



28 October 2009

**Notice to shareholders of Tatts Group Limited (formerly Tattersall's Limited and referred to in this notice as 'Tatts') who acquired their shares pursuant to the Restructure of the Estate of the Late George Adams ('the Estate') and who acquired their interest in the Estate prior to 20 September 1985.**

Shareholders are advised to seek their own independent taxation advice to consider these issues. This notice should not be relied upon as taxation or investment advice by pre-CGT shareholders, and neither Tatts, its management or its advisers accept any responsibility for any loss arising to a shareholder who relies on it as a basis for making any decision regarding their shares in Tatts or their taxation affairs generally.

Shareholders of Tatts who acquired their shares in Tatts (**Shares**) pursuant to the Restructure of the Estate and who also acquired their interests in the Estate prior to 20 September 1985, are deemed to have acquired their Shares in Tatts prior to 20 September 1985 provided they claimed rollover relief in relation to the Restructure of the Estate. This notice is provided to such pre-CGT shareholders.

CGT Event K6 applies where 75% or more of the value of Tatts is attributable to assets acquired (or deemed to have been acquired) by Tatts after 19 September 1985. In this notice these assets are referred to as 'post-CGT assets' and references to 'pre-CGT assets' are references to assets which Tatts is deemed to have acquired prior to 20 September 1985.

This notice is concerned only with CGT Event K6 for pre-CGT shareholders. It is recommended that those pre-CGT shareholders who are companies and trusts independently check whether there has been any change in their own majority ownership since 19 September 1985 to determine whether their pre-CGT shareholdings continue to be regarded as having pre-CGT status for the purposes of the Income Tax Assessment Act 1997.

**Methodology for testing whether CGT Event K6 has been breached**

On 9 May 2007, the Federal Government issued an announcement (***the Announcement***) concerning the calculation of CGT Event K6 for tax consolidated groups such as Tatts. We interpret this announcement to mean that from 9 May 2007, the test for whether CGT Event K6 will be triggered by pre-CGT shareholders has changed such that the test will apply separately to; (i) the gross value of all post-CGT assets held by Tatts and its 100% Australian resident subsidiaries, and (ii) the gross value of all post-CGT assets of all other companies and trusts in which Tatts has an interest (such as non-resident companies, for example the European Gaming Group of companies).

At the time of this notice, no legislation has been introduced into Parliament in respect of the Announcement. However, this notice has been prepared on the basis that the Announcement will become law with effect from 9 May 2007.

At the time of the Restructure, the Commissioner of Taxation released class ruling CR 2005/61 (***the Class Ruling***), which was applicable to beneficiaries of the Estate who disposed of their Shares around the time of the Restructure. While the Class Ruling is no longer of application to pre-CGT shareholders who dispose of their Shares after the Restructure, it provides some



guidance as to the Commissioner's opinion that the goodwill and brand of Tatts (as opposed to the goodwill and brand of UNiTAB or Golden Casket) are pre-CGT assets. The goodwill and brand attaching to businesses operated by Tatts at the time of the Restructure are referred to in this notice as "legacy goodwill". This notice proceeds on the basis that the Commissioner will continue to regard the legacy goodwill as a pre-CGT asset.

Since the Restructure, Tatts has acquired goodwill in respect of the UNiTAB and Golden Casket businesses. Accordingly, in providing guidance as to whether or not CGT Event K6 has been triggered, it has been necessary to apportion goodwill between legacy goodwill and goodwill of businesses acquired after the Restructure (referred to in this notice as 'acquired goodwill'). The total value of Tatts' goodwill has been determined from time to time on the basis of Tatts' market capitalisation less the net value of identifiable assets as reflected in the accounts of Tatts.

From 1 July 2007 to 10 April 2008, goodwill has been allocated between legacy goodwill and acquired goodwill on the basis of the earnings before tax of the various businesses to which legacy and acquired goodwill relate, rather than on the basis of the cost of acquired goodwill.

On 10 April 2008, the Victorian Government announced changes to the framework of the Victorian gambling industry from 2012 when Tatts' current gaming licence is due to expire (***the Gaming Announcement***). This announcement had a significant impact on the value of Tatts' share price. As the Gaming Announcement impacted only Tatts' gaming business (which existed at the time of the Restructure), the corresponding decrease in Tatts' share price and hence market capitalisation, has been treated as affecting only the value of Tatts' gaming licence (a post-CGT asset) and legacy goodwill.

## **Conclusions – Does CGT Event K6 apply?**

### **1 July 2007 until 31 December 2007**

During this period the Shares traded on ASX Limited (ASX) within a high and low valuation range of \$5.09 and \$3.78, which means that the market capitalisation of Tatts has varied in that period between \$6,440 million and \$4,783 million.

CGT Event K6 could potentially apply to a pre-CGT shareholder who has sold or otherwise disposed of their Shares between 1 July 2007 and 31 December 2007, if either:

- the value of assets of Tatts and its 100% Australian subsidiaries, other than Tatts legacy goodwill, exceeded \$3,587 million (i.e. 75% of the lowest market price of all the Shares between 1 July 2007 and 31 December 2007); or
- the value of assets held by other companies and trusts in which Tatts had an interest exceeded \$3,587 million (i.e. 75% of the lowest market price of all the Shares between 1 July 2007 and 31 December 2007).

Based on all available information, it is considered that at no time between 1 July 2007 and 31 December 2007 did the value of assets (other than Tatts' legacy goodwill) held by Tatts and its 100% Australian subsidiaries exceed \$3,587 million, nor did the gross value of post-CGT assets of other companies and trusts in which Tatts had an interest exceed \$3,587 million.

On the basis of the above, we consider that it is reasonable to assume that CGT Event K6 will not apply to any pre-CGT shareholder who has disposed of their Shares between 1 July 2007 and 31 December 2007.



### **1 January 2008 until 30 June 2008**

During this period the Shares traded on the ASX within a high and low valuation range of \$4.11 and \$2.31, which means that the market capitalisation of Tatts has varied in that period between \$5,200 million and \$2,922 million.

On the basis that this reduction in value reflected in part a decrease in the value of legacy goodwill, it is reasonable to conclude that the value of Tatts' pre-CGT assets declined as a percentage of its market value from 1 January 2008. As such, we consider that it is reasonable to assume that CGT Event K6 will potentially apply to any pre-CGT shareholder who has disposed of their Shares between 1 January 2008 and 30 June 2008. Conservatively, we have assumed this conclusion will apply even when the Shares were trading at prices towards the upper end of this range. The possible impacts of this conclusion are discussed further below.

### **1 July 2008 until 31 December 2008**

During this period the Shares traded on the ASX within a high and low valuation range of \$2.79 and \$2.15 which means that the market capitalisation of Tatts has varied in that period between \$3,530 million and \$2,720 million.

On the basis that this value continued to reflect in part the decrease in the value of legacy goodwill that occurred in April 2008, it is reasonable to conclude that the value of Tatts' pre-CGT assets did not increase as a percentage of its market value from 1 July 2008. As such, we consider that it is reasonable to assume that CGT Event K6 will potentially apply to any pre-CGT shareholder who has disposed of their Shares between 1 July 2008 and 31 December 2008. The possible impacts of this conclusion are discussed further below.

### **1 January 2009 until 30 June 2009**

During this period the Shares traded on the ASX within a high and low valuation range of \$2.97 and \$2.40 which means that the market capitalisation of Tatts has varied in that period between \$3,772 million and \$3,048 million.

On the basis that this value continued to reflect in part the decrease in the value of legacy goodwill that occurred in April 2008, it is reasonable to conclude that the value of Tatts' pre-CGT assets did not increase as a percentage of its market value from 1 January 2009. As such, we consider that it is reasonable to assume that CGT Event K6 will potentially apply to any pre-CGT shareholder who has disposed of their Shares between 1 January 2009 and 30 June 2009. The possible impacts of this conclusion are discussed further below.

### **Methodology for testing whether CGT Event K6 has been breached**

As noted above, we consider that it is reasonable to assume that CGT Event K6 will have applied to a pre-CGT shareholder who disposed of their Shares between 1 January 2008 and 30 June 2009. Such a shareholder will be referred to in this notice as ***an Affected Shareholder***.

An Affected Shareholder must work out how much of the proceeds they received on disposal of their Shares is reasonably attributable to the amount by which the market value of Tatts' post-CGT assets exceeded the cost base of those assets at the time of disposal (i.e. as if Tatts was calculating a notional capital gain on these assets). Note that where the disposal occurred by way of a gift or other non-arm's length transaction, the disposal proceeds of the Shares will be the market value of the Shares at the time of disposal.



It is not possible for Tatts to value all of its post-CGT assets at every point in time between 1 January 2008 and 30 June 2009. Accordingly, Tatts has valued its major post-CGT assets (excluding its gaming licence) for each six month period ended 30 June 2008, 31 December 2008 and 30 June 2009 and compared this value to the cost bases of such assets to calculate an overall notional capital gain for the purposes of CGT Event K6. This is considered a reasonable approach as a proxy for the overall capital gain applicable to post-CGT assets at any time during each six month period.

A separate value for the gaming licence has been computed for the period up to 10 April 2008, on the basis that (as discussed above) the value of the gaming licence declined significantly following the Gaming Announcement.

The value of the overall notional capital gain (as calculated above) has then been compared to the market capitalisation of Tatts at the end of each calendar month in the period. This enables a calculation of the percentage of the proceeds that an individual shareholder received on disposal of Shares that might reasonably be considered to represent a capital gain under CGT Event K6 for that month. For disposals of Shares occurring during April 2008, the month has been split into two periods, one prior and one following 10 April 2008, having regard to the effect on value of the gaming licence attributable to the Gaming Announcement discussed above.

#### **Conclusions – possible impact of CGT Event K6**

Applying the above methodologies, the following percentages may be used to determine the percentage of the proceeds that an Affected Shareholder received on disposal of Shares that might reasonably be considered to represent a capital gain under CGT Event K6 for that month:

	<b>% of proceeds attributable to post-CGT assets</b>
<b>2008:</b>	
January	8.46%
February	8.16%
March	9.17%
April 1 <sup>st</sup> – 9 <sup>th</sup>	8.72%
April 11 <sup>th</sup> – 30 <sup>th</sup>	0.89%
May	0.93%
June	1.03%
July	0.87%
August	0.81%
September	0.95%
October	0.94%
November	0.85%
December	0.77%
<b>2009:</b>	
January	0.56%
February	0.56%
March	0.58%
April	0.58%
May	0.65%
June	0.63%



**Example:**

Suppose an Affected Shareholder sells one thousand Shares for \$2.80 each in March 2009 and accordingly receives \$2,800. Using the methodology and percentages outlined above, the capital gain arising under CGT Event K6 (assuming the 50% discount is available and the Affected Shareholder has no capital losses) would be calculated as follows:

$\$2,800 \times 0.58\%$  (i.e. percentage representing capital gain per above table) = \$16 less 50% discount ( $\$16 \times 50\%$ ) = taxable capital gain of \$8.

The taxable capital gain would be subject to tax at the Affected Shareholder's applicable marginal tax rate.

Again, pre-CGT shareholders are reminded that CGT Event K6 will cease to apply to a disposal of their Shares in Tatts from 7 July 2010 by which time Tatts will have been listed on the ASX for five years.

**Important Disclaimer**

**Notwithstanding our above conclusions, pre-CGT shareholders must seek their own independent taxation advice to confirm the above conclusions. The Class Ruling is available on the Commissioner's website ([www.ato.gov.au](http://www.ato.gov.au)), the Announcement is available on the website of the Assistant Treasurer, the Minister for Revenue<sup>1</sup> and the daily price of the Shares is publicly available. Accordingly, Tatts does not accept any responsibility to pre-CGT shareholders if any of the above conclusions or calculations are incorrect or are not accepted by the Commissioner, or if legislation giving effect to the Announcement is not passed into law, or is passed in a form which does not reflect our understanding of the Announcement as set out in this notice.**

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<sup>1</sup> At <http://assistant.treasurer.gov.au/pcd/content/pressreleases/2007/050.asp>