



McGrathNicol

28 October 2025

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Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)
ACN 135 024 412
(Brite Advisors)

Further Update – Interim Distribution Application

I refer to our previous circulars to Corporate Trustees and Beneficiaries and adopt the defined terms contained in those circulars. In particular, I refer to section 5 of our circular dated 10 September 2025 in which we advised that:

- the Receivers have had ongoing engagement with the ATO including in respect of the Receivers' views as to how the potential Australian tax liabilities should be treated by the ATO; and
- the Receivers had calculated, in consultation with their specialist tax advisors, that the maximum potential Australian tax liability owed by Brite Advisors or payable from the Client AuM is AUD\$175 million, including maximum estimated penalties and interest on overdue Australian taxation liabilities.

I also refer to our circular dated 8 October 2025 in which we advised that the Receivers had filed and served their Interim Distribution Application, and that the Interim Distribution Application will be heard on 12 November 2025.

We confirm that, due to the Court's availability, the hearing has been rescheduled to **13 November 2025 at 9am AWST / 11:30am ACDT**.

It will be live streamed on the Federal Court of Australia's YouTube channel, which can be accessed here [Federal Court of Australia - YouTube](#).

1 Update on Receivers' Interim Distribution Application

In an effort to distribute as much of the Client AuM as possible as part of this Interim Distribution, the Receivers originally proposed to set aside AUD\$9.7m for Australian tax (see paragraph 10 of the Thirtieth Smith Affidavit). This amount is based on how the Receivers consider the Australian tax liabilities should be treated (as set out in the Receivers' Position Paper provided to the ATO).

As a result of recent developments with the Receivers' engagement with the ATO, detailed in the next section, the Receivers have reached the view that, to be prudent, they should now withhold approximately AUD\$175m instead, being the maximum potential tax liability. This amount will be retained until private binding rulings are received from the ATO resolving the tax matters to which the funds relate. The timeline for this is set out further below.

This development also departs from the assumptions underpinning the Receivers' estimate of costs for conclusion of the receivership (see paragraphs 54 and 55 of the Thirtieth Smith Affidavit). The Receivers will revisit the approach on estimation of future costs for the purposes of the Interim Distribution Application



once submissions have been received from interested parties on 28 October 2025 and provide an update as soon as possible thereafter.

2 Update on Receivers' engagement with the ATO

I refer to section 5 of our circular to Corporate Trustees and Beneficiaries dated 19 September 2025 in which we advised that the Receivers had filed an application with the Court to join the Commissioner of Taxation as an interested party (**ATO Joinder Application**). The purpose of joining the ATO was to assist with obtaining directions to distribute funds, and minimising the amount which was retained to cover potential Australian tax liabilities.

On 7 October 2025, the Court made orders dismissing the Receivers' ATO Joinder Application. However, those orders permitted the Receivers to file an application for a private binding ruling with the Commissioner.

The Receivers had, up until that point, abstained from filing any private ruling applications because the ATO had advised that it would be prudent not to file the application until the ATO had concluded its factual inquiries.

Accordingly, on 7 October 2025 the Receivers lodged a private binding ruling application with the ATO (**First PBR Application**) relating to Brite Advisors' capital gains tax liability for the 2025/2026 financial year.

The ATO has indicated that it is prepared to provide a private binding ruling in response to the Receivers' First PBR Application by 1 November 2025. The First PBR Application relates to approximately AUD\$75m of potential tax.

In light of these developments, the Receivers proposed to the ATO that the outstanding Australian tax issues also be dealt with by way of an expedited private ruling (**Second PBR Application**). The outstanding issues concern approximately AUD\$100m of potential tax relating to matters other than capital gains tax liability for the 2025/2026 financial year. The Receivers will file the Second PBR Application in early November 2025 and have asked that the ATO to provide a private binding ruling in response to the Second PBR Application by 5 December 2025. The ATO has confirmed that it is committed to processing the Second PBR Application as expeditiously as possible, but cannot commit to this date until the application has been received.

The Commissioner has also suggested that his view is that the Receivers would be personally liable for unpaid taxes of Brite Advisors if insufficient funds are withheld, even with the benefit of a direction from the Court and even in the absence of an assessment from the Commissioner before a distribution is made. The Receivers disagree with this position but have nonetheless taken it into consideration in deciding how to resolve the remaining Australian taxation issues.

In the circumstances, the Receivers consider it necessary to withhold what their tax advisors have calculated to be the maximum tax liability until the First PBR Application and Second PBR Application have been resolved. That amount is in the order of approximately AUD\$175million.

The Receivers will continue to confer with the ATO in respect of the above matters and seek to progress the First PBR Application and Second PBR Application as quickly as possible.

3 Ongoing updates

The Receivers will continue to keep Corporate Trustees and Beneficiaries apprised of the conduct of the receivership and issue further updates when there are material developments. Correspondence issued to Trustees and Beneficiaries can be downloaded from our website at the following link - <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>.

If you have any queries, please refer to the Frequently Asked Questions page on our website, which can be accessed here: <https://www.mcgrathnicol.com/creditors/brite-advisors-pty-ltd>. This page will be continually updated as new information that is relevant to Beneficiaries and Trustees becomes available.



If you have any queries which are not addressed in the Frequently Asked Questions, please contact the Receivers at briteadvisors@mcgrathnicol.com.

Yours faithfully

Brite Advisors Pty Ltd (In Liquidation) (Receivers and Managers Appointed)

A handwritten signature in cursive script that reads "Linda Smith".

Linda Smith
Receiver and Liquidator