link demerger group, approximately 38.49% of the shares in PEXA were held by a wholly-owned subsidiary of Link.

The demerger of PEXA Group Limited

31. The wholly-owned subsidiary of Link first transferred all its shares in PEXA to Link.

32. The demerger of PEXA was undertaken by a reduction of share capital under section 256B of the *Corporations Act 2001*.

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33. On 23 December 2022, the shareholders of Link voted at a meeting to approve an ordinary resolution under section 256C of the *Corporations Act 2001* to reduce the share capital of Link as an equal capital reduction by \$813.3 million.
34. The reduction of share capital equated to \$1.59 for each share in Link.
35. The reduction of share capital was satisfied by the transfer of more than 99% of Link's shares in PEXA to the shareholders of Link.
36. The date for determining the entitlement of Link shareholders to receive PEXA shares was the Record Date (3 January 2023).
37. On the Implementation Date (10 January 2023), Link shareholders received one PEXA share for every 7.52 Link shares they held on the Record Date, and nothing else.
38. As a result of the demerger, Link shareholders owned shares in both Link and PEXA.

Accounting treatment

39. Link accounted for the demerger by debiting its share capital account by \$813.3 million.

Reasons for the demerger

40. The directors of Link formed the opinion that the demerger would:
- enable the directors and management of Link to focus on Link's core businesses
 - separate 2 companies with different growth strategies, capital needs and dividend policies
 - deliver to Link shareholders an investment choice depending on their individual investment objectives, and
 - contribute to an increase in the price of PEXA shares by significantly increasing the free float of PEXA shares.

Sale facility for Ineligible Overseas Shareholders

41. Ineligible Overseas Shareholders had the PEXA shares to which they were entitled sold by Link through a nominee on the ASX who remitted the net sale proceeds to the relevant shareholders. The shares of Ineligible Overseas Shareholders were transferred to the nominee on the Implementation Date.
42. Ineligible Overseas Shareholders were shareholders whose registered address on the Link share register on the Record Date was not in:
- Australia or New Zealand
 - any other jurisdiction in respect of which Link reasonably believed that it was not prohibited, and not impractical or unduly onerous, to transfer shares in PEXA to Link shareholders.

Status: **legally binding**

Other matters

43. All shares in Link and PEXA were issued after 20 September 1985.
44. Just before the Implementation Date, less than 1% of the shares in Link were held by foreign residents.
45. Immediately before the Implementation Date, the share capital account of Link was not tainted within the meaning of Division 197.
46. For the purposes of the cost base and reduced cost base apportionment under subsections 125-80(2) and (3), a reasonable approximation of the market values of a Link share and a PEXA share just after the demerger has been calculated as:
- \$1.89 for each Link share, being the volume-weighted average price of Link shares as traded on the ASX over the first 5 trading days from (and including) 30 December 2022, and
 - \$11.92 for each PEXA share, being the volume-weighted average price of PEXA shares as traded on the ASX over the first 5 trading days from (and including) 30 December 2022.

Commissioner of Taxation

15 February 2023

Status: **not legally binding**

References

Legislative references:

- ITAA 1936 6(1)
 - ITAA 1936 44(1)
 - ITAA 1936 45
 - ITAA 1936 45A(2)
 - ITAA 1936 45B(2)(c)
 - ITAA 1936 45B(3)
 - ITAA 1936 45BA
 - ITAA 1936 45C
 - ITAA 1997 104-135
 - ITAA 1997 104-135(3)
 - ITAA 1997 115-30(1)
 - ITAA 1997 125-55(1)
 - ITAA 1997 125-60(1)
 - ITAA 1997 125-70
 - ITAA 1997 125-80(1)
 - ITAA 1997 125-80(2)
 - ITAA 1997 125-80(3)
 - ITAA 1997 125-85(1)
 - ITAA 1997 125-85(2)
 - ITAA 1997 Div 197
 - ITAA 1997 Div 230
 - ITAA 1997 Pt 3-90
 - ITAA 1997 977-50
 - ITAA 1997 995-1(1)
 - Corporations Act 2001 256B
 - Corporations Act 2001 256C
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ATO references

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