



CR 2003/102 - Income tax: assessable income: cricket umpires: Dandenong District Cricket Umpires Association receipts

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 July 2003*



Class Ruling

Income tax: assessable income: cricket umpires: Dandenong District Cricket Umpires Association receipts

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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**, **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 application are sections 6-5, 6-10 and 8-1 of the *Income Tax Assessment Act 1997* (ITAA 1997) and paragraph 26(e) of the *Income Tax Assessment Act 1936* (ITAA 1936).

Class of persons

3. The class of persons to which this Ruling applies is cricket umpires who are members of the Dandenong District Cricket Umpires Association (DDCUA) and receive payments for umpiring:

- matches in the Dandenong District Cricket Association (DDCA); and
- a limited number of matches played by the DDCA as representative matches conducted under the auspices of the Victorian Metropolitan Cricket Union.

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 actually carried out is carried out in accordance with the arrangement described below at paragraphs 9 to 17 in this Ruling.
6. If the arrangement described in this Ruling is materially different from the arrangement that is actually carried out:
 - 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
 - this Ruling may be withdrawn or modified.
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Date of effect

8. This Ruling applies from 1 July 2003. 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 to 22 of Taxation Ruling TR 92/20). Furthermore, the Ruling only applies to the extent that:
 - it is not later withdrawn by notice in the *Gazette*;
 - it is not taken to be withdrawn by an inconsistent later public ruling; or
 - the relevant tax laws are not amended.

Arrangement

9. The arrangement that is the subject of the Ruling is described below.

10. The DDCA administers cricket matches in the Dandenong area of Melbourne and pays DDCUA members a fee for each match day they umpire. In addition to the regular roster matches, DDCUA members may also officiate at a limited number of representative matches (maximum of 5) played by the DDCA which are conducted under the auspices of the Victorian Metropolitan Cricket Union. A match fee is paid by the DDCA to the relevant DDCUA members for those representative matches.

11. The DDCA, after negotiations with the DDCUA, sets the match fees to be paid to umpires each season. These amounts vary depending on the grade involved – Turf 1 & 2, other senior grades and Juniors. Current match fees are such that most umpires receive between \$1,000 and \$2,000 in a season and no umpire would receive more than \$2,500. The maximum an umpire would receive for a standard roster match day would be \$85.

12. Umpires do not receive any allowances and benefits other than their match day fee. Umpires are paid their match day fee in cash by the captains of the participating clubs on the day of each match.

13. Membership of DDCUA is open to all persons who wish to umpire cricket in the DDCA. The completion of a DDCUA registration form and the payment of an annual membership fee are the only conditions precedent for individual membership from year to year. The registration form records the member's name and address, provides medical and emergency contact information and requires members to follow the rules of the association.

14. Umpiring appointments are made solely on the basis of merit such that the best available umpires are appointed to the most important games. To that end individual umpire performance is regularly evaluated by the Umpires Advisor acting on participating captains' Umpires Match Reports. The DDCA and affiliate cricket clubs have no control over the selection of umpires for particular games.

15. DDCUA members are required to incur expenditure upon their own shoes (white running shoes or cricket boots), ball counters, shirts, trousers, ties, jackets, hats and other equipment (stump gauge, tape measures, scissors, sunscreens, sunglasses etc).

16. In addition they are expected to attend fortnightly meetings of the DDCUA and are responsible for attending Cricket Victoria Umpires Winter Classes (1 night a week for 7 weeks) at least once every 3 years.

17. The match day payments are not intended to, nor do they usually, cover expenses. The purpose of the payments is to encourage members of the community to participate in local sporting activities by subsidising that participation.

Ruling

18. The match fees received by members of the DDCUA who umpire cricket matches in the DDCA and representative matches played by the DDCA under the auspices of the Victorian Metropolitan Cricket Union are not assessable income.

19. Losses and outgoings incurred in deriving the match fees cannot be claimed as a deduction.

Explanation

20. A payment or other benefit received by a taxpayer is 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 the tax law is included in assessable income (statutory income).

Ordinary Income

21. Under subsection 6-5(1) of the ITAA 1997 an amount is assessable income if it is income according to ordinary concepts (ordinary income).

22. In determining whether an amount is ordinary income, the courts have established the following principles:

- what receipts ought to be treated as income must be determined in accordance with the ordinary concepts and usages of mankind, except in so far as a statute dictates otherwise;
- whether the payment received is income depends upon a close examination of all relevant circumstances; and
- whether the payment received is income is an objective test.

23. Relevant factors in determining whether an amount is ordinary income include:

- whether the payment is the product of any employment, services rendered, or any business;
- the quality or character of the payment in the hands of the recipient;
- the form of the receipt, that is, whether it is received as a lump sum or periodically; and
- the motive of the person making the payment. Motive, however is rarely decisive as in many cases a mixture of motives may exist.

24. Furthermore, where a taxpayer's activities constitute a pastime or hobby rather than an income-producing activity, money and other benefits received from the pursuit of that pastime or hobby is not assessable income, nor are the expenses allowable deductions.

25. Participation in activities generating pastime or hobby receipts is a social or personal pursuit of a non-commercial nature. Pastime receipts are not intended to, nor do they usually, cover expenses. Even regular receipts obtained from a pastime or hobby are still characterised as receipts from a pastime or hobby and accordingly are not assessable income. A receipt that is an incident of a pastime or hobby would also not be assessable, even if it arises from the provision of a service. However, the nature of such a receipt or receipts is relevant in determining whether the pastime has become a business. The receipt or receipts could indicate, for example: a commercial activity; an intention to make a profit from the activity; or an increase in either the size and scale of the activity or the degree of repetition or regularity of the activity.

26. The sporting activities of DDCUA members are considered to constitute a pastime or hobby and therefore, the match fees received from the pursuit of that pastime or hobby are not assessable income.

27. The match fees are not intended to, nor do they usually, cover expenses. The purpose of the payment is to encourage members of the community to participate in local sporting activities by subsidising that participation.

28. In forming the opinion that the DDCUA members who comprise the class of persons to whom this Ruling applies are engaged in a pastime or hobby, we have taken into account the number of games that they officiate, the seniority of the cricket grade, the links with the community of that sport, particularly the social benefits of participation and the quantum of the fees that they can receive.

Statutory Income

29. Section 6-10 of the ITAA 1997 provides that a taxpayer's assessable income includes statutory income amounts that are not ordinary income but are included in assessable income by another provision. Section 10-5 of the ITAA 1997 lists those provisions. Included in that list and of relevance here is paragraph 26(e) of the ITAA 1936.

30. Paragraph 26(e) provides that the assessable income shall include '... the value to the taxpayer of all allowances, gratuities, compensations, benefits, bonuses and premiums allowed, given or granted to him in respect of, or for or in relation directly or indirectly to, any employment of or services rendered ...'.

31. The main issue to consider with respect to paragraph 26(e) is whether the payment is 'given or granted to him in respect of any employment of or services rendered . . .'. Whilst the DDCUA members are not considered 'employees', paragraph 26(e) also includes in assessable income those allowances etc, which are paid in respect of 'services rendered'.

32. The umpires match fees are considered to be 'receipts incidental to a pastime' (refer paragraphs 26 to 28). As such, the fees are not assessable under paragraph 26(e) because the umpires are not considered to be employees, nor are they 'rendering services'.

General Deductions

33. As the fees received by the umpires are not assessable income, all losses and outgoings that are incurred in respect of deriving those amounts are not allowed as a deduction under section 8-1 or any other provision of the ITAA 1997.

Umpires who officiate in other games

34. Where DDCUA members also officiate as umpires in matches other than those described in paragraph 10, those umpire's activities may have ceased to be that of a hobby or pastime. A more detailed analysis of the circumstances of those umpires may be required. Umpires in this situation should discuss their circumstances with their taxation adviser or the Australian Taxation Office.

Pay As You Go (PAYG) withholding

35. As ruled above, payments paid to an umpire who is engaged in a hobby or pastime are not assessable income. The payments are not a payment for work and services and therefore the PAYG

withholding provisions of Subdivision 12-B of Schedule 1 of the Taxation Administrative Act 1953 do not apply. Tax should not be withheld from the payment of umpires who are in the class of persons to whom this Ruling applies.

Detailed contents list

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

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Commissioner of Taxation

19 November 2003

Previous draft:

Not previously issued in draft form

- sports people
- sporting organisations
- sport

Related Rulings/Determinations:

TR 92/1, TR 92/20, TR 97/16,
CR 2001/1

Legislative references:

Subject references:

- allowances
- assessable income
- hobby v. business

- ITAA 1936 26(e)
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10
- ITAA 1997 8-1
- ITAA 1997 10-5

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- Copyright Act 1968
- TAA 1953 Part IVAAA

- TAA 1953 12-B Sch 1

ATO references

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