



Status: **legally binding**

Class Ruling

University of Melbourne – Atlantic Fellowship

❶ Relying on this Ruling

This publication (excluding appendix) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the income tax consequences of receiving either project funding or professional development funding, or both, under the Atlantic Fellows for Social Equity (AFSE) program hosted by the University of Melbourne.
2. Details of this scheme are set out in paragraphs 7 to 30 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*.

Note: by issuing this Ruling, the ATO is not endorsing this program. Potential participants must form their own view about the program.

Who this Ruling applies to

4. This Ruling applies to you if you are a fellow under the AFSE program and receive either one or both of the following:
 - project funding
 - professional development funding.

When this Ruling applies

5. This Ruling applies from 1 July 2023.

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Ruling

6. Project funding, professional development funding, or both, awarded under the AFSE program by the University of Melbourne do not form part of the recipient's assessable income under sections 6-5, 6-10 or 15-2.

Scheme

7. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

8. The AFSE program is a philanthropically funded program hosted by the University of Melbourne that was established to support fellows to work together to recognise their inherent strengths, develop their talents and advance the aspirations and interests of Indigenous and Pacific communities across Australia, New Zealand and the Pacific Island nations to collectively work towards the creation of more equitable and inclusive societies.

9. The University of Melbourne is a registered not-for-profit organisation.

10. Commencing in 2023, under the AFSE program, the University of Melbourne will award the following to individuals who satisfy the applicable criteria:

- project funding, or
- professional development funding.

Project funding

11. Project funding will be awarded to provide recipients with the means to implement a social change project using the skills they develop during the AFSE program for the benefit of indigenous communities.

12. Project funding consists of a payment not exceeding \$25,000 (subject to review and minor variation by the University of Melbourne on an AFSE program level) per individual and is available for up to 3 years after the completion by the fellow of the foundation year. The payment may be paid as a lump sum or by way of instalments and at times designated by the University.

13. The recipient has ultimate discretion as to how the funds are spent and the University of Melbourne is unable to recall these funds under any circumstances.

14. The criteria applicable to recipients for project funding are:

- The recipient must have completed the AFSE program within the last 3 years.
- Project funding is awarded on the merit of the recipient's project plan.
- The recipient must be a citizen or permanent resident of Australia, New Zealand or a Pacific Island nation.

15. The criteria have regard to the recipient's indigenous social change idea as well as their:

- demonstrated capacity to create a project around the social change idea (or capacity to generate a project vision)

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- demonstrated ability to work collaboratively
- critical thinking, communication skills, creativity, strategic thinking, and interpersonal skills.

16. To gain entrance into the AFSE program, the recipient must demonstrate a personal commitment to lifelong learning and skill development with a willingness to participate in and benefit from local and global fellowship opportunities and provide examples of how they have worked collaboratively with relevant communities to achieve change.

17. The review panel does not consider the financial position of the recipient when determining whether a recipient is successful for project funding. The project funds are not awarded to surmount hardships (if any) of the recipients. The review panel does not have any regard to the personal circumstances of a recipient.

18. Project funding is awarded on the merit of the recipient's project plan and coursework with an expectation (but no requirement) that recipients use the relevant funds to implement their social change project.

19. The recipient will not provide any services to the University of Melbourne or other entity in exchange for project funding.

20. The recipient is not required to provide progress reports, explanations or any other deliverables to the University of Melbourne or any other entity in respect of their use of project funding.

Professional development funding

21. Professional development funding will be awarded to individuals to support their development as leaders in social change through opportunities to network, access mentoring and coaching, and to engage in ongoing learning through conferences and study tours related to the recipient's chosen area of social change work.

22. Professional development funding consists of a payment not exceeding \$5,000 (subject to review and minor variation by the University of Melbourne on an AFSE program level) per individual and is available for up to 3 years after the completion by the fellow of the foundation year. The payment may be paid as a lump sum or by way of instalments and at times designated by the University.

23. The recipient has ultimate discretion as to how the funds are spent and the University of Melbourne is unable to recall these funds under any circumstances.

24. The criteria applicable to recipients for professional development funding are:

- The recipient must have completed the AFSE program within the last 3 years.
- Professional development funding is awarded on the merit of the recipient's dedication to ongoing learning related to the recipient's chosen area of social change work.
- The recipient must be a citizen or permanent resident of Australia, New Zealand, or a Pacific Island nation.

25. The criteria have regard to the recipient's indigenous social change idea as well as their demonstrated ability to work collaboratively, their critical thinking, communication skills, creativity, strategic thinking, and interpersonal skills.

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26. To gain entrance into the AFSE program, the recipient must demonstrate a personal commitment to lifelong learning and skill development with a willingness to participate in and benefit from local and global fellowship opportunities and provide examples of how they have worked collaboratively with relevant communities to achieve change.

27. The review panel does not consider the financial position of the recipient when determining whether a recipient is successful for professional development funding. The funds are not awarded to surmount hardships (if any) of the recipients. The review panel does not have any regard to the personal circumstances of a recipient.

28. Professional development funding is awarded on the merit of the recipient's ongoing commitment to learning. There is an expectation (but no requirement) that recipients use the relevant funds to support their development as leaders of social change.

29. The recipient will not provide any services to the University of Melbourne or other entity in exchange for professional development funding.

30. The recipient is not required to provide progress reports, explanations or any other deliverables to the University of Melbourne or any other entity in respect of their use of professional development funding.

Commissioner of Taxation**14 May 2025**

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Appendix – Explanation

❗ *This Explanation is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

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Ordinary income

31. A payment or other benefit received by a taxpayer is included in assessable income if it is:

- income in the ordinary sense of the word (ordinary income), or
- an amount or benefit that through the operation of the provisions of tax law is included in assessable income (statutory income).

32. Subsection 6-5(1) provides that the assessable income of a taxpayer includes income according to ordinary concepts (ordinary income).

33. The legislation does not provide specific guidance on the meaning of income according to ordinary concepts, however there is a substantial body of case law that identifies likely characteristics.

34. In *GP International Pipecoaters Pty Ltd v Commissioner of Taxation (Cth)* [1990] HCA 25, the High Court stated:

To determine whether a receipt is of an income or of a capital nature, various factors may be relevant. Sometimes, the character of receipts will be revealed most clearly by their periodicity, regularity or recurrence; sometimes, by the character of a right or thing disposed of in exchange for the receipt; sometimes, by the scope of the transaction, venture or business in or by reason of which money is received and by the recipient's purpose in engaging in the transaction, venture or business.

35. Amounts that are periodical, regular or recurrent, relied upon by the recipient for their regular expenditure and paid to them for that purpose are likely to be ordinary income, as are amounts that are the product in a real sense of any employment of, or

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services rendered by, the recipient.¹ Amounts paid in substitution for salary or wages foregone or lost may also be ordinary income.²

36. Ultimately, whether or not a particular receipt is ordinary income depends on its character in the hands of the recipient.³ The whole of the circumstances must be considered⁴ and the motive of the payer may be relevant to this consideration.⁵

37. In *Scott v Federal Commissioner of Taxation* [1966] HCA 48, Windeyer J considered whether a gratuitous payment to the taxpayer's solicitor was income. His Honour held that, to be income, the gratuitous payment had to be in a relevant sense a product of the donee's income-producing activities. In *The Commissioner of Taxation of the Commonwealth of Australia v Harris G.O.* [1980] FCA 74, a bank made a lump sum payment to supplement a former employee's pension to alleviate the negative effects of high inflation. The majority held that the payment was not a product of the former employment, and this was an important element in finding that the payment was not income.

Project funding

38. Project funding is awarded to recipients to assist them with implementing a social change project using the skills they develop during the AFSE program. The funding recognises the recipient's genuine intention to implement social change for the benefit of indigenous communities.

39. Project funding is paid at a time that suits the University of Melbourne. The recipients can only be awarded project funding once. Project funding does not have the characteristics of periodicity, recurrence, or regularity. It cannot be relied upon by the recipient as provision of the payment is not guaranteed.

40. Project funding is not paid in connection with any employment or services rendered by the recipients and are not paid to the recipients for the achievement of a task or milestone or the creation of a product. It is accepted that a recipient does not receive this funding as part of any employment, rather the funding is a gift from the University of Melbourne to assist the recipient with implementing a social change project.

41. The recipients are not required to provide any status reports, updates or evidence that project funding has been utilised for the purpose it was provided. Further to this, the University of Melbourne is unable to recall these funds under any circumstances. It is agreed the payment is not received in gratitude for services rendered.

42. The recipients are required to apply for project funding. It cannot be said that the payment is not solicited. It is, however, noted that the fellowships are selected based on merit and the payments are voluntarily given by the University of Melbourne in accordance with its philanthropic purposes.

43. The financial position of the recipients is not considered in awarding project funding and there are no conditions on how the money must be spent by the recipient. The recipient receives project funding in addition to any income from either related or unrelated

¹ *Commissioner of Taxation of the Commonwealth of Australia v Rowe*, Anthony John Poulston [1995] FCA 834.

² *Commissioner of Taxation (Cth) v Dixon* [1952] HCA 65.

³ *Scott v Federal Commissioner of Taxation* [1966] HCA 48; *Hayes v Commissioner of Taxation (Cth)* [1956] HCA 21; *Federal Coke Company Pty Limited v The Commissioner of Taxation of the Commonwealth of Australia* [1977] FCA 29.

⁴ *Squatting Investment Co Ltd v Commissioner of Taxation* [1953] HCA 13.

⁵ *Scott v Federal Commissioner of Taxation* [1966] HCA 48.

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employment that they may receive. It is accepted that project funding is not relied upon by a recipient for their regular maintenance.

44. In these circumstances, it is accepted that project funding is not ordinary income of the recipients and does not form part of the recipients' assessable income under section 6-5.

Professional development funding

45. Professional development funding is awarded to individuals to support their development as leaders in social change through opportunities to network, access mentoring and coaching, and to engage in ongoing learning through conferences and study tours related to the recipient's chosen area of social change work.

46. Professional development funding is paid at a time that suits the University of Melbourne. The fellows can only be awarded professional development funding once. It does not have the characteristics of periodicity, recurrence, or regularity. It cannot be relied upon by the fellow as provision of the payment is not guaranteed.

47. Professional development funding is not paid in connection with any employment or services rendered by the recipient and are not paid to the recipient for the achievement of a task, milestone or the creation of a product. It is accepted that a recipient does not receive this funding as part of any employment. The funding is provided to assist the recipient with ongoing learning and development within the social change field.

48. The recipients are not required to provide any status reports, updates or evidence that professional development funding has been utilised for the purpose it was provided. Further to this, the University of Melbourne is unable to recall this payment under any circumstances. It is agreed the payment is not received in gratitude for services rendered.

49. To receive professional development funding, the recipient is required to 'apply' for the funding. It cannot be said that the payment is not solicited. It is, however, noted that the fellowships are selected based on merit and the payments are voluntarily given by the University of Melbourne and are provided in accordance with its philanthropic purposes.

50. The financial position of the recipients is not considered in awarding professional development funding and there are no conditions on how the money must be spent by the recipient. The recipients receive professional development funding in addition to any income from either related or unrelated employment that they may receive. It is accepted that professional development funding is not relied upon by a recipient for their regular maintenance.

51. In these circumstances, it is accepted that professional development funding is not ordinary income of the recipients' and does not form part of the recipients' assessable income under section 6-5.

Statutory income

52. Section 6-10 includes in assessable income amounts that are not ordinary income. These amounts are statutory income. A list of the statutory income provisions can be found in section 10-5. That list includes a reference to section 15-2.

53. Subsection 15-2(1) provides that:

Your assessable income includes the value to you of all allowances, gratuities, compensation, benefits, bonuses and premiums provided to you in respect of, or for or in relation directly or indirectly to, any employment or services rendered by you ...

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54. The main issue to consider with respect to subsection 15-2(1) is whether project funding or professional development funding is provided to you in respect of any employment or services rendered.

Project funding

55. Project funding is paid to the recipient to assist them with implementing a social change project using the skills they develop during the AFSE program.

56. To receive project funding, recipients are required to meet 3 criteria:

- completion of the AFSE program within the last 3 years
- formulated a 'project plan' that they would like to implement, and
- be a citizen or permanent resident of Australia, New Zealand, or a Pacific Island nation.

These criteria do not amount to the rendering of services to the University of Melbourne or an associated entity.

57. Project funding is not provided to the recipients in respect of any employment or for services rendered by the recipients. Project funding does not require any specific outcomes. There is no agreement that recipients provide or supply services to the University of Melbourne or an associated entity.

58. Project funding is not awarded in recognition of the achievement of a task (including the actual implementation of a community project) or a milestone or the creation of any other product.

59. There are no conditions attached to how project funding must be spent. The recipient has ultimate discretion as to how the funds are spent and the University of Melbourne is unable to recall these funds under any circumstances.

60. Project funding will not be included as assessable income under section 15-2 as project funding is not provided to the recipient in respect of any employment or for services rendered by the recipients. Project funding is not statutory income for the purposes of section 6-10.

Professional development funding

61. Professional development funding is awarded to individuals to support their development as leaders in social change through opportunities to network, access mentoring and coaching, and to engage in ongoing learning through conferences and study tours. It rewards the recipient's ongoing development within the social change field and is not a product of the recipient's employment.

62. To receive project funding, recipients are required to meet 3 criteria:

- completion of the AFSE program within the last 3 years
- ongoing dedication, and commitment to implementing social change for the advancement of indigenous communities, and
- be a citizen or permanent resident of Australia, New Zealand, or a Pacific Island nation.

These criteria do not amount to the rendering of services to the University of Melbourne or an associated entity.

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63. Professional development funding is not provided to the recipients in respect of any employment or for services rendered by the recipients. Professional development funding does not require any specific outcomes. There is no agreement that recipients provide or supply services to the University of Melbourne or an associated entity.

64. Professional development funding is not awarded in recognition of the achievement of a task (including the actual attendance at a specific conference or event) or a milestone or the creation of any other product.

65. There are no conditions attached to how professional development funding must be spent. The recipient has ultimate discretion as to how the funds are spent and the University of Melbourne is unable to recall these funds under any circumstances.

66. Professional development funding is not statutory income for the purposes of section 6-10.

Assessable income

67. Section 6-15 provides that if an amount is not ordinary income and is not statutory income it is not assessable income.

Project funding

68. As project funding is neither ordinary income nor statutory income, it is not assessable income pursuant to subsection 6-15(1).

Professional development funding

69. As professional development funding is neither ordinary income nor statutory income, it is not assessable income pursuant to subsection 6-15(1).

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References

Legislative references:

- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10
- ITAA 1997 6-15
- ITAA 1997 6-15(1)
- ITAA 1997 10-5
- ITAA 1997 15-2
- ITAA 1997 15-2(1)

Cases relied on:

- Commissioner of Taxation (Cth) v Dixon [1952] HCA 65; 86 CLR 540; [1953] ALR 17; 10 ATD 82; 26 ALJR 505
- Commissioner of Taxation of the Commonwealth of Australia v Rowe, Anthony John Poulston [1995] FCA 834; 60 FCR 99; 95 ATC 4691; 31 ATR 392
- Federal Coke Company Pty Limited v The Commissioner of Taxation of the Commonwealth of Australia [1977] FCA

- 29; 77 ATC 4255; 7 ATR 519; 15 ALR 449; 34 FLR 375
- GP International Pipecoaters Pty Ltd v Commissioner of Taxation (Cth) [1990] HCA 25; 170 CLR 124; 64 ALJR 392; 90 ATC 4413; 21 ATR 1
- Hayes v Commissioner of Taxation (Cth) [1956] HCA 21; 96 CLR 47; 11 ATD 68; 30 ALJR 96
- Scott v Federal Commissioner of Taxation [1966] HCA 48; 117 CLR 514; 40 ALJR 205; [1967] ALR 561; 14 ATD 286
- Squatting Investment Co Ltd v Commissioner of Taxation [1953] HCA 13; 86 CLR 570; [1953] ALR 366; 26 ALR 658; 10 ATD 126
- The Commissioner of Taxation of the Commonwealth of Australia v Harris, G.O. [1980] FCA 74; 43 FLR 36; 80 ATC 4238; 10 ATR 869; 30 ALR 10

ATO references

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