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# Application of ATO Ruling in regards to Scheme of Arrangement with Pendal Group

This document sets out some common questions Perpetual shareholders have asked in regards to the ATO Ruling Class Ruling 2023/9 (**Class Ruling**) for the Scheme of Arrangement with Pendal Group (**Scheme**) and some illustrative examples. A copy of the Class Ruling is available here: https://www.ato.gov.au/law/view/pdf/pbr/cr2023-009.pdf

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**Commonly asked questions**

## 1. What are the capital proceeds received for each Pendal share under the Scheme?

The Class Ruling confirmed that the capital proceeds received by a Pendal shareholder for their Pendal shares disposed of under the Scheme consists of:

- $1.615 cash received for each Pendal share (consideration for immediate capital gains tax calculations on disposal of each Pendal share, assuming partial scrip for scrip rollover is chosen), and,
- the market value of the replacement Perpetual shares received by the shareholder which the Class Ruling has confirmed is $26.611.

The total capital proceeds received under the Scheme may therefore be calculated as:

> Total capital proceeds = (Number of Pendal shares sold under the Scheme x $1.615) + (Number of Perpetual shares received under the Scheme x $26.611)

## 2. If rollover relief is chosen, what is the cost base for each replacement Perpetual share? How is this calculated?

If partial scrip for scrip rollover is chosen, the cost base of each Pendal share is allocated between that portion to which scrip for scrip rollover applies ("eligible proceeds cost base) and that portion on which a capital gain or loss is recognised ("ineligible proceeds cost base").

A Pendal shareholder's eligible proceeds cost base (used to determine the cost base of the shareholder's Perpetual shares on subsequent disposal) may be calculated as follows:

Eligible proceeds cost base =

Cost base of Pendal share × (Market value of Perpetual share ÷ (Market value of Perpetual share + $1.615))

A Pendal shareholder's ineligible proceeds cost base (used to determine the immediate capital gain or loss on the disposal of the shareholder's Pendal shares) may be calculated as follows:

Ineligible proceeds cost base =

Cost base of Pendal share × ($1.615 ÷ (Market value of Perpetual share + $1.615))

For the purposes of determining the "eligible proceeds cost base" and "ineligible cost base", there is a view that the reference to "market value of Perpetual share" is a reference to that portion of each Perpetual share that is received for each Pendal share. Under the Scheme, 1 Perpetual share was received for every 7 Pendal shares disposed of, so accordingly only 1/7th of the market value of the Perpetual shares received is used in the cost base calculations. Accordingly, for the purposes of the cost base calculations, the market value of Perpetual shares referable to each Pendal share is $26.611/7, or $3.802 per Pendal share.

**Please note that in relation to the above, there may be alternate views, and shareholders need to seek their own tax advice.**

**3. If rollover relief is not, or cannot be chosen, how is the cost base for each replacement Perpetual calculated?**

The most common reason why rollover relief cannot be chosen, will be that a capital loss is incurred on the disposal of Pendal shares under the Scheme where the capital proceeds received under the Scheme are less than the cost base for the Pendal shares disposed of. Where a capital loss is incurred, a shareholder will not be entitled to apply rollover relief, and that capital loss will be included in determining the shareholders' net capital gain for the year.

In the event that rollover relief is not, or cannot be chosen, the relevant paragraphs of the Class Ruling for determining relevant tax outcomes are paragraphs 37 to 39 inclusive and paragraphs 134 and 135.

In particular, the cost base of the replacement Perpetual shares will be governed by paragraphs 38 and 135 of the Class Ruling.

As set out at paragraph 135 of the Class Ruling, in this situation, "*the first element of the cost base and reduced cost base of each replacement Perpetual share received is equal to the part of the market value of the Pendal shares reasonably attributable to the Perpetual share at the time of its acquisition. The market value of a Pendal share given by you that is reasonably attributable to the receipt of cash consideration is not included in the cost base or reduced cost base of a replacement Perpetual share*". There is a view that "*the market value of a Pendal share*" for purposes of applying these paragraphs is determined by reference to the amount received for a Pendal share on 23 January 2023. Under the Scheme, Pendal shareholders received $1.615 and 1/7th of a PPL share for each Pendal share, the total market value of a Pendal share on that date would be $1.615 + $26.611/7 = $5.417. Applying paragraphs 38 and 135 of Class Ruling and excluding the cash consideration for each Pendal share, each replacement Perpetual share should have a cost base equal to the scrip component of the value of 7 PDL shares, namely ($5.417 - $1.615) x 7 = $26.611 per share.

**Please note that in relation to the above, there may be alternate views, and shareholders need to seek their own tax advice.**

## Illustrative examples

Perpetual has set out below some illustrative examples. These hypothetical scenarios are general in nature only and do not consider individual circumstances. Shareholders should obtain their own taxation and financial advice.

1. **What are the capital proceeds received for each Pendal share under the Scheme?**

   If a shareholder held 1,000 Pendal shares that were subject to the Scheme, the shareholder would have received capital proceeds of $1,615 cash and 143 Perpetual shares (at a market value of $26.611 per Perpetual share) with a total market value of $3,805. Therefore, the total capital proceeds would be $5,420.

2. **If rollover relief is chosen, how is the cost base for each replacement Perpetual share calculated?**

   If a shareholder held 1,000 Pendal shares that were subject to the Scheme, the shareholder would have received capital proceeds of $1,615 cash and 143 Perpetual shares (at a market value of $26.611 per Perpetual share) with a total market value of $3,805. Therefore, the total capital proceeds would be $5,420.

   If the cost base of the 1,000 Pendal shares was $4,000, and the shareholder chose partial scrip for scrip rollover, then:

   a) the shareholder's "eligible proceeds cost base" (used to determine the cost base of the shareholder's Perpetual shares on subsequent disposal) would be calculated as:

      $4,000 x [$3.802/($3.802+$1.615)], which is $4,000 x $3,805/ $5,420 or 0.702 = $2,808.

      Accordingly, the cost base in respect of the 143 Perpetual shares acquired under the Scheme would be $2,808, or $19.636 per share.

   b) the shareholder's "ineligible proceeds cost base" (used to determine the immediate capital gain or loss on the disposal of the shareholder's Pendal shares) would be calculated as:

      $4,000 x [$1.615/($3.802+$1.615)], which is $4,000 x 0.298 or $1,615/ $5,420 = $1,192.

      Accordingly, the immediate capital gain on disposal of this shareholder's Pendal shares would be $1,615 - $1,192 = $423.

3. **If rollover relief is not, or cannot be chosen, how is the cost base for each replacement Perpetual share calculated?**

   If a shareholder held 1,000 Pendal shares that were subject to the Scheme and had acquired those shares for $8.00 per share, then under the Scheme, the shareholder would have received cash of $1.615 per share (i.e. $1,615), and 1/7th of a Perpetual share for each Pendal share (i.e. 143 replacement Perpetual shares) (at a market value of $26.611 per Perpetual share).

   Accordingly, the capital proceeds received by the shareholder under the Scheme would be $1,615 cash plus replacement Perpetual shares valued at $3,805 (143 shares x $26.611), which would be a total capital proceeds of $5,420.

If the shareholder acquired those shares for $8 per share, (costing $8000 in total - 1,000 Pendal shares x $8.00 per share). Accordingly, the shareholder would therefore have made a capital loss of $2,580 on the disposal of the Pendal shares under the Scheme (proceeds of $$5,420 less a cost base of $8,000).

The cost base of the 143 replacement Perpetual shares would be $3,805 (being 143 x $26.611, determined in accordance with the description in 3 above).

**4. What happens if a Pendal Shareholder had multiple Pendal share parcels at the time of the Scheme implementation**

If a shareholder held multiple parcels of Pendal shares with difference cost bases which were subject to the Scheme, the availability of scrip for scrip rollover would be determined on a parcel by parcel basis. Accordingly, if some parcels result in capital gains, then scrip for scrip rollover can be applied in relation to those parcels, while if other parcels result in a capital loss, scrip for scrip rollover cannot be chosen.

For example, if a shareholder held 7,000 Pendal shares, prior to the implementation date, acquired in the following parcels:

- 1,500 @ $4.80 a share. Total cost $7,200
- 1,200 @ 8.00 a share. Total cost $9,600
- 4,300 @ $6.80 a share Total cost $29,240

Under the Scheme, shareholders received $1.615 cash plus 1/7th of a Perpetual share for each Pendal share. On a parcel-by-parcel basis, this would produce the following outcomes:

| Parcel | Number | Cost per Share | Total Parcel Cost ($) | Cash Consideration received ($) | PPL Shares Consideration received ($) | Total Consideration Received ($) | Prima facie Capital Gain/(Loss) |
|---|---|---|---|---|---|---|---|
| 1 | 1,500 | $4.80 | 7,200 | 2,422 | 5,696 | 8,117 | 917 |
| 2 | 1,200 | $8.00 | 9,600 | 1,938 | 4,577 | 6,515 | (3,085) |
| 3 | 4,300 | $6.80 | 29,240 | 6,944 | 16,339 | 23,283 | (5,956) |

The shareholder would be able to choose scrip for scrip rollover in relation to parcel 1, but not in relation to parcel 2 and 3.

**a. Parcel 1 (scrip for scrip rollover elected)**

Paragraph 131 of the Class Ruling determines the ineligible proceeds cost base which is used to determine the immediate capital gain. This is defined as:

$$\text{Ineligible proceeds cost base} =$$
$$\text{Cost base of Pendal share} \times (\$1.615 \div (\text{Market value of Perpetual share} + \$1.615))$$

For parcel 1, the ineligible proceeds cost base for the purposes of determining a capital gain is:

7,200 x [$1.615/($3.802+$1.615)] = $2,147

Therefore, the immediate capital gain in respect of parcel 1 is $2,422 (cash received) - $2,147 (ineligible proceeds cost base) would be $275

Paragraph 131 of the Class Ruling determines the eligible cost base proceeds which are is to determine the cost base of the replacement Perpetual shares. This is defined as:

Eligible proceeds cost base =

Cost base of Pendal share × (Market value of Perpetual share ÷ (Market value of Perpetual share + $1.615))

Accordingly, for parcel 1, the Eligible cost base proceeds for the purposes of determining the cost base of PPL shares would be:

$7,200 x [$3.802/($3.802+$1.615)] = $5,053

Therefore, the cost base of 215 Perpetual replacement shares received in respect of parcel 1 (being 1,500 Pendal shares divided by 7) would be $5,053.

b. **Parcels 2 and 3 (ineligible for scrip for scrip rollover)**

Capital Loss on disposal of shares = ($6,515 + $23,283) – ($9,600 + $29,240) = $9,042.

The determination of the cost base of replacement Perpetual shares where rollover relief is not chosen is discussed in example 1 above. Accordingly, the cost base of replacement Perpetual shares received in relation to Parcels 2 and 3 is calculated as:

[(1,200 + 4,300)/7] x 26.611 = $20,916

Therefore, the cost base of 786 Perpetual shares received in relation to parcels 2 and 3 would be $20,916.

In total then, the tax outcomes in this example arising from the 3 parcels would be:

- Net capital loss to carry forward (or apply against other current year capital gains) = $9,042 - $275 = $8,767
- Cost base of 1000 replacement Perpetual shares = $5,053 + $20,916 = $25,969.