

A long-exposure photograph of a city street at night. The foreground shows a dark asphalt road with a concrete curb on the right. In the background, there are tall buildings and bright light trails from moving vehicles, creating a sense of motion and urban energy.

**APN** | Property Group

# RESTRUCTURE TAX GUIDE

FEBRUARY 2020

At the Annual General Meeting of APN Property Group Limited (“APD”) on 20 November 2019, shareholders voted in favour of a proposal to restructure the company and create a new stapled group.

The new stapled group consists of APD and a new unit trust, the APD Trust. The APD Trust is a managed investment scheme registered under Chapter 5C of the Corporations Act.

This document provides a summary of the overall stapling transaction and the main Australian income tax implications to certain Australian tax resident shareholders and unitholders in APD and APD Trust, respectively.

APD is in the process of obtaining a Class Ruling from the Australian Taxation Office (“ATO”) confirming certain tax implications for APD securityholders in relation to the stapling transaction. Securityholders should also refer to this Class Ruling once it has been published by the ATO.

## About this Guide

This Guide has been prepared to provide further information for certain investors regarding the Australian income tax implications of the restructure, specifically the distribution made by APD to facilitate the restructure.

This Guide is relevant to you for the income year ended 30 June 2020 if:

- you are an Australian tax resident; and
- you hold your investments as a capital investment and not, for example, for the purpose of resale at a profit, so that the capital gains tax (“CGT”) provisions are relevant to you;
- you were a registered shareholder of APD shares on 11 December 2019 (the “Record Date”), such that you participated in the restructure; and
- you have a 30 June income tax year-end (such that the restructure occurred during the income year ending 30 June 2020).

This Guide has been prepared for general information purposes only and provides further explanation of the stapling restructure that occurred during the 2020 income year. It is not, nor should it be relied upon as, tax advice or financial product advice. Each investor’s circumstances will differ and each investor should seek independent tax advice relevant to their own particular circumstances.

This Guide includes reference to disclosure items / labels in the 2020 income tax return that will generally be relevant for the restructure distribution. These comments are a guide only and also assume that the 2020 income tax return disclosure items / labels will be consistent with the 2019 income tax return disclosures. Investors are advised to confirm the required disclosures in their 2020 income tax return and seek independent tax advice in this regard.

## Summary of the restructure

The restructure involved the following steps:

1. APD Trust was settled with APD as the sole unitholder.
2. APD transferred the following portions of the co-investments (collectively, the “APD Trust Assets”) to APD Trust in consideration of a loan payable from APD Trust to APD:

- a. 100% of its interests in APN Industria REIT,
  - b. approximately 75% of its interests in APN Convenience Retail REIT,
  - c. 100% of its interests in APN Asian REIT Fund,
  - d. 100% of its interests in APN Global REIT Income Fund.
3. On 20 November 2019, the Directors of APD resolved that a distribution be made to its shareholders of 7.5 cents per APD share (the “Distribution”), to give effect to the restructure with a Record Date of 7pm, 11 December 2019. This amount was equivalent to the market value of the assets of the APD Trust (net of the loan from APD to APD Trust and other liabilities of APD Trust) at the time of the Distribution. The Distribution was made partly as a return of capital and partly as a fully franked dividend (franked at 27.5%). \$20.03 million of the Distribution, equating to 6.3 cents per APD share was made as a return of capital (the “Capital Return”) and \$3.82 million of the Distribution, equating to 1.2 cents per APD share was made as a fully franked dividend (the “Special Dividend”).
  4. On 13 December 2019 (the “Payment Date”), APD made the Distribution to its shareholders.
  5. The Distribution to APD shareholders was immediately and compulsorily applied on their behalf to acquire APD Trust units on a one-for-one basis. That is, for each APD share held each APD shareholder received one APD Trust unit.
  6. The APD Trust units were stapled to APD shares on a one-for-one basis such that the APD Trust units and APD shares cannot be sold, traded or otherwise dealt with separately.
  7. The APD Trust units were admitted for quotation on the ASX on 10 December 2019 initially on a deferred settlement basis. Together, the APD Trust units and the APD shares now trade as stapled securities under the ticker code “APD”.

## Completing 2020 income tax returns

The APD distribution statement provided to shareholders in respect of the Special Dividend and Capital Return sets out the information likely to be relevant for each Australian tax resident individual, company and complying superannuation fund investor to complete the disclosures in their applicable ATO income tax return.

Any income or capital gains that investors have derived from other sources should be added to the relevant restructure amounts and the total amount for each category should then be included in the investor’s 2020 income tax return (and related schedules / supplements, as required).

## Special Dividend

The Special Dividend was a distribution made by APD to its shareholders which was not debited against its share capital account.

The Special Dividend amount (1.2 cents per share) should be included in assessable income.

The Special Dividend satisfies the definition of a frankable distribution. The Special Dividend was fully franked at a rate of 27.5%.

If you are a “qualified person” who received the Special dividend, you are required to gross-up the Special Dividend for the attached franking credits when determining your assessable income, with a tax offset generally being claimable for the amount of the franking credits.



If you are not a “qualified person” in relation to the Special Dividend, you do not include the franking credits attached to the dividend in your assessable income and you are not entitled to a tax offset for the franking credits.

The Class Ruling will outline the criteria for whether a shareholder is a “qualified person” with respect to the Special Dividend. It is recommended shareholders refer to this guidance in determining how to treat the franking credits attached to the Special Dividend.

## Individuals

Individual investors should generally disclose the relevant amounts at Label 11T and 11U of their 2020 income tax return.

## Corporate taxpayers

Corporate investors should generally disclose the relevant amounts at Label 6H and 7J of their 2020 income tax return.

## Complying superannuation funds

Complying superannuation fund investors should generally disclose the relevant amounts at Label 10K and 10L of their 2020 income tax return.

## Capital Return

The Capital Return paid by APD (6.3 cents per share) should be treated as a non-assessable payment from a company (that is, a payment that is not a dividend nor an amount that is taken to be a dividend for tax purposes).

CGT event G1 occurs at the time of the Distribution in respect of an APD share that you owned at the Record Date and continued to own at the Payment Date. Under CGT event G1, you will need to adjust (reduce) the cost base of your APD shares by the amount of the Capital Return (6.3 cents per share).

## Capital gain

You will make a capital gain from CGT event G1 happening where the amount of the Capital Return is more than the cost base of your APD shares.

If the non-assessable payment exceeds the cost base of the shares held, then the excess amount will be the capital gain amount and the cost base of the shares will be reduced to zero. You cannot make a capital loss from CGT event G1.

## Individuals

In the ATO's Tax Return for Individuals (Supplementary Section), the individual investor should generally answer “Yes” at Label 18G and the amount of capital gain realised from CGT event G1 should generally be included at Label 18A and 18H.

## Corporate taxpayers

The corporate investor should generally answer “Yes” at Label 7G of the income tax return and include the capital gain amount resulting from CGT event G1 at Label 7A of the income tax return. If the investor's total capital gains for the income year are more than \$10,000, the investor should generally also complete a CGT schedule and disclose the capital gain at Label 1A of the schedule.

## Complying superannuation funds

The complying superannuation fund investor should generally answer “Yes” at Label 10G of the income tax return and disclose the capital gain amount resulting from CGT event G1 at Label 10A of the income tax return. If the investor's total capital gains for the income year are more than \$10,000, the investor should generally also complete a CGT schedule and disclose the capital gain at Label 1A of the schedule.

## Discount capital gain

Individual and complying superannuation fund investors are entitled to treat a capital gain made when CGT event G1 happens as a discount capital gain provided that the APD shares were acquired at least 12 months before 13 December 2019, being when the CGT event happened. It is recommended such investors seek independent tax advice regarding the applicability and impact of the CGT discount on their tax position and income tax return disclosures.

## Reduction in cost base

Where the amount of the Capital Return is not more than the cost base of the APD shares, the cost base and the reduced cost base of the APD shares is reduced by the total amount of the Capital Return for CGT purposes. The reduction in cost base and reduced cost base should be recorded as this will affect the calculation of a capital gain or loss should an investor decide to sell their stapled securities.

## Acquisition of APD Trust Units

The first element of the cost base and reduced cost base of an APD Trust unit that an investor acquired as part of the restructure is equal to the amount which was applied to subscribe for the unit, being the Distribution from APD of 7.5 cents.

The acquisition date of APD Trust units is the day on which they were issued to the investor, being the Payment Date of 13 December 2019.

The cost base, reduced cost base and the acquisition date of APD Trust units should be recorded as they will be relevant to the future CGT implications associated with the units (e.g. future disposal of stapled securities and post-restructure tax deferred distributions). Relevantly, APD stapled securityholders will not be eligible to obtain a CGT discount on capital gains derived from their units where the related CGT event (e.g. disposal of stapled securities) occurs within 12 months of the units being acquired.

It is further noted that no CGT event will occur as a result of the stapling of APD shares and APD Trust units and that the APD shares and APD Trust units should be classified as separate CGT assets.

## Worked example: Special Dividend and Capital Return

Outlined in the following section is a worked example for the Special Dividend and Capital Return that may further assist investors to understand the income tax implications of the Special Dividend and Capital Return.

## Worked example

*It is recommended that you contact your taxation advisor regarding your income tax calculations having regard to your own circumstances.*

### Assumptions

The worked example is based on the following assumptions:

- Shareholder 1 is an Australian tax resident individual with a marginal tax rate of 47% (including the Medicare levy of 2%) for the 2020 income year.
- Shareholder 2 is an Australian tax resident company with a company tax rate of 27.5% for the 2020 income year.
- Shareholder 3 is a complying superannuation fund with a tax rate of 15% for the 2020 income year.
- Each of Shareholder 1, Shareholder 2 and Shareholder 3:
  - had 10,000 APD shares which, on implementation of the stapling proposal became 10,000 APD shares and 10,000 APD Trust units. Together, these trade on the ASX as 10,000 APD stapled securities.
  - had an original tax cost base of more than 7.5 cents in each of their original APD shares.
  - received a distribution of 7.5 cents per APD share that was applied to acquire APD Trust units. The Distribution consisted of:
    - 1.2 cents per share as a dividend (fully franked at 27.5%); and
    - 6.3 cents per share as a capital return.
  - holds their APD shares and APD Trust units on capital account.
  - is eligible for a tax offset equal to the amount of the franking credits attached to the above dividend (i.e. is a 'qualified person' with respect to the dividend).
  - has cost base of 7.5 cents in each of their APD Trust units as a result of the stapling proposal.
  - has no other capital gains or losses.
- The APD Trust units are eligible for the 50% CGT discount.

	Reference	Shareholder 1 (Individual @47%)	Shareholder 2 (Company @ 27.5%)	Shareholder 3 (Super fund @15%)
Total distribution per share (cents per share)	-	7.50	7.50	7.50
Capital return (cents per share)	A	6.30	6.30	6.30
Special dividend (fully franked) (cents per share)	B	1.20	1.20	1.20
Total capital return (A\$) ([A] x 10,000)	C	630	630	630
Total dividends (A\$) ([B] x 10,000)	D	120	120	120
Franking credits (A\$) ([B] x 10,000 x 27.5 / 72.5)	E	46	46	46
<b>Assessable income (A\$) ([D] + [E])</b>	<b>F</b>	<b>166</b>	<b>166</b>	<b>166</b>
Income tax (A\$ @ tax rates)([F] x tax rates)	G	78	46	25
Less franking credits (A\$)([E])	H	(46)	(46)	(46)
<b>Income tax payable / (refundable) (A\$) ([G] + [H])</b>	<b>I</b>	<b>32</b>	<b>0</b>	<b>(21)</b>

Note: Figures in the above table have been rounded to the nearest dollar for illustrative purposes only. Shareholders should perform their calculations on an actual basis (e.g. inclusive of cents).

In addition to the above:

- Each securityholder will have a reduction in the tax cost base of their APD shares equal to the capital return amount (6.3 cents per share). This will be relevant to future CGT events involving the shares (e.g. disposal of the stapled securities and future capital returns).
- Each securityholder will have an initial tax cost base in their APD Trust units of 7.5 cents per unit. The CGT acquisition date of the units will be the date when they were issued. Both of these facts will be relevant to future CGT events involving the shares (e.g. disposal of stapled securities and receipt of tax deferred distributions), including from the perspective of the CGT discount (e.g. for stapled security disposals within the first 12 months after the restructure and the corresponding CGT gain attributable to the APD Trust units).

## Post restructure period

### Distributions from APD and APD Trust

APD will provide investors with future distribution statements in respect of post-restructure distributions made by APD and APD Trust. It is recommended that investors refer to these statements when filling out their tax return for the relevant income year and seek their own tax advice in relation to these distributions.

### General CGT matters

Although APD securities can only be traded together as one stapled security, for Australian income tax purposes the individual securities comprising an investment in APD stapled securities remain as separate assets.

Accordingly, for CGT purposes investors need to maintain records of the cost base / reduced cost base of each separate asset (each APD share and each APD Trust unit) and apportion the proceeds on sale of a stapled security across these separate assets. This apportionment should be done on a reasonable basis.

One possible method of apportionment is based on the relative Net Tangible Assets ("NTA") of the individual entities comprising the APD stapled group. This information will be provided on a 6-monthly basis (as at each 31 December and 30 June) and be made available via APD's website ([www.apngroup.com.au](http://www.apngroup.com.au)).

### Other information

If you have further tax questions in relation to your investment in APD, we recommend that you consult your own tax or professional adviser.



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