



CR 2001/68 - Income tax: SA Rural Education Scholarship

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Class Ruling

Income tax: SA Rural Education Scholarship

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Preamble

*The number, subject heading, and the **What this Class Ruling is about** (including **Tax law(s)**, **Class of persons** and **Qualifications** sections), **Date of effect**, **Withdrawal**, **Arrangement** and **Ruling** parts of this document are a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**. CR 2001/1 explains **Class Rulings** and **Taxation Rulings** TR 92/1 and TR 97/16 together explain when a Ruling is a public ruling and how it is binding on the Commissioner.*

What this Class Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax law(s)' identified below apply to the defined class of persons, who take part in the arrangement to which this Ruling relates.

Tax law(s)

2. The tax law(s) dealt with in this Ruling are:
- Item 2.1A section 51-10 of the *Income Tax Assessment Act 1997* ('ITAA 1997'); and
 - Section 51-35 of the ITAA 1997.

Class of persons

3. The class of persons to whom this Ruling applies is full time students who receive payments under the SA Rural Scholarship. In this Ruling these persons are referred to as 'students'.

Qualifications

4. The Commissioner makes this Ruling based on the precise arrangement identified in this Ruling.

5. The class of persons defined in this Ruling may rely on its contents provided the arrangement described below at paragraphs 9 to 12 is carried out in accordance with the details of the arrangement provided in this Ruling.

6. If the arrangement described in this Ruling is materially different from the arrangement that is actually carried out:

- (a) this Ruling has no binding effect on the Commissioner because the arrangement entered into is not the arrangement on which the Commissioner has ruled; and
- (b) this Ruling may be withdrawn or modified.

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Date of effect

8. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Arrangement

9. The arrangement that is the subject of the Ruling is described below. This description is based on information provided by the Department of Human Services, South Australia (DHS).

10. This arrangement is called the SA Rural Education Scholarship. The Scholarship is available to students who have lived in rural or remote South Australia and who are studying a relevant degree approved by the South Australian Minister for Human Services. The Scholarships are awarded through an independent merit based selection process and provide students with an annual lump sum amount for up to 3 years to spend on educational requirements. This is paid as a lump sum annual payment by the DHS.

11. The Scholarships are granted either directly by the South Australian government or from funds derived by contributions from

sponsoring organisations. In all cases the payer of Scholarship is the DHS.

12. There are some conditions of payment to ensure that the students, once graduated, work in a particular rural region where there is a need for such professionals. The agreement signed by the students stipulates that upon completion of the Degree the student shall, if required by the Minister, reside and provide services as a health professional in a rural area in South Australia that is in need of human service professionals. There is no obligation to work for any particular organisation upon completion of their Scholarship and the Minister is not obliged to employ or find employment for the students. Some students may (independent of the scholarship scheme) choose to work within the Department while they are in receipt and/or on completion of their Scholarship. Any employment with the Department is obtained through a competitive selection process open to all persons with the required skills and qualification. Students who receive Scholarships funded by a sponsor are bonded to work in a certain region, but they could be self employed or employed by a health unit or service organisation within that region.

Ruling

13. Payments made under the SA Rural Scholarship to full-time students will be exempt income under Item 2.1A, section 51-10 of the ITAA 1997.

Explanations

14. Item 2.1A, section 51-10 provides an income tax exemption in relation to payments:

- to a full-time student at a school, college or university;
- made by way of scholarship, bursary, educational allowance or educational assistance;
- that are not subject to the exceptions set out in section 51-35.

Are scholarship holders receiving full-time education at a school, college or university?

15. The SA Rural Education Scholarship is generally only offered on a full-time basis. In the event that a scholarship is offered to a part-time student it would not be exempt under section 51-10.

Are payments made by way of scholarship?

16. The payments made to students under this Scholarship are scholarships. They are sums of money paid to students to assist with education expenses.

Do the exceptions in section 51-35 apply?

17. Section 51-35 excludes the following payments from exemption:

- payments made under a scholarship that is not provided principally for educational purposes: paragraph 51-35(e);
- payments made on the condition that the student will (or will if required) become an employee of the payer, or enter into contract with the payer that is wholly or principally for labour: paragraphs 51-35 (c) and (d); or
- payments by the Commonwealth for education or training: paragraphs 51-35 (a), (b) and (f).

Is the amount provided principally for educational purposes?

18. Yes, the Scholarship is provided only to students who are studying a relevant Degree approved by the Minister for Human Services, South Australia (for example, a Degree in the discipline of allied health, medicine, nursing, dentistry or Aboriginal affairs).

19. The financial assistance allowed to the student is “to enable the Student to attend the [relevant] Institute”.

Is the payment made on the condition that the student enter into employment or a contract for labour with the payer?

20. No the payment is not made on either of these conditions.

21. Subsections 51-35 (c) and (d) of the ITAA 1997 specifically state that payments are not exempt from income tax if:

- (c) a payment by a person or authority on the condition that the student will (or will if required) become, or continue to be, an employee of the person or authority;
- (d) a payment by a person or any authority on the condition that the student will (or will if required) enter into, or continue to be a party to, a contract with the person or

authority that is wholly or principally for the labour of the student.

22. These sections contains narrow and specific exclusions which replaced the previous broader exclusion of 'render services' in section 23(z)(i) of the *Income Tax Assessment Act 1936*.

23. There are some specific conditions which the student must agree to on accepting a SA Rural Education Scholarship. However, the agreement is that the student on graduation work within a particular rural area if required by the Minister. There is no obligation for the graduate student to work for DHS who is the provider of the Scholarship. The graduate student is free to obtain employment with the employer of his or her choice within the rural area. Subject to any legislative or professional requirements to obtain suitable experience within a profession, the graduate student is permitted to be self employed.

24. The objective of this Scholarship is to promote the provision of adequate health service in rural locations and a condition that the student work, if required, in a specified rural area is imposed. The Scholarship is not for the purpose of the payer (the DHS) obtaining services from the student.

Is the payment a Commonwealth education or training payment?

25. The Scholarship payment is made by the DHS, South Australia not by the Commonwealth of Australia.

Conclusion

26. The Scholarship satisfies the requirements of Item 2.1A, section 51-10 and is not subject to an exception in section 51-35 of the ITAA 1997. Therefore it is exempt from being assessable income.

Detailed contents list

27. Below is a detailed contents list for this Class Ruling:

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Commissioner of Taxation21 November 2001

<i>Previous draft:</i>	- ITAA 1997 51-10
Not previously issued in draft form	- ITAA 1997 51-35
	- ITAA 1997 51-35(a)
<i>Related Rulings/Determinations:</i>	- ITAA 1997 51-35(b)
CR 2001/1; TR 92/1; TR 92/20;	- ITAA 1997 51-35(c)
TR 97/16; TD 93/86	- ITAA 1997 51-35(d)
	- ITAA 1997 51-35(e)
	- ITAA 1997 51-35(f)

Legislative references:

- TAA 1953 Part IVAAA
- ITAA 1936 23(z)(i)

ATO References

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