# *CR 2025/59 - Euroz Hartleys Group Limited - return of capital*

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Status: **legally binding**

# Class Ruling

# Euroz Hartleys Group Limited – return of capital

**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 shareholders of Euroz Hartleys Group Limited (EZL) who received a return of capital payment of $0.14 per ordinary EZL share (Capital Return) on 5 August 2025 (Payment Date).

2. Details of this scheme are set out in paragraphs 20 to 37 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 EZL on 29 July 2025 (Record Date) and received the Capital Return of $0.14 per EZL share on the Payment Date
- held your EZL shares on capital account – that is, you did not hold your EZL shares as revenue assets (as defined in section 977-50) or as trading stock (as defined in subsection 995-1(1))
- are a 'resident of Australia' as defined in subsection 6(1) of the *Income Tax Assessment Act 1936* (ITAA 1936) or a non-resident (other than a non-resident who carries on a business at or through a permanent establishment[1] in Australia), and
- are not a 'temporary resident' of Australia within the meaning of subsection 995-1(1).

[1] The term 'permanent establishment' is defined in the relevant international tax treaty, if there is one, or if not, as defined in subsection 6(1).

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5. This Ruling does not apply to anyone who is subject to the taxation of financial arrangements rules in Division 230 or Subdivision 842-I in relation to the scheme outlined in paragraphs 20 to 37 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 2025 to 30 June 2026.

## Ruling

### Capital Return is not a dividend

7. No part of the Capital Return paid to you by EZL on the Payment Date is a dividend as defined in subsection 6(1) of the ITAA 1936. This is because the entire amount of the Capital Return has been debited against an amount standing to the credit of EZL's share capital account.

8. Therefore, no part of the Capital Return is included in your assessable income as a dividend under subparagraph 44(1)(a)(i) of the ITAA 1936.

### Sections 45A, 45B and 45C of the ITAA 1936 do not apply

9. The Commissioner will not make a determination that section 45C of the ITAA 1936 applies to any part of the Capital Return you received on the Payment Date under either:

- subsection 45A(2) of the ITAA 1936 because there was no streaming of capital benefits to some EZL shareholders and dividends to other EZL shareholders as required by subsection 45A(1), or
- paragraph 45B(3)(b) of the ITAA 1936 because the requirements of subsection 45B(2) were not satisfied.

10. Therefore, no part of the Capital Return paid to you is taken to be an unfranked dividend.

### Capital gains tax consequences

#### *CGT event G1*

11. CGT event G1 happened on the Payment Date when EZL paid you the Capital Return in respect of each EZL share you owned on the Record Date and continued to own on the Payment Date (section 104-135).

12. You made a capital gain under CGT event G1 if the amount of the Capital Return you received (being $0.14 per EZL share) was more than the cost base of your EZL share (subsection 104-135(3)). The amount of the capital gain is equal to the excess. If you made a capital gain, the cost base and reduced cost base of your EZL share are reduced to nil (subsection 104-135(3)).

13. If the Capital Return amount you received for each EZL share was equal to or less than the cost base of your EZL share, the cost base and reduced cost base of your EZL share are reduced by the amount of the Capital Return (subsection 104-135(4)). You

cannot make a capital loss when CGT event G1 happens (Note 1 to subsection 104-135(3)).

### *CGT event C2*

14. CGT event C2 happened to your right to receive the Capital Return on the Payment Date in respect of each EZL share you owned on the Record Date but ceased to own prior to the Payment Date (section 104-25).

15. You made a capital gain under CGT event C2 if the capital proceeds from the ending of the right (being the Capital Return amount) were more than the cost base of the right. You made a capital loss if the capital proceeds from the ending of the right were less than the reduced cost base of the right (subsection 104-25(3)).

16. In working out the capital gain or capital loss when CGT event C2 happened, the capital proceeds are equal to the amount of the Capital Return of $0.14 per EZL share you owned on the Record Date (subsection 116-20(1)).

17. The cost base of your right to receive the Capital Return is worked out under Division 110 (modified by Division 112). The cost base of the right does not include the cost base or reduced cost base of the EZL share previously owned by you to the extent that it was applied in working out a capital gain or capital loss made when a CGT event happened to that share – for example, when you disposed of the share after the Record Date but before the Payment Date. Therefore, if the cost base or reduced cost base of the share previously owned by you has been fully applied in working out a capital gain or capital loss on the share, the right to receive the Capital Return will have a nil cost base. As a result, you will, in those circumstances, make a capital gain equal to the capital proceeds, being $0.14 per EZL share owned at the Record Date.

### *Discount capital gain*

18. You can treat a capital gain made when CGT event G1 or CGT event C2 happened as a discount capital gain under Subdivision 115-A if you acquired your EZL share on or before 4 August 2024 – at least 12 months before the Payment Date (subsection 115-25(1)), provided the other conditions in Subdivision 115-A are satisfied.

### *Foreign resident shareholders*

19. If you were a foreign resident (as defined in subsection 995-1(1)) just before the Payment Date, you disregard under subsection 855-10(1) any capital gain made from CGT event G1 or any capital gain or capital loss made from CGT event C2, provided that your EZL share or your right to receive the Capital Return on your EZL share:

- has not been used at any time in carrying on a business through a permanent establishment in Australia (table item 3 of section 855-15), and
- was not covered by subsection 104-165(3) (about individuals choosing to disregard a capital gain or capital loss on ceasing to be an Australian resident) (table item 5 of section 855-15).

Status: **legally binding**

# Scheme

20. 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.

## Background

21. EZL is an Australian-resident company limited by shares and listed on the Australian Securities Exchange.

22. EZL carries on a stockbroking, corporate finance and wealth management business.

23. On 21 April 2022, EZL received shares in WAM Capital Limited (WAM) as consideration for the sale of its investment in Westoz Investment Company Limited and Ozgrowth Limited, in which they held 26.25% and 41.58% of the issued shares respectively.

24. On 19 May 2022, EZL completed the sale of 100% of the WAM shares on market, receiving total cash consideration of approximately $103.9 million.

25. As EZL determined it had share capital surplus to its requirements resulting from the sale of the WAM shares, it returned approximately $80 million to its shareholders in 2 components. This comprised of a special dividend and return of capital paid on 7 October 2022 and 2 December 2022 respectively.

26. EZL determined to maintain a surplus cash balance of approximately $23 million to facilitate future capital acquisitions.

## Capital Return

27. EZL did not find a commercial use for the surplus cash balance of approximately $23 million from the sale of WAM shares.

28. On 13 June 2025, EZL made an announcement on the Australian Securities Exchange of its intention to seek shareholder approval at the company's annual general meeting to distribute up to approximately $23 million (or $0.14 per EZL share) of the net proceeds from the sale of WAM to shareholders by way of an equal reduction of share capital, in accordance with sections 256B and 256C of the *Corporations Act 2001*.

29. The Capital Return was approved by EZL shareholders on 18 July 2025.

30. On the Payment Date, EZL shareholders received the Capital Return, being $0.14 for each EZL share they held on the Record Date.

31. The total Capital Return amount of $23,075,164 was paid from EZL's available cash balance and was debited to EZL's share capital account.

32. The Capital Return did not result in the cancellation of any EZL shares and there was no change to the proportionate interest of each EZL shareholder following the Capital Return.

Status: **legally binding**

## Other matters

33. As at 30 June 2025, EZL had:

- retained earnings of $7.5 million
- a share-based payments reserve of $6.6 million, and
- share capital of $101.7 million.

34. EZL's share capital account (as defined in section 975-300) is not tainted (within the meaning of Division 197).

35. EZL has consistently paid dividends to shareholders and intends to continue paying them in the future.

36. As at the Payment Date, the majority of EZL's shareholders resided in Australia, with 448,547 EZL shares (0.2721% of all shares on issue) held by shareholders with an address outside of Australia on the EZL share register.

37. On the Payment Date, the sum of the market values of the assets of EZL and its subsidiaries that are taxable Australian real property did not exceed the sum of the market values of their other assets for the purposes of section 855-30.

**Commissioner of Taxation**
10 September 2025

Status: **not legally binding**

# References

*Legislative references:*

- ITAA 1936 6(1)
- ITAA 1936 44(1)(a)(i)
- ITAA 1936 45A
- ITAA 1936 45A(1)
- ITAA 1936 45A(2)
- ITAA 1936 45B
- ITAA 1936 45B(2)
- ITAA 1936 45B(3)(b)
- ITAA 1936 45C
- ITAA 1997 104-25
- ITAA 1997 104-25(3)
- ITAA 1997 104-135
- ITAA 1997 104-135(3)
- ITAA 1997 104-135(4)
- ITAA 1997 104-165(3)
- ITAA 1997 Div 110
- ITAA 1997 Div 112
- ITAA 1997 Subdiv 115-A
- ITAA 1997 115-25(1)
- ITAA 1997 116-20(1)
- ITAA 1997 Div 197
- ITAA 1997 Div 230
- ITAA 1997 Subdiv 842-I
- ITAA 1997 855-10(1)
- ITAA 1997 855-15
- ITAA 1997 855-30
- ITAA 1997 975-300
- ITAA 1997 977-50
- ITAA 1997 995-1(1)
- Corporations Act 2001 256B
- Corporations Act 2001 256C

ATO references

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