


# ***CR 2022/13 - Paralympics Australia - medal payments***

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## Class Ruling

# Paralympics Australia – medal payments

### **📌 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 athletes in receipt of 2020 Tokyo Paralympic Medal Payments or 2022 Beijing Winter Paralympic Medal Payments, collectively referred to as 'Medal Payments'.
2. Full details of this scheme are set out in paragraphs 10 to 28 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

### **Who this Ruling applies to**

4. This Ruling applies to you if you are in receipt of a Medal Payment made by Paralympics Australia (PA) for medals you win at the 2020 Tokyo Paralympic Games and/or 2022 Beijing Winter Paralympic Games.
5. This Ruling will not apply to individuals who receive a Medal Payment provided by PA and who are carrying on a business as a professional sportsperson.

### **When this Ruling applies**

6. This Ruling applies from 1 July 2021 to 30 June 2024.

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## **Ruling**

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7. The Medal Payments provided under the Scheme are not considered income according to ordinary concepts for the purpose of sections 6-5 and 6-10.
8. The Medal Payments are not considered a payment from which amounts must be withheld under Division 12 of the *Taxation Administration Act 1953* (TAA).
9. No deduction can be claimed under section 8-1 for an expense incurred to the extent to which the expense relates to the receipt of Medal Payments.

## **Scheme**

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10. 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.

### **Paralympics Australia**

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11. PA is the nation's peak sporting organisation for athletes with physical, vision and intellectual impairments. PA's purpose is to advance the Paralympic Movement and para-sport in Australia and be a catalyst for a more inclusive society.
12. PA works with national sporting organisation partners to help identify potential Paralympians and assist athletes to prepare for competition by providing funding for and access to coaching, equipment, medical support and travel in the lead up to the Summer and Winter Paralympic Games.
13. During 2021, PA assisted a team of athletes to compete at the 2020 Tokyo Paralympic Games (held 24 August 2021 to 5 September 2021).
14. Athletes qualified for and entered these games under the assumption that there would be no payments made by PA for medals won during the games.
15. During the 2020 Tokyo Paralympic Games, the Australian Government announced that additional funding would be provided to PA to ensure Tokyo Paralympic medal winners would receive payments that are consistent with payments made by the Australian Olympic Committee (AOC) to the Tokyo Olympic Games medallists.
16. The funding support has been provided by the Australian Government to PA in the form of a one-off grant to facilitate payments. The Australian Government specified that the funding given is for the purpose of providing medal rewards for the 2020 Tokyo Paralympic Games only.
17. Subsequently, the Australian Government pledged a second grant for medal rewards for the 2022 Beijing Winter Paralympic Games. The Australian Government has indicated they are committed to working with PA to grow corporate sponsorship for para-sport on top of their existing investment.
18. Using the proceeds from the first grant provided by the Australian Government, PA will be providing a Medal Payment to athletes that won a medal at the 2020 Tokyo Paralympic Games. The proceeds of the grant will not be used for any other purpose or any other event.

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19. Using the proceeds from the second grant provided by the Australian Government, PA will be providing a Medal Payment to athletes that win a medal at the 2022 Beijing Winter Paralympic Games. The proceeds of the grant will not be used for any other purpose or any other event.
20. Medal Payments made to athletes are structured to ensure payments received by athletes are consistent with payments made by the AOC to Tokyo 2020 Olympic medallists.
21. However, there is no requirement for Paralympians to be undertaking training in the year following the medal-winning event (which is in contrast to the AOC medal incentive program).
22. Paralympic athletes who compete in the 2020 Tokyo Paralympic Games or 2022 Beijing Winter Paralympic Games are not eligible to be paid for multiple medal-winning performances at each of the Games. Athletes will be entitled to one reward based on the best medal performance in each of the Games.
23. Members of medallist teams will be considered for the same Medal Payments as individual medallists.
24. Athletes who receive the Medal Payments are not employees of PA and do not have a duty or obligation to provide any services to PA. In addition, PA does not regard the payment as reward for services.
25. There are no ongoing requirements or conditions imposed on athletes who receive a Medal Payment in respect to present or future obligations and there is no requirement for athletes to enter into an agreement with PA to receive the payment.
26. The Medal Payments are made in the following amounts for both the 2020 Tokyo Paralympic Games and the 2022 Beijing Winter Paralympic Games:

<b>Medal (or best Medal where there is more than one)</b>	<b>Medal Payment</b>
Gold	\$20,000
Silver	\$15,000
Bronze	\$10,000

27. Under current circumstances, the payments are being awarded to Paralympic medallists at the 2020 Tokyo Paralympic Games and the 2022 Beijing Winter Paralympic Games only. The Medal Payment arrangement does not apply for Games beyond the 2022 Beijing Winter Paralympic Games.

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**Commissioner of Taxation**

23 February 2022

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**Appendix – Explanation**

**❶** *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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**Payment is not included in assessable income**

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

- income according to ordinary concepts (ordinary income), or
- income by operation of the provisions of the tax law (statutory income).

**Ordinary income**

29. Subsection 6-5(1) provides that an amount is included in assessable income if it is ordinary income.

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

31. 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.

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

- periodicity – whether it is received periodically or regularly<sup>1</sup>
- whether the payment is from any employment, business or rendering of services<sup>2</sup>

<sup>1</sup> *Commissioner of Taxation (Cth) v Dixon* [1952] HCA 65.

<sup>2</sup> *The Commission of Taxation of the Commonwealth of Australia v Harris, G.O.* [1980] FCA 74 and *Hayes v Commissioner of Taxation (Cth)* [1956] HCA 21.

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- character of a receipt or character of the payment in the hands of the recipient<sup>3</sup>, and
- motives of the person making the payment.<sup>4</sup>

33. In considering periodicity, the Medal Payment is made as one payment as soon as practicable following the medal-winning performance. Athletes who win more than one medal in any year will receive only one Medal Payment in respect of their best result. A Medal Payment is not expected as athletes have to win a medal to obtain the payment. The Medal Payment has not been paid in the past to athletes who won a medal at a summer or winter Paralympic Games. There is currently no indication that any funding will be provided beyond the 2022 Beijing Winter Paralympic Games. As such, the Medal Payment is not made periodically or regularly.

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

35. There are no ongoing requirements imposed on the athletes receiving a Medal Payment and athletes who receive a Medal Payment do not have a duty or obligation to provide any services to PA. PA does not regard the payment as a reward for past or future services provided. As such, the payments are not considered to be reward for services provided.

36. In the circumstances, the conditions on the athletes do not justify an employer/employee and/or any business relationship between PA and the athletes who are receiving a Medal Payment.

37. In considering the character of a Medal Payment in the hands of the recipient, the payments were unexpected and were not depended upon by the recipient. A Medal Payment does not have the character of salary and wages, fees for services rendered or a receipt from a business transaction.

38. In considering the motives of PA in making a Medal Payment, the purpose of the first payment is to ensure equality in payments between athletes competing at the 2020 Tokyo Olympic Games and the 2020 Tokyo Paralympic Games. The second payment is made on the same basis in respect of the 2022 Beijing Winter Olympic Games and the 2022 Beijing Winter Paralympic Games. PA is making the payments as it has received government funding for this purpose and the payment supports the athletes who attend the 2020 Tokyo Paralympic Games and 2022 Beijing Winter Paralympic Games.

39. Neither the Australian Government nor PA derives any benefit from making the payment. It is paid as a grant by the Australian Government and a monetary reward by PA to medal recipients. Other than winning a medal, there are no conditions attached to the Medal Payment.

40. Therefore, a Medal Payment is not income according to ordinary concepts and is not assessable in the hands of the recipient.

#### **'Occasional' voluntary payments**

41. 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

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<sup>3</sup> *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.

<sup>4</sup> *Hayes v Commissioner of Taxation (Cth)* [1956] HCA 21.

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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.

42. Paragraph 56 of TR 1999/17, sets out three key factors to consider when determining whether an occasional voluntary payment is assessable:

- how and why the payment was made
- whether the payment is common with the recipient's occupation, and
- whether the payment is solicited.

43. Paragraph 60 of TR 1999/17 states:

It is considered that 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.

44. It is considered that Medal Payments are not assessable as an 'occasional' voluntary payment as:

- they are a one-off payment to reward athletes for winning medals at the 2020 Tokyo Paralympic Games and the 2022 Beijing Winter Paralympic Games
- they were unexpected and not solicited by the athletes
- there is no obligation on the athletes to provide any services to PA or enter any agreement with PA, and
- there is no form of employment or business relationship between PA and the recipient.

### **Statutory income**

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

46. 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.

47. 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.

48. 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.

49. A Medal Payment made by PA to the 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 PA. There is also no agreement between the parties that requires the athletes to provide services to PA.

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50. As there is no employment relationship between PA and the athletes, and no requirement for the athletes to provide services to PA, a Medal Payment should not be included in the assessable income of recipients under section 15-2.

### ***Pay as you go withholding***

51. Division 12 of Schedule 1 to the TAA 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.

52. The athletes receiving a Medal Payment are not employed by PA and are not required to be employed by PA to receive the payment. As such, the payment cannot be considered a payment of a salary to an employee.

53. Furthermore, the athletes receiving a Medal Payment are not required to provide any services to PA and are not required to meet ongoing conditions with respect to qualifying or training for the payment. As such, the payment is not considered a payment covered by a voluntary agreement.

54. As a result, a Medal Payment is not considered a payment from which amounts must be withheld under Division 12 of the TAA. PA is not required to withhold on the payments made to athletes as a Medal Payment and does not have any other associated pay as you go withholding obligations.

### ***General deductions***

55. 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).

56. Expenses incurred by Paralympic Athletes in connection with their participation at the 2020 Tokyo Paralympic Games or 2022 Beijing Winter Paralympic Games are not allowable deductions against a Medal Payment. The expenses are not incurred in gaining or producing assessable income because a Medal Payment is not assessable income in the hands of the athletes.



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## References

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### *Previous draft:*

Not previously issued as a draft

### *Related Rulings/Determinations:*

TR 1999/17

### *Legislative references:*

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

### *Cases references:*

- Commissioner of Taxation v Blake [1984] 2 Qd R 303; 75 FLR 315; 15 ATR 1006; 84 ATC 4661
- Commissioner of Taxation (Cth) v Dixon [1952] HCA 65; 86 CLR 540; [1953] ALR 17; 10 ATD 82; 26 ALJ 505
- 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 ALJ 96
- Scott v Federal Commissioner of Taxation [1966] HCA 48; 117 CLR 514; 40 ALJR 205; [1967] ALR 561; 14 ATD 286
- The Commission 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

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### ATO references

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