



CR 2003/4 - Income tax: University of Canberra - Co-operative Research Centre for Freshwater Ecology Summer Student Scholarships in Freshwater Ecology

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 This document has changed over time. This is a consolidated version of the ruling which was published on *1 November 2002*

Class Ruling

Income Tax University of Canberra – Co-operative Research Centre for Freshwater Ecology Summer Student Scholarships in Freshwater Ecology.

Contents	Para
What this Class Ruling is about	1
Date of effect	8
Arrangement	9
Ruling	15
Explanations	16
Detailed contents list	38

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 laws dealt with in this Ruling are sections 6-5, 51-1, 51-10 and 51-35 of the *Income Tax Assessment Act 1997* (‘ITAA 1997’)

Class of persons

3. The class of persons to which this Ruling applies is students who receive a Co-operative Research Centre for Freshwater Ecology (CRCFE) Summer Student Scholarship in Freshwater Ecology from the University of Canberra.

Qualifications

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

CR 2003/4

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 14 in this Ruling.

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

- (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- (b) this Ruling may be withdrawn or modified.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 from 1 November 2002. 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. This description is based on the following documents. These documents, or relevant parts of them, as the case may be, form part of and are to be read with this description. The relevant documents or

parts of documents incorporated into this description of the arrangement are:

- Application for Class Ruling dated 25 September 2002.
- Record of information received by telephone from the University of Canberra on 13 November 2002.

10. The CRCFE is a national research centre established by the Federal Government and comprising a number of participating organisations including the University of Canberra. It intends to make available a number of scholarships each year to full-time students undertaking the under-graduate course “Professional Practice in Resource Science” at the University of Canberra during the summer months.

11. The course involves approximately 10 weeks of study relating to the student’s field of interest in resource science, particularly the practical aspects within the professional workplace, under the supervision of a research scientist located either within a university or similar professional institution. A pre-requisite to enrolment in the course is an appropriate placement for the term of the course with a professional organisation.

12. The scholarship stipend is currently set at \$3,000 and will be paid to the scholarship recipient in instalments on a fortnightly basis during the term of the course. The scholarships will be paid by the University with funding provided by the CRCFE.

13. Selection for the scholarships will be by a committee and involve an assessment of written applications against the selection criteria and will be primarily based on academic merit. It is not a requirement or condition of the scholarship that the student engage (or engage if required) in employment or enter a contract of service with the University or the granting research fund either during or after the course.

14. The scholarship holders will be required to submit reports to the University as part of the assessment process for the course. Details of these reports will be available in University reference centres as public documents and it is anticipated that the work may comprise a segment of published work in scientific literature.

Ruling

15. The payments made by the University of Canberra under the CRCFE Summer Student Scholarships in Freshwater Ecology are considered ordinary income under subsection 6-5(1) of the ITAA 1997. However, these payments will be exempt income under Item 2.1A, section 51-10 of the ITAA 1997.

Explanations

16. Subsection 6-5(1) of the ITAA 1997 provides that an amount is included as assessable income if it is income according to ordinary concepts (ordinary income).

17. Payments made by the University of Canberra under the CRCFE Summer Student Scholarships in Freshwater Ecology are considered ordinary income due to the periodical nature of the payments.

18. Section 51-1 of the ITAA 1997 exempts from income tax ordinary income and statutory income covered by tables in sections 51-5 to 51-30.

19. Item 2.1A of the table in section 51-10 of the ITAA 1997 provides an income tax exemption in relation to payments:

- to a full-time student at a school, college or university;
- made by way of a scholarship, bursary, educational allowance or educational assistance;
- subject to the exceptions set out in section 51-35 of the ITAA 1997.

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

20. Yes. The scholarships will only be awarded to full-time students enrolled in the Professional Practice in Resource Science course at the University of Canberra.

Are the payments made by way of a scholarship, bursary, educational allowance or educational assistance?

21. The words 'scholarship, bursary, educational allowance or educational assistance' are not defined in the ITAA 1997. The Macquarie Dictionary, 2nd Revised Edition, defines 'scholarship' as 'the sum of money or other aid granted to a scholar', and 'scholar' as 'a student; who, because of merit, etc., is granted money or other aid to pursue ... studies'.

22. Paragraphs 34 to 45 of Taxation Ruling TR 93/39 discuss the meaning of the words 'scholarship, bursary, educational allowance or educational assistance' for the purposes of the former subsection 23(z) of the ITAA 1936. Paragraph 35 of TR 93/39 states that the words are no more 'than a description of rewards for merit attained as a result of competition or selection on the basis of general criteria'.

23. In interpreting the meaning of the words ‘scholarship, bursary, educational allowance or educational assistance’, courts have determined that relevant characteristics of a scholarship include:

- the selection of recipients based on merit or some other rational criterion (*Re Leitch, deceased*, 1965 VR 204); and
- the education of the recipient is at least one purpose for which the scholarship is provided (*FC of T v. Hall* (1975) 6 ALR 457; 75 ATC 4156; 5 ATR 450).

24. There will be a limited number of scholarships made available each year and recipients will be selected having regard to submitted written applications and academic merit. It is accepted that applicants for the scholarships are subject to a competitive process and that the scholarships are granted on merit.

25. The scholarships are provided to students to enable them to undertake studies or research in the field of freshwater ecology. There is an educational purpose behind the provision of the scholarships. The payments are therefore made by way of a scholarship, bursary, educational allowance or educational assistance.

Do the exceptions in section 51-35 apply?

26. Section 51-35 of the ITAA 1997, broadly stated, excludes the following payments from exemption:

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

Are the payments Commonwealth education or training payments?

27. Paragraph 51-35(a) excludes from exemption Commonwealth payments for assistance for secondary education or in connection with the education of isolated children. The scholarship payments are not payments of this kind.

28. Paragraph 51-35(b) excludes from exemption Commonwealth education or training payments, as defined in section 52-145. The scholarship payments are not payments of this kind.

29. Paragraph 51-35(f) excludes from exemption scholarship payments that are education entry payments under Part 2.13A of the *Social Security Act 1991*. The scholarship payments are not payments of this kind.

Are the payments made on the condition that the student will (or will if required) enter into an employment contract or a contract for labour with the payer?

30. Paragraphs 51-35(c) and (d) of the ITAA 1997 exclude payments from exemption if they represent:

- (c) a payment by a person or an 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 an 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.

31. The scholarship holders will not be required to be, or become, employees of the University or the granting research fund. They also will have no right or expectation of future employment with the university or any other party.

32. Reports will be required to be submitted by the student to the university as part of the process of assessment for the course. This however is not considered to constitute a requirement to perform work for the scholarship provider.

33. The scholarship holders will not be required to enter into a contract for labour with the University or any other party.

Are the scholarships provided principally for educational purposes?

34. The scholarships will only be provided to students who are enrolled in the Professional Practice in Resource Science course with the University.

35. Payment of the scholarship is to assist selected students to undertake studies in the field of freshwater ecology.

36. The payments made under the terms of this arrangement are not excluded from exemption by paragraph 51-35(e) of the ITAA 1997.

Conclusion

37. None of the exclusions in section 51-35 apply to the scholarship payments.

Detailed contents list

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

	Paragraph
What this Class Ruling is about	1
Tax law(s)	2
Class of persons	3
Qualifications	4
Date of effect	8
Arrangement	9
Ruling	15
Explanations	16
Are scholarship holders full-time students at a school, college or university?	20
Are the payments made by way of a scholarship, bursary, educational allowance or educational assistance?	21
Do the exceptions in section 51-35 apply?	26
<i>Are the payments Commonwealth education or training payments?</i>	27
<i>Are the payments made on the condition that the student will (or will if required) enter into an employment contract or a contract for labour with the payer?</i>	30
<i>Are the scholarships provided principally for educational purposes?</i>	34
<i>Conclusion</i>	37
Detailed contents list	38

Commissioner of Taxation

15 January 2003

Previous draft:

Not previously released in draft form

CR 2003/4

Related Rulings/Determinations:

TR 92/1; TR 92/20; TR 93/39
TR 97/16; CR 2001/1

Subject references:

- exempt income
- post graduate research
- scholarships

Legislative references:

- TAA 1953 Pt IVAAA
- ITAA 1936 23(z)
- ITAA 1997 Div 51
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 51-1
- ITAA 1997 51-10
- ITAA 1997 51-30

- ITAA 1997 51-35
- ITAA 1997 51-35(a)
- ITAA 1997 51-35(b)
- ITAA 1997 51-35(c)
- ITAA 1997 51-35(d)
- ITAA 1997 51-35(e)
- ITAA 1997 51-35(f)
- ITAA 1997 52-145
- Social Security Act 1991 2.13A
- Copyright Act 1968

Case references:

- FC of T v. Hall (1975) 6 ALR 457
(1975) 75 ATC 4156 (1975) 5 ATR
450
- Re Leitch, deceased 1965 VR 204

ATO References

NO: 2003/000183

ISSN: 1445 2014