CR 2019/32 - Australian Olympic Committee - medal incentive funding payments

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Class Ruling

Australian Olympic Committee – medal incentive funding payments

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Relying on this Ruling

This publication (excluding appendixes) 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 the ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this ruling.

Further, if we think that the ruling disadvantages you, we may apply the law in a way that is more favourable to you.

Summary – what this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provisions identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provisions

2. The relevant provisions dealt with in this ruling are:

- section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997)
- subsection 6-5(1) of the ITAA 1997
- subsection 6-5(2) of the ITAA 1997
- section 6-10 of the ITAA 1997
- subsection 6-10(1) of the ITAA 1997
- subsection 6-10(2) of the ITAA 1997
- section 8-1 of the ITAA 1997
- subsection 8-1(1) of the ITAA 1997
- subsection 8-1(2) of the ITAA 1997
- section 10-5 of the ITAA 1997
- section 15-2 of the ITAA 1997
- subsection 15-2(1) of the ITAA 1997
- Division 12 of Schedule 1 to the *Taxation Administration Act 1953* (TAA 1953)

- section 12-35 of Schedule 1 to the TAA 1953
- section 12-55 of Schedule 1 to the TAA 1953.

Class of entities

3. The class of entities to which this Ruling applies is composed of athletes who are both:

- not carrying on a business as a sportsperson
- in receipt of payments made by the Australian Olympic Committee (AOC) under the Medal Incentive Funding (MIF) Program.

Qualifications

4. The Commissioner makes this Class Ruling based on the arrangement described in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 9 to 38 of this Ruling.

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

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme on which the Commissioner has ruled
- this Ruling may be withdrawn or modified.

Date of effect

7. This Ruling applies from 1 July 2019 to 30 June 2022. The Ruling continues to apply after this date to all athletes receiving the MIF Payments, subject to there being no change to the scheme described in paragraphs 9 to 38 of this Ruling.

8. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10 *Public Rulings*).

Scheme

9. The following description of the scheme is based on information provided by the applicant.

10. The AOC has exclusive responsibility for the representation of Australia at the Olympic Games, Youth Olympic Games and at the regional, continental or world multi-sports competitions recognised by the International Olympic Committee. The AOC will provide funding for Australia's representation to these sports events.

11. The AOC Funding comes from income distributions from the Australian Olympic Foundation, grants from the International Olympic Committee, known as Olympic Solidarity, grants from the Organising Committees for the Olympic Games, sponsorship and licencing and fundraising for Olympic Teams by the AOC, State/Territory Olympic Councils and the Olympic Team Appeal Committees.

12. For sports on the program for the 2020 Olympic Games in Tokyo and for the 2022 Olympic Winter Games in Beijing, separate Programs and Funding Guidelines have been developed and approved by the AOC Executive.

Medal Incentive Funding by the AOC

13. The MIF is a direct funding to medallists at the Olympic Games. It is determined by the AOC in its sole and absolute discretion.

14. The Olympic Games include the Summer Olympic Games in Tokyo (summer sports) and the Winter Olympic Games in Beijing (winter sports).

15. The purpose of the MIF is to help athletes gain selection to represent Australia at the Olympic Games and win medals.

Programs and Funding Guidelines – 2020 Olympic Games, Tokyo (Guidelines) for the period 1 January 2017 to 31 December 2020

16. Based on the Guidelines for sports on the program of the 2020 Olympic Games in Tokyo (summer sports), athletes will be considered for MIF Payments if they have won medals at either:

- the 2016 Olympic Games or at other major international competitions of a comparable standard in 2016 in events on the 2020 Olympic program
- the 2017, 2018 and 2019 World Championships or at other major international competitions of a comparable standard in events on the 2020 Olympic program (agreed in advance by the AOC as appropriate 'benchmark competitions').

17. Athletes must maintain appropriate training regimes with the intention of gaining national (or in 2020 Olympic) selection in the year subsequent to them winning a medal.

18. It is not necessary that the event for which the athletes are training be the same as that in which the medal was won as long as it is in the same sport and on the program of the 2020 Olympic Games.

19. Athletes who win more than one medal in any year will receive MIF Payment in respect of their best result only.

20. Members of medallist teams will be considered for the same MIF as individual medallists.

Medal Incentive Funding Payments – summer sports

21. The MIF Payment is made as one payment as soon as practicable at the start of the calendar year following the medal winning performance.

22. Athletes who receive the MIF Payment do not have a duty or obligation to provide any services to the AOC and the AOC does not regard the Payment as a reward for services.

23. The MIF Payments are made in the following amounts:

Summer athletes				
Season in which result was achieved	Year in which MIF payment is made	Gold	Silver	Bronze
2016	2017	$20,000	$15,000	$10,000
2017	2018	$20,000	$15,000	$10,000
2018	2019	$20,000	$15,000	$10,000
2019	2020	$20,000	$15,000	$10,000

24. The Guidelines apply for the period beyond the 2020 Olympic Games, Tokyo. The AOC's budget after 2020 is set in the second half of that year. It is expected guidelines beyond 2020 will be prepared in the year ending 30 June 2021 and the terms of the MIF will remain unchanged under the new guidelines.

25. As such the proposed 2020-2024 Program and Funding Guidelines for summer sports will be based on the 2017-2020 Program and Funding Guidelines for Tokyo Olympic Games as described in paragraphs 16 to 20 of this Ruling

26. Under the proposed 2020-2024 Guidelines, the following athletes will be considered for the MIF:

- athletes who win medals, or are members of medallist teams, at the 2020 Olympic Games
- athletes who win medals, or are members of medallist teams, in 2020, 2021, 2022 and 2023 at World Championships, or other major international competitions of a comparable standard in events on

the 2024 Olympic Games program (agreed in advance by the AOC as appropriate 'benchmark competitions').

27. The amounts for MIF Payments under the proposed 2020-2024 Guidelines for the summer Olympic Games will also remain unchanged as follows:

Gold	$20,000
Silver	$15,000
Bronze	$10,000

Programs and Funding Guidelines – 2022 Olympic Winter Games, Beijing (Guidelines) for the period 1 July 2018 to 30 June 2022

28. Based on the Guidelines for sports on the program of the 2022 Olympic Winter Games in Beijing, the following athletes are considered for MIF Payments:

- athletes who win medals, or are members of medallist teams, at the 2022 Olympic Winter Games
- athletes who win medals, or are members of medallist teams, in 2018/19, 2019/20 or 2020/21 World Championships or other major international events of a comparable standard in events on the 2022 Olympic Winter Games program (agreed in advance by the AOC as appropriate 'benchmark competitions').

29. Athletes must maintain appropriate training regimes with the intention of gaining national (or in 2022 Olympic) selection in the year subsequent to them winning a medal.

30. It is not necessary that the event for which they are training be the same as that in which the medal was won provided it is in the same discipline and on the program of the 2022 Olympic Winter Games.

31. Athletes who win more than one medal in any year will be considered by the AOC MIF in respect of their best result only.

32. Members of medallist teams and other combinations will be considered for the same AOC MIF as individual medallists.

Medal Incentive Funding Payments – winter sports

33. The MIF Payment is made as one payment as soon as practicable after 1 July following the medal winning performance.

34. Athletes who received the MIF Payment do not have a duty or obligation to provide any services to the AOC and the AOC does not regard the Payment as a reward for services.

35. The MIF Payments are made in the following amounts:

Winter athletes				
Season in which result was achieved	Year in which MIF will be paid	Gold	Silver	Bronze
2018 Olympic Winter Games	2018/19	$20,000	$15,000	$10,000
2018/19	2019/20	$20,000	$15,000	$10,000
2019/20	2020/21	$20,000	$15,000	$10,000
2020/21	2021/22	$20,000	$15,000	$10,000

36. The Guidelines for the Beijing Winter Games apply for the period from 1 July 2018 to 30 June 2022.

37. It is proposed that:

- members of medallist teams and other combinations be considered for MIF regardless of whether the members played in the qualifying match
- the amount of MIF paid to members of medallist teams will be calculated based on the size of the team in consultation with the National Federation.

38. Athletes receiving the MIF do not have an agreement with the AOC and they are not required to enter into any agreement with the AOC. The Guidelines define the terms under which the AOC will consider the eligibility of the athletes for the MIF. However, athletes are bound by the AOC Anti-Doping By-Law, whereby if the athletes commit any anti-doping rule violation, doping offenses or breach of the By-Law, the athletes must repay any monies paid to them under the AOC Funding Programs.

Ruling

39. MIF Payments provided by the AOC are not assessable income to the recipient for the purposes of sections 6-5 and 6-10.

40. MIF Payments provided by the AOC are not considered as withholding payments under Division 12 of Schedule 1 to the TAA 1953.

41. No deduction is allowed under section 8-1 for an expense incurred to the extent to which the expense relates to the receipt of MIF Payment.

Commissioner of Taxation
15 May 2019

Appendix 1 – Explanation

This Appendix 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.

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

- income according to ordinary concepts as explained in common law (ordinary income)
- an amount or benefit that through the operation of the provisions of the tax law is included in assessable income (statutory income).

Ordinary income

43. Subsection 6-5(1) provides that your assessable income includes income according to ordinary concepts, which is called ordinary income.

44. Subsection 6-5(2) provides that if you are an Australian resident, your assessable income includes the ordinary income you derived directly or indirectly from all sources, whether in or out of Australia, during the income year.

45. Ordinary income generally includes three categories namely income from personal services such as employment income, income from carrying on a business, and income from property such as rent.

46. Relevant factors in determining whether the receipt of an amount is ordinary income include:

- periodicity – whether it is received periodically or regularly[1]
- whether the payment is from any employment, business or rendering of services[2]
- character of a receipt or character of the payment in the hands of the recipient[3]
- motives of the person making the payment.[4]

47. In considering periodicity, the MIF Payment is made as one payment as soon as practicable at the start of calendar year and/ or

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[1] *Commissioner of Taxation v Dixon* [1952] HCA 65.
[2] *Federal Commissioner of Taxation v Harris* (1980) 43 FLR 36; 80 ATC 4238; (1980) 10 ATR 869 at FLR 40; ATC 4241; ATR 872 and *Hayes v Federal Commissioner of Taxation* [1956] HCA 21.
[3] *Commissioner of Taxation v Blake* [1984] 2 Qd R 303; *Scott v Federal Commissioner of Taxation* [1966] HCA 48 and *GP International Pipecoaters Pty Ltd v Commissioner of Taxation (Cth)* [1990] HCA 25.
[4] *Hayes v Federal Commissioner of Taxation* [1956] HCA 21.

after 1 July following the medal winning performance. Athletes who win more than one medal in any year will receive only one MIF Payment in respect of their best result. As such the MIF Payment is not made periodically or regularly.

48. In considering whether the payment is from any employment, business or rendering of services, the athletes who become eligible for the MIF Payment are not employed by the AOC. They are not required to enter into any agreement with AOC to render personal services or for any business purposes.

49. In this case the AOC provides direct funding to athletes under the MIF program provided they maintain appropriate training regimes with the intention of gaining national Olympic selection in the year subsequent to them winning a medal. The athletes are also bound by the AOC Anti-Doping By-Law. They must not commit any anti-doping rule violations or any doping offenses or breach of the By-Law otherwise they will have to repay any monies paid to them under the AOC Funding Programs.

50. In the circumstances, the requirements imposed by the AOC to the athletes do not justify an employer/employee and/ or any business relationship between the AOC and the athletes who are receiving the MIF Payments.

51. In considering the character of the MIF Payment in the hands of the recipient, clearly it does not have the character of salary and wages, fees for services rendered or a receipt from a business transaction.

52. In considering the motives of the AOC in making the MIF Payment, the purpose of the payment is to help athletes gain selection to represent Australia at the Olympic Games and win medals.

53. Therefore, the MIF Payment is not income according to ordinary concepts and is not assessable in the hands of the recipient.

‘Occasional’ voluntary payments

54. Paragraph 55 of Taxation Ruling TR 1999/17 *Income tax: sportspeople – receipts and other benefits obtained from involvement in sport* explains that there may be situations where an ‘occasional’ voluntary payment is received by a sportsperson. Whether the receipt of an ‘occasional’ voluntary payment is assessable income needs to be determined on a case by case basis.

55. Paragraph 60 of Taxation Ruling TR 1999/17 states:

> It is considered than an ‘occasional’ voluntary payment received in respect of sporting activities is assessable income if the recipient is an employee, is engaged in the provision of services, or carries on a business in respect of those sporting activities. Such payments are assessable even though they are in respect of past or future employment, the past or future provision of services, or a past business.

56. The purpose of the MIF is to help athletes gain selection to represent Australia at the Olympic Games and win medals.

57. The MIF Payment is made as one-off payment as soon as practicable at the start of the calendar year (for the summer sports) or after 1 July (for the winter sports) following the medal winning performance.

58. Athletes who receive the MIF Payment have no obligation to provide any services to the AOC. Likewise the AOC does not regard the Payment as a reward for services. There is no requirement for the athletes to enter into any agreement with the AOC. As such there is not any form of employment or business relationship between the AOC and the athletes.

59. The Guidelines define the terms under which the AOC will consider the eligibility of the athlete for the MIF subject to strict compliance with the AOC Anti-Doping By-Law.

60. The requirements imposed by the AOC to the athletes under the Guidelines do not justify an employer/employee and/ or any business relationship between the AOC and the athletes who are receiving the MIF Payments.

61. Considering the MIF Payment is not made in connection with:

- the athlete's employment with AOC
- the athlete's engagement with AOC to provide services
- the athlete's business relationship with the AOC

the MIF Payment is not income according to ordinary concepts and is not assessable in the hands of the recipient.

Statutory income

62. Subsection 6-10(1) provides that your assessable income also includes some amounts that are not ordinary income.

63. Subsection 6-10(2) provides that amounts that are not ordinary income but are included in your assessable income by provisions about assessable income, are called statutory income.

64. Section 10-5 provides a list of provisions about assessable income. That list includes a reference to section 15-2 which is about allowances and other things provided in respect of employment or services.

65. 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 of or services rendered by you.

66. The MIF Payment made by the AOC to the qualifying athletes is not assessable income to the recipient under subsection 15-2(1) because there is no employer/ employee relationship between the

athletes and the AOC. There is also no agreement between the said parties that requires the athletes to provide services to the AOC.

67. Despite the AOC requiring the athletes to meet certain conditions to qualify for the MIF Payment, it is considered that the conditions do not justify the rendering of services by the athletes to the AOC for the purposes of section 15-2.

68. Therefore the MIF Payment is not statutory income assessable to the athletes receiving the payment.

General deductions

69. Subsection 8-1(1) allows a deduction for any loss or outgoing to the extent that it is incurred in gaining or producing assessable income; or it is necessarily incurred in carrying on a business for the purpose of gaining or producing assessable income subject to the exclusions set out in subsection 8-1(2).

70. Expenses incurred by the athletes in connection to their sporting activities are not allowable deductions against the MIF Payment they would receive. The expenses are not incurred in gaining or producing assessable income because the MIF Payment is not assessable income in the hands of the athletes.

Pay As You Go (PAYG) withholding

71. Division 12 of Schedule 1 to the TAA 1953 refers to Payments from which amounts must be withheld which includes payments for work and services – see for example the withholding requirements in sections 12-35 and 12-55.

72. The athletes receiving the MIF Payment made by the AOC are not employees of the AOC and the Payment is not for services rendered by the athletes to the AOC. Recipients for the MIF are not required to enter an agreement with the AOC for the provision of any services.

73. Therefore the MIF Payment is not a withholding payment for the purposes of the PAYG withholding provisions. As such the AOC is not required to withhold an amount from the MIF Payment made to the qualifying athletes. The AOC does not have any other associated PAYG withholding obligations – for example, obtaining tax file number declarations, payment summaries and annual reporting.

Appendix 2 – Detailed contents list

74. The following is a detailed contents list for this Ruling:

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

CR 2007/36; CR 2015/68;
TR 1999/17; TR 2006/10

Legislative references:

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- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-5(2)
- ITAA 1997 6-10
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- ITAA 1997 8-1(1)
- ITAA 1997 8-1(2)
- ITAA 1997 10-5
- ITAA 1997 15-2
- ITAA 1997 15-2(1)
- TAA 1953
- TAA 1953 Sch 1 Div 12
- TAA 1953 Sch 1 12-35
- TAA 1953 Sch 1 12-55

Case references:

- Commissioner of Taxation v Blake [1984] 2 Qd R 303; 84 ATC 4661; (1984) 15 ATR 1006
- Commissioner of Taxation v Dixon [1952] HCA 65; (1952) 86 CLR 540; (1952) 10 ATD 82
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- GP International Pipecoaters Pty Ltd v Commissioner of Taxation (Cth) [1990] HCA 25; (1990) 170 CLR 124; 90 ATC 4413; (1990) 21 ATR 1
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