


CR 2024/12 - A2B Australia Limited - special dividend

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Status: **legally binding**

Class Ruling

A2B Australia Limited – 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 holders of ordinary shares in A2B Australia Limited (A2B) who received a special dividend of A\$0.60 per share paid by A2B on 30 January 2024 (Special Dividend).
2. Details of this scheme are set out in paragraphs 19 to 28 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:
 - were registered on the A2B share register on 15 January 2024 (Record Date), and
 - held your A2B shares on capital account – that is, you did not hold your A2B shares as revenue assets (as defined in section 977-50) nor as trading stock (as defined in subsection 995-1(1)).
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 19 to 28 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.

Status: **legally binding**

Ruling

Special Dividend

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' in accordance with section 202-40.

Qualified persons in relation to the Special Dividend

9. You will be a 'qualified person', as defined in Division 1A of former Part IIIAA of the ITAA 1936, if during the period, starting from the day after you acquired your A2B shares and ending on 1 March 2024 (inclusive), you held your A2B shares 'at risk' for a continuous period of at least 45 days. This will require taking into account any positions entered into that have 'materially diminished risks of loss or opportunities for gain' (as defined under former section 160APHM of the ITAA 1936) in respect of your A2B shares.

Resident shareholders

10. If you are a resident of Australia, as defined in subsection 6(1) of the ITAA 1936, and you received the Special Dividend, you are required to include the Special Dividend in your assessable income (subparagraph 44(1)(a)(i) of the ITAA 1936).
11. If you satisfy the residency requirements in section 207-75, you include the franking credit attached to the Special Dividend in your assessable income, and you are entitled to a tax offset equal to the amount of those credits (section 207-20), provided you are a 'qualified person' as detailed at paragraph 9 of this Ruling.
12. 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 attached to the dividend are included in your assessable income, provided you are a 'qualified person' as detailed at paragraph 9 of this Ruling (subsection 207-35(1)).
13. The tax offset is refundable, subject to the refundable tax offset rules in Division 67. You are specifically excluded from the operation of the refundable tax offset rules if you are a:
- non-complying superannuation fund or non-complying approval deposit fund (subsection 67-25(1A))
 - trustee of a trust who is liable to be assessed under sections 98 or 99A of the ITAA 1936 (subsection 67-25(1B))
 - corporate tax entity, unless the entity is an exempt institution that is eligible for a refund, or a life insurance company that has received distributions or membership interests which are not held by the company on behalf of its shareholders (subsections 67-25(1C) and (1D)), or
 - non-resident that carries on business in Australia at or through a permanent establishment of the entity in Australia (subsection 67-25(1DA)).

Status: **legally binding**

Non-resident shareholders***Special Dividend not attributable to a permanent establishment***

14. If you are a non-resident, the Special Dividend is not included in your assessable income (section 128D of the ITAA 1936) and you are not liable to withholding tax in respect of the dividend (paragraph 128B(3)(ga) of the ITAA 1936).

15. The franking credits attached to the Special Dividend are also not included in your assessable income and you are not entitled to a tax offset for those franking credits (sections 207-20 and 207-70).

Special Dividend attributable to a permanent establishment

16. If you are a non-resident carrying on business in Australia at or through a permanent establishment, and the Special Dividend is attributable to that permanent establishment, the Special Dividend is included in your assessable income (subparagraph 44(1)(c)(i) of the ITAA 1936) and you are not liable to withholding tax in respect of the dividend (subsection 128B(3E) of the ITAA 1936).

17. The franking credits attached to the Special Dividend are included in your assessable income and you are entitled to a tax offset for those franking credits (sections 207-20 and 207-70).

Imputation streaming

18. The Commissioner will not make a determination under paragraph 204-30(3)(c) to deny the whole, or any part, of the imputation benefit received in relation to the Special Dividend.

Scheme

19. 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.

A2B Australia Limited

20. A2B is a company incorporated in Australia that has been listed on the Australian Securities Exchange since 14 December 1999.

21. A2B provides personal transportation services and solutions and is the head company of an income tax consolidated group pursuant to Part 3-90.

22. A2B had 122,985,271 of ordinary shares on issue as at 15 January 2024, being the only class of shares on issue. Approximately 15% of those shares are held by foreign residents.

23. A2B's consolidated retained earnings was A\$45.62 million as at 30 June 2023. A2B confirmed that there was sufficient retained earnings and current profits to pay the Special Dividend and it was declared and paid in satisfaction of the requirements set out in section 254T of the *Corporations Act 2001*.

Status: **legally binding**

Disposal of properties

24. As part of a strategic review undertaken in 2022, an independent assessment concluded that it would be in the interest of A2B and its stakeholders to dispose of certain properties.

25. Subsequently:

- On 20 December 2022, A2B announced it had entered into a contract for the sale of its 'Bourke Property' for consideration of A\$19 million. The sale completed on 30 May 2023.
- On 30 March 2023, A2B announced it had entered into a contract for the sale of its 'O'Riordan Property' for consideration of A\$78 million. The sale completed on 22 December 2023.
- On 14 November 2023, A2B announced it had entered into a contract for the sale of its 'Oakleigh property' for consideration of A\$8 million. The sale completed on 8 December 2023.

26. The Board of Directors of A2B decided to distribute excess cash from these sales by declaring a Special Dividend.

Special Dividend

27. In accordance with the Australian Securities Exchange announcement dated 22 December 2023, A2B declared a Special Dividend of A\$0.60 for each A2B share held on 15 January 2024 (the Record Date). The Special Dividend was fully franked.

28. The fully franked Special Dividend was paid to all ordinary shareholders and was debited against A2B's retained earnings account.

Commissioner of Taxation

21 February 2024

Status: **not legally binding**

References

Legislative references:

- | | |
|------------------------------------|------------------------------|
| - ITAA 1936 6(1) | - ITAA 1997 67-25(1B) |
| - ITAA 1936 44(1)(a)(i) | - ITAA 1997 67-25(1C) |
| - ITAA 1936 44(1)(c)(i) | - ITAA 1997 67-25(1D) |
| - ITAA 1936 160APHM | - ITAA 1997 67-25(1DA) |
| - ITAA 1936 128B(3)(ga) | - ITAA 1997 202-40 |
| - ITAA 1936 128B(3E) | - ITAA 1997 204-30(3)(c) |
| - ITAA 1936 128D | - ITAA 1997 207-20 |
| - ITAA 1936 former Pt IIIAA Div 1A | - ITAA 1997 207-35(1) |
| - ITAA 1997 Pt 3-90 | - ITAA 1997 207-70 |
| - ITAA 1997 Div 63 | - ITAA 1997 207-75 |
| - ITAA 1997 63-10 | - ITAA 1997 Div 230 |
| - ITAA 1997 Div 67 | - ITAA 1997 977-50 |
| - ITAA 1997 67-25(1A) | - ITAA 1997 995-1(1) |
| | - Corporations Act 2001 254T |
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ATO references

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