

Investor FAQ

Retail Premium – paid December 2016

FAQ - Tax treatment of Boral's retail premium December 2016

**In relation to Renounceable retail entitlement offer
of Boral Limited ordinary shares announced on 21 November 2016**

Please note the circumstances for each individual will vary and you are therefore encouraged to consult your own financial or taxation adviser.

The information we provide below is general in nature.

1. I received a retail premium but have not yet filed my Australian income tax return - what should I do?

Prior to submitting your Australian income tax return, you should consider the appropriate treatment of the retail premium in your particular circumstances and obtain your own professional advice.

In the retail offer booklet, Boral Limited provided general comments to the effect that for certain shareholders the retail premium should be treated as a capital gain. The ATO has subsequently released Taxation Ruling TR 2017/4 and guidance on the taxation of retail premiums, which can be found here:

<https://www.ato.gov.au/individuals/investing/in-detail/investing-in-shares/taxing-retail-premiums/>

This guidance (**ATO Guidance**) states that “[g]enerally, where individual retail investors hold shares on capital account and a resident individual shareholder receives a retail premium, it will constitute a capital gain.”

2. Is the retail premium a dividend from Boral Limited?

The ATO Guidance states that “[r]etail premiums paid to shareholders are not dividends.”

3. I included the retail premium in my Australian income tax return as a capital gain but the ATO adjusted to treat it as an unfranked dividend - what should I do?

You should consider with your professional adviser the appropriate treatment of the retail premium on your Australian income tax return and the appropriate course of action in your particular circumstances to ensure that your income tax return is true and correct and to resolve any difference in approach taken by the ATO.

This may include contacting the ATO and requesting that the ATO's adjustment be reversed. As noted above, the ATO Guidance states that “[r]etail premiums paid to shareholders are not dividends” and “[g]enerally, where individual retail investors hold shares on capital account and a resident individual shareholder receives a retail premium, it will constitute a capital gain.”

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4. I included the retail premium in my Australian income tax return as an unfranked dividend. What should I do?

You should consider with your professional adviser the appropriate treatment of the retail premium on your Australian income tax return and the appropriate course of action in your particular circumstances to ensure that your income tax return is true and correct.

This may include lodging an amended return. As noted above, the ATO Guidance states that “[r]etail premiums paid to shareholders are not dividends” and “[g]enerally, where individual retail investors hold shares on capital account and a resident individual shareholder receives a retail premium, it will constitute a capital gain.”

5. I have held my shares for longer than 12 months and the retail premium has been treated in my Australian income tax return as an unfranked dividend. What should I do?

You should consider with your professional adviser the appropriate treatment of the retail premium on your Australian income tax return and the appropriate course of action in your particular circumstances to ensure that your income tax return is true and correct.

This may include lodging an amended return. As noted above, the ATO Guidance states that “[r]etail premiums paid to shareholders are not dividends” and “[g]enerally, where individual retail investors hold shares on capital account and a resident individual shareholder receives a retail premium, it will constitute a capital gain.”

In addition, the ATO Guidance states in relation to Australian resident shareholders:

“A shareholder is taken to have acquired the rights when it acquired the original shares. Therefore, any capital gain may represent a discount capital gain if the eligible shareholder’s original shares have been held for 12 months or more.”

As discount capital gains are taxed preferentially this should result in less income being included in your return.

6. I have carry forward capital losses for Australian income tax purposes. Am I able to use these losses to offset the retail premium?

As noted above, the ATO Guidance states that “[g]enerally, where individual retail investors hold shares on capital account and a resident individual shareholder receives a retail premium, it will constitute a capital gain.” For Australian income tax purposes, your net capital gain for an income year is generally determined by reducing your total capital gains for that income year by your total capital losses, including any net capital losses from previous years. You should obtain your own professional advice in relation to the tax treatment of the retail premium in your particular circumstances.

Applying any available capital losses to offset a capital gain should result in a lower assessable income in your return.

7. I am an Australian tax resident shareholder and have provided my Australian tax file number (TFN). Is this payment subject to withholding tax?

The payment should not be subject to withholding tax.