Westfield 2004 restructure - tax consequences for Westfield trust unit holders

What to know about the Westfield 2004 restructure and the tax consequences if you are a Westfield trust unit holders.

6 October 2009

Introduction

This page contains information about the 2004 Westfield Group Merger.

This information applies to you if:

- you are an individual **not** a company or trust
- you are an Australian resident for tax purposes
- you held units in Westfield Trust and participated in the Westfield Group Merger in July 2004
- you did not acquire your units under an employee share scheme, and
- any gain or loss you made on the units is a capital gain or capital loss - this means that you held your units as an investment asset, not:
  - as trading stock
  - as part of carrying on a business, or
  - to make a short-term or 'one-off' commercial gain.

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Background

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Westfield announced the Westfield Group Merger in May 2004. Westfield Trust unit holders could either:

- elect to participate in the sale facility, under which they exchanged their units for either:
  - cash, or
  - Westfield Group stapled securities
- participate in the stapling distributions and have their units stapled to Westfield Holdings Limited shares and Westfield America Trust units.

The Westfield Group Merger was completed on 16 July 2004.

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What are the tax consequences of my participation in the sale facility?

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The sale of your units is a capital gains tax (CGT) event that may have resulted in a capital gain (or capital loss) for you. Depending on the outcome, you may have to include some details on your 2004-05 tax return.

If you chose to receive Westfield Group stapled securities in exchange for your units, you must also work out the cost base of each element of the stapled securities.

What are the capital gains tax consequences for me?

Your Westfield Trust units were consolidated as the first step of the sale. After consolidation you held 0.28 units for every pre-existing unit (rounded up to the next whole number). There are no direct tax effects from this consolidation. If you acquired your units in more than one transaction, you may need to round the consolidated units and adjust the cost bases for the parcels. A fact sheet on how to do this will be available shortly.

A CGT event happened to your Westfield Trust units on their sale on 2 July 2004, the effective date for the sale.

You may have made a capital gain or a capital loss on your Westfield Trust units, depending on their cost base (or reduced cost base) and the amount you received for them. The amount that you received for them depends on whether you received cash or stapled securities for your units.

Unit holders who received cash

Westfield Trust unit holders who participated in the sale facility and received cash received approximately $4.298 for each unit* that they disposed of.

* The actual amount was worked out as (number of units participating x 0.28, and rounded up to the next whole number) x $15.35.

For units that you acquired after 19 September 1985*, work out if you have made a capital gain or capital loss using the capital payment amount that you received for each unit. If you acquired all of your Westfield Trust units in one transaction, you can simply compare the total cost base with the total amount of cash that you received to work out your capital gain or loss. However, if you acquired your Westfield Trust units in more than one transaction, you must allocate the cash that you received between the different parcels of units on a pro rata basis.

* Units acquired before 20 September 1985 are pre-CGT assets and you therefore disregard any capital gain or capital loss you make on them.

The following table will help you to work out your capital gain or loss:

For each Westfield Trust unit with a:	you have made:	equal to:

cost base of *less* than the cash that you received for it	a capital gain	the cash that you received *minus* the cost base of the unit.
reduced cost base of *more* than the cash that you received for it	a capital loss	the reduced cost base of the unit *minus* the cash that you received.

* For information on how to work out the cost base and reduced cost base for units, see the *Guide to capital gains tax*.

Unit holders who received stapled securities

Westfield Trust unit holders who participated in the sale facility and received stapled securities received proceeds worth approximately $4.33 for each unit* that they disposed of.

* The actual amount was worked out as (number of units participating x 0.28, and rounded up to the next whole number) x the value of a stapled security at the time. The stapled securities were valued at $15.48 each at the time of the sale.

For units that you acquired after 19 September 1985*, work out if you have made a capital gain or capital loss using the capital proceeds amount of $15.48 for each stapled security you received under the sale. If you acquired all of your Westfield Trust units in one transaction, you can simply compare the total cost base with the total value of the Westfield Group stapled securities that you received to work out your capital gain or loss. However, if you acquired your Westfield Trust units in more than one transaction, you must allocate the value of the stapled securities that you received between the different parcels of units on a pro rata basis. There is a fact sheet on how to do these calculations in preparation.

* Units acquired before 20 September 1985 are pre-CGT assets and you therefore disregard any capital gain or capital loss you make on them.

The following table will help you to work out your capital gain or loss:

For each Westfield Trust unit with a:	you have	equal to:

	made:	
cost base of *less* than of the value of the securities that you received for it	a capital gain	the value of the securities received for it *minus* the cost base of the unit
reduced cost base of *more* than the value of the securities that you received for it	a capital loss	the reduced cost base of the unit *minus* the value of the securities received for it

* For information on how to work out the cost base and reduced cost base for units, see the ***Guide to capital gains tax***.

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How do I treat the capital gain or capital loss?

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Capital gain

If you made a capital gain on the disposal of your Westfield units, you must include it in your calculations when completing item **17** on your 2004-05 tax return (supplementary section).

The method you use to work out the amount to include in your item **17** calculations depends on when you acquired those units. The following table sets out what method you can use.

If you acquired your Westfield Trust units:	You calculate your capital gain using the:
Before 21 September 1999	Indexed cost base *or* discount method * Note: if you have capital losses to apply against capital gains you made on shares acquired before 21September 1999, you may want

	to use the indexation method for some of your shares and the discount method for the others. (For more information, see example of Clare in chapter 2 of the ***Guide to capital gains tax***)'
On or after 21 September 1999 *and* before 2 July 2003	Discount method Note: If you have capital losses to apply against capital gains you made on these shares, you deduct the capital losses before applying the discount
On or after 2 July 2003	'Other' method

* If you choose to index the cost base of units you acquired before 21 September 1999, you cannot apply the CGT discount when you dispose of them.

For information on the different methods you can use to work out your capital gain, see the ***Guide to capital gains tax***.

Capital loss

If you made a capital loss you can offset this loss against other capital gains you made in the 2004-05 income year. If you are unable to offset all the capital loss, you can carry the balance forward to offset against future capital gains. You must include these details when completing item **17** on your 2004-05 tax return (supplementary section).

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How do I work out the cost bases of the elements of the stapled securities that I received?

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Each Westfield stapled security is made up of:

- one Westfield Holdings Limited (WSF) share
- one Westfield Trust (WFT) unit, and
- one Westfield America Trust (WFA) unit.

For CGT purposes, each element of the stapled security is a separate CGT asset. The initial cost base (and reduced cost base) of each element is a reasonable part of the value of the Westfield Trust units exchanged for the stapled securities. The following table gives the initial cost base of each element (worked out based on the net tangible assets attached to each element):

Element	Initial cost base (reduced cost base)	Calculation
WSF share	$1.41	$15.48 × 9.09%
WFT unit	$8.11	$15.48 × 52.39%
WFA unit	$5.96	$15.48 × 38.52%

Example - sale facility receiving stapled securities

Albert acquired 1,000 units in WFT in June 2003. Immediately before the sale, the cost base of his units was $3,530 (or $3.53 per unit). Albert's units were consolidated as the first step of the sale arrangement. After consolidation, he held 280 (1,000 × 0.28) units with a cost base of $3,530 (or approximately $12.61 per unit).

Albert chose to exchange his WFT units for Westfield Group stapled securities. He received 280 Westfield Group stapled securities in exchange for his WFT units. The Commissioner will accept that Albert's capital proceeds for the exchange of his units are equal to the volume weighted average price of the Westfield Group stapled securities over the first five trading days. Westfield has advised that this was $15.48.

Calculating the net capital gain

Albert makes a capital gain on the disposal of 280 units as follows:

Capital proceeds (280 x $15.48)	$4,334.40
less total cost base	$3,530.00
Capital gain	$804.40

Because Albert had held his units for more than 12 months, he applies the CGT discount to his capital gain (if he had capital losses he would offset them against his capital gain before applying the discount). Albert will include a $402 ($804 × 50% to the nearest dollar) net capital gain on his tax return for the year ended 30 June 2005.

Recording the capital gain on the tax return

Assuming he had no other capital gains and no capital losses for the 2004-05 year, Albert would complete item **17** on his 2005 tax return (supplementary section) showing:

- Did you have a capital gains tax event during the year? Yes
- Net capital gain: $402
- Total current year capital gains: $804

Working out new cost bases

Albert will calculate the cost base and reduced cost base of his WSF units, WFT and WFA units as follows:

WSF units ($1.41 × 280) = $394.80
WFT units ($8.11 × 280) = $2,270.80
WFA units ($5.96 × 280) = $1,668.80

What are the tax consequences of my participation in the stapling distributions?

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Your Westfield Trust units were consolidated as the first step of the stapling arrangement. After consolidation you held 0.28 units for every pre-existing unit (rounded up to the next whole number). There are no direct tax effects from this consolidation. If you acquired your units in more than one transaction, you may need to round the consolidated units and adjust the cost bases for the parcels. A fact sheet on how to do this will be available shortly.

You then received a non-assessable payment which reduces the cost base of your consolidated Westfield Trust units and may result in a capital gain to you.

Finally you must work out the cost base of each element of your new stapled securities.

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How do I treat the non-assessable payment?

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You received a non-assessable payment of $1.01 per consolidated Westfield Trust unit.

This amount reduces the cost base of your units. If the cost base of your consolidated units was less than $1.01 per unit, you would make a capital gain of $1.01 minus the cost base for each unit. You cannot make a capital loss on the receipt of a non-assessable payment.

The following table will help you:

For Westfield Trust units with a	you have made	equal to	You must reduce the cost base of your consolidated units
cost base greater than $1.01 per unit	no capital gain (or loss)	-	by $1.01 per unit
cost base equal to $1.01 per unit	no capital gain (or loss)	-	to nil
cost base less than $1.01 per unit	a capital gain	$1.01 *minus* the cost base of the unit	to nil

How do I work out the cost bases of the elements of the stapled securities that I received?

Each Westfield stapled security is made up of:

- one Westfield Holdings Limited (WSF) share
- one Westfield Trust (WFT) unit, and
- one Westfield America Trust (WFA) unit.

For CGT purposes, each element of the stapled security is a separate CGT asset. The non-assessable payment that you received was compulsorily used to purchase one WSF share and one WFA unit for each WFT unit that you held. Under this arrangement the purchase price of the WSF shares was $0.01 per share and the purchase price of the WFA units was $1.00 per unit. The following table gives the cost base (reduced cost base) of each element of your new stapled securities immediately after the stapling arrangement was completed:

Element	Initial cost base (reduced cost base)
WSF share	$0.01

WFT unit	Cost base of consolidated units after the non-assessable payment - as per the previous table
WFA unit	$1.00

Example - staple

Jayne acquired 1,000 units in WFT in June 2003. Immediately before the merger, the cost base of her units was $3,530 (or $3.53 per unit). Jayne's units were consolidated as the first step of the stapling arrangement. After consolidation, she held 280 (1,000 x 0.28) units with a cost base of $3,530 (or approximately $12.61 per unit).

Jayne's WFT units participated in the stapling arrangement. Jayne received a non-assessable payment of $282.80 ($1.01 × 280). This payment will reduce the cost base of her consolidated WFT units. As it is less than the cost base of these units, it will not result in a capital gain to Jayne.

Note: This non-assessable payment was compulsorily applied to buy WSF shares and WFA units, which were stapled with her units to make up Westfield securities.

Working out new cost bases

Jayne retains her consolidated WFT units at their original cost base less the amount of the non-assessable payment. She has acquired new WSF shares at the cost of $0.01, and WFA units at the cost of $1.00 each. The cost base of each of the elements of Jayne's Westfield securities immediately after the stapling arrangement was completed on 16 July 2004 was as follows:

WSF units	($0.01 × 280)	= $2.80
WFT units	(3,530.00 - 282.80)	= $3,247.20
WFA units	($1.00 × 280)	= $280.00

There are no CGT consequences for Jayne as a result of the stapling of each WFT unit to each new WSF share and WFA unit.

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What to read/do next

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For more information on this restructure:

- participants in the sale facility can refer to Class Ruling CR 2004/55W: Income tax: Westfield Trust - Westfield Group merger sale facility. This is a Tax Office ruling on the tax consequences for WFT unit holders arising from participation in the sale facility.

- participants in the stapling arrangement can refer to Class Ruling CR 2004/52W: Income tax: Westfield Trust - Westfield Group merger stapling arrangement. This is a Tax Office ruling on the tax consequences for WFT unit holders arising from participation in the stapling arrangement.

For more information about the tax implications of owning shares, see the following publications:

- *You and your shares* (NAT 2632-6.2005) - this publication is for individuals investing in shares or convertible notes and offers guidance on the taxation of dividends from investments, allowable deductions from dividend income and record keeping requirements for investors.

- *Guide to capital gains tax* (NAT 4151-6.2005) - this publication explains how capital gains tax works and will help you to calculate your net capital gain or net capital loss.

- *Personal investors guide to capital gains tax* (NAT 4152-6.2005) - shorter than the *Guide to capital gains tax*, this publication covers the sale, gift or other disposal of shares or units, distribution of gains from managed funds and non-assessable payments from companies or managed funds.
  It does not cover CGT consequences for bonus shares, shares acquired under an employee share scheme, bonus units, rights and options, and shares and units where a takeover or demerger has

occurred - for information on these CGT issues, you will need to refer to the ***Guide to capital gains tax***.

For help applying this information to your own situation, phone us on **13 28 61**.

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