TR 98/D4 - Income tax: sportspersons - receipts and other benefits obtained from involvement in sport

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Draft Taxation Ruling
Income tax: sportspersons - receipts and other benefits obtained from involvement in sport

other Rulings on this topic

IT 2262; IT 2674; MT 2032; TR 97/11

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What this Ruling is about

1. This Ruling discusses benefits that may be received by individuals from involvement in sport. The Ruling provides guidelines for determining whether these benefits are assessable income. Whether or not a particular receipt or benefit is assessable income must be determined from the facts of each case.

2. In this Ruling benefits include: payments received (such as salary, wages, allowances and cash prizes) and benefits received in kind (such as prizes received in the form of a motor vehicle or holiday).

Class of person/arrangement

3. This Ruling applies to individuals who receive benefits through their involvement in sport. This may be either as a participant or as an official, such as a referee or coach.

4. The Ruling does not distinguish between an 'amateur' or a 'professional' sportsperson. These distinctions are not determinative for income tax purposes.[1]

[1] *Honey v. Australian Airlines Ltd & Anor* (1989) 14 IPR 264 at 266; [1989] ATPR 50,484 at 50,486; *Case T14* (1968) 18 TBRD (NS) 67; *Case 45* 14 CTBR (NS) 235 - refer comments of R E O'Neil (member) (at TBRD 73; CTBR 241).

Date of effect

5. This Ruling applies to years commencing both before and after its date of issue. However, where a sportsperson has treated specific receipts in accordance with previous advice from the ATO, this Ruling only applies from the 1998-1999 year of income. Previous advice includes both advice given to him or her personally, and advice given to an organisation representing sportspersons in his or her field of activity. Also, this Ruling does 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 the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Ruling

6. A payment or other benefit received by a sportsperson 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**). Statutory income includes non-cash benefits that may not be ordinary income. Generally, non-cash benefits provided to a sportsperson as an employee are fringe benefits and not assessable income.

7. The following are income:

- payments received from, in respect of, or in connection with employment;
- payments or other benefits received for, in respect of, or in connection with services provided; and
- amounts of a revenue nature or other benefits received from carrying on a business, or a business like activity, of participating in sport, including prizes and awards.

8. Where a sportsperson participates in sport as a pastime or carries on a hobby rather than a business, money and other benefits received from the pursuit of that hobby or pastime are generally not income nor are the expenses allowable deductions.

9. Payments to sportspersons are often made in the absence of any legal obligation of the payer to do so. Such payments are referred to as voluntary payments. Typically, voluntary payments are made as either a series of payments, such as grants, or as a 'one off' payment,

such as an award or prize. The fact that a payment is voluntary does not mean that it cannot be income.

10. Generally, a series of voluntary payments, such as grants, are paid to provide financial support to a sportsperson. A payment is usually income in the ordinary sense of the word if it has one or more of the following characteristics:

(i) it is made under an agreement or arrangement to provide periodical, regular or recurrent payments; or

(ii) it is received in circumstances where the sportsperson has an expectation of receiving the payment as part of periodical, regular or recurrent payments, and accordingly the sportsperson is able to rely on the payment for his or her regular expenditure; or

(iii) it is part of periodic, regular or recurrent payments made in substitution of income.

11. Whether the receipt of a 'one off' voluntary payment is income needs to be determined on a case by case basis. In general, a 'one off' voluntary payment received in relation to sporting activities is:

(i) considered to be income if paid to the recipient in respect of employment, the provision of services, or a business or business like activity; or

(ii) not considered to be income if not caught under subparagraph (i) above. Such payments are usually in the nature of a 'windfall gain'. This includes receipts incidental to a hobby or social pastime, and 'one off' voluntary payments received on purely personal grounds.

Explanations

Ordinary income

12. Subsection 6-5(1) of the *Income Tax Assessment Act 1997* (ITAA 1997) includes a receipt in assessable income if it is income according to ordinary concepts (ordinary income).

13. In determining whether an amount is ordinary income, the courts have generally relied upon the following guiding 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 statute dictates otherwise;[2]

- whether the payment received is income depends upon a close examination of all relevant circumstances;[3] and
- it is an objective test.[4]

14. 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 or business like activity carried on;[5]
- the quality or character of the payment in the hands of the recipient;[6]
- the form of the receipt, that is, whether it is received as a lump sum or periodically;[7] and
- the motive of the person making the payment. Motive, however, is rarely decisive as in many cases a mixture of motives may exist.[8]

Provisions relating to statutory income

15. Subsection 6-10(1) of the ITAA 1997 includes in assessable income amounts that are not ordinary income; these amounts are statutory income.

16. Generally, the provisions relating to statutory income provide for the money value of non-money benefits to be included in assessable

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[2] *Scott v. FC of T* (1935) 35 SR (NSW) 215; (1935) 3 ATD 142 per Jordan CJ at SR 219; ATD 144.

[3] *The Squatting Investment Co Ltd v. FC of T* (1953) 86 CLR 570 at 627; (1953) 10 ATD 126 at 146.

[4] *Hayes v. FC of T* (1956) 96 CLR 47 at 55; (1956) 11 ATD 68 at 73.

[5] *FC of T v. Harris* (1980) 43 FLR 36; 80 ATC 4238; (1980) 10 ATR 869 at FLR 40; ATC 4241; ATR 872; *Hayes v. FC of T* (1956) 96 CLR 47 at 54; (1956) 11 ATD 68 at 72.

[6] *FC of T v. Blake* 84 ATC 4661; (1984) 15 ATR 1006 - refer comments of Carter J (at ATC 4665; ATR 1010); *Scott v. FC of T* (1966) 117 CLR 514; (1966) 14 ATD 286 (at CLR 526; ATD 293); *GP International Pipecoaters Pty Ltd v. FC of T* (1990) 170 CLR 124; 90 ATC 4413; (1990) 21 ATR 1 (at CLR 136; ATC 4419; ATR 6).

[7] *FC of T v. Dixon* (1952) 86 CLR 540; (1952) 10 ATD 82 (at CLR 557; ATD 86).

[8] *Hayes v. FC of T* (1956) 96 CLR 47; (1956) 11 ATD 68 (at CLR 55; ATD 72-73).

income. For sportspersons the three provisions of the *Income Tax Assessment Act 1936* (ITAA 1936) that most frequently apply are:

- paragraph 26(e), which 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 ...';
- section 21, which provides that where '... any consideration is paid or given otherwise than in cash, the money value of that consideration shall, for the purposes of this Act, be deemed to have been paid or given.' (section 21 is subject to section 21A); and
- section 21A, which provides that a non-cash benefit obtained in a business context is, in determining whether the benefit is income, deemed to be convertible to cash. The amount of income is the arm's length value of the benefit.

Income of an employee

17. The relationship between an employer and an employee is a contractual one. Whether a sportsperson is an 'employee' must be considered from the totality of the relationship.[9]

18. Payments received, including salary, wages, allowances, prizes and awards from, in respect of, or in connection with the sportsperson providing services as an employee, are income.

19. Where competing for a money prize is related to an employment relationship, the prize received is income. Payments received from public appearances, product promotions and endorsements, if received in connection with an employment contract, are also income.

20. Payments received by an employee from a person other than the employer are still assessable income if they are received in connection with the employment. In *Kelly v. FC of T*[10] the sportsperson was an employee of a football club. He received a $20,000 award from an unrelated party for being voted the best and fairest player for the season. In that case, Franklyn J held that the amount was income because it was directly related to his employment as a footballer.

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[9] *Stevens v. Brodribb Sawmilling Company Pty Ltd* (1986) 160 CLR 16; (1986) 60 ALJR 194; refer comments of Mason J (at CLR 29; ALJR 198) and Wilson and Dawson JJ (at CLR 39; ALJR 203).

[10] *Kelly v. FC of T* 85 ATC 4283; (1985) 16 ATR 478.

21. Generally, an employment related benefit other than money is not assessable income; it is a fringe benefit under the *Fringe Benefits Tax Assessment Act 1986* ('FBTAA'). Miscellaneous Tax Ruling MT 2032 discusses the application of the FBTAA to sporting clubs.

Income for services provided

22. Payments and other benefits received for, in respect of, or in connection with services provided by a sportsperson, are income (refer **Example 4**).

23. Income includes payments, prizes and awards received under a contract or agreement entered into as a result of the individual's participation in sport; for example, appearance fees and sponsorship. Also included are receipts incidental to the service provided; for example, receipts from product endorsements and speeches. The value of non-monetary payments becomes assessable through the operation of either paragraph 26(e), section 21 or section 21A of the ITAA 1936.

24. Payments for services are income even if no employer/employee relationship exists, or there is no carrying on of a business. This principle is demonstrated in *Brent v. FC of T*[11]. In that case, Gibbs J held that Mrs Brent was not an employee, nor did she carry on a business. The payments received under an agreement, however, were income on the basis that she had provided services.

25. A payment made on behalf of, or at the direction of the sportsperson would be income of the sportsperson (subsection 6-5(4) of the ITAA 1997). Such a payment would include payment to a trustee for the benefit of the sportsperson (refer paragraph 5 of Taxation Ruling IT 2262) or payment to an associate or relative of the sportsperson.

Income from business activities

26. Amounts of a revenue nature received from carrying on a business of sport are income to the sportsperson (refer **Example 1**). These amounts include any prizes or awards that are received as a result of carrying on the business. The value of non-cash prizes or awards is included in assessable income through the operation of section 21 or section 21A of the ITAA 1936.

27. Where an individual carries on a business like activity, utilising their skills in a systematic, regular and organised manner with a view

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[11] *Brent v. FC of T* (1971) 125 CLR 418; 71 ATC 4195; (1971) 2 ATR 563.

to obtaining income, amounts obtained as an incidence of that activity are income. This is despite the fact that many of the strict indicators of a business are absent, e.g., a business structure, business premises and employees or trading stock.

Hobby receipts

28. Where a person undertakes sport as a hobby or pastime rather than as a business or a business like activity, money and other benefits received from the pursuit of that hobby or pastime are generally not income, nor are the expenses generally allowable deductions.[12]

29. Whether an activity is a hobby is a matter of fact. Similarly, whether a person is carrying on a business can only be determined by considering all the relevant facts and circumstances. For a fuller discussion of whether a particular activity constitutes carrying on a business or a hobby, refer to Taxation Ruling TR 97/11. The Ruling deals with carrying on a primary production business; however, the principles discussed in the Ruling apply to any set of operations.

30. Participation in activities generating hobby receipts is a social or personal pursuit and of a non-commercial nature.[13] Hobby receipts are not intended to, nor do they usually, cover expenses. Even regular payments made in the context of a recreational pastime, where those payments do not meet expenses, are still characterised as receipts from a hobby and accordingly are not income. A receipt incidental to a hobby would also not be assessable, even if it arises from the provision of a service (refer **Example 5**). However, the nature of such a receipt or receipts is relevant in determining whether the hobby has become a business or business like activity. The receipt or receipts could indicate, for example: a significant 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.

31. Even though a person is engaged in a hobby, a receipt can still constitute income according to ordinary concepts; for example, receipts for the provision of services if not received in respect to the actual hobby activity itself (refer **Example 6**). Also see *Case Q4*[14]

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[12] *Martin v. FCT* (1953) 90 CLR 470; (1953) 10 ATD 226; [1953] ALR 755 (at CLR 479; ATD 228; ALR 757).

[13] *Martin v. FCT* (1953) 90 CLR 470 at 481; (1953) 10 ATD 226 at 230; [1953] ALR 755 at 758; *Case Z16* 92 ATC 183; *AAT Case 7839* (1992) 23 ATR 1115; *Case C18* 71 ATC 77 at 79; *Case 15* 17 CTBR (NS) 90 at 93; *Case T58* (1968) 18 TBRD (NS) 306; *Case 75* 14 CTBR (NS) 432.

[14] *Case Q4* (1964) 15 TBRD 9; *Case 100* 11 CTBR (NS) 585.

where stud fees received in respect to a racing horse were remuneration from the provision of services, notwithstanding that the activity of racing the horse was a hobby.

Voluntary payments

FC of T v. Dixon

32. The issue of whether voluntary payments are income in the hands of the recipient was considered by the High Court in *FC of T v. Dixon*.[15]

33. Mr Dixon had been employed as a clerk for a shipping agent. In 1940 he voluntarily enlisted for service in the Australian Imperial Forces and he continued to serve in the armed forces until his discharge in 1945. In 1946 he returned to work for his former employer.

34. At no time had Mr Dixon given any undertaking that he would return to the former employer upon completion of his war service, nor had the former employer given him any undertaking that it would re-employ him. Nevertheless, during the period of the taxpayer's war service, the former employer continued to pay him a sum of money equal to the difference between the rate of his military pay and the rate of pay he had received at the time of his enlistment in 1940.

35. The High Court held that the voluntary payments made by the former employer to Mr Dixon during the period of his war service were income in the ordinary sense of the word. The 'circumstances' in which Mr Dixon entered the war service, as outlined above, were such that he was able to rely with confidence on receiving the periodic payments from his former employer.

36. Dixon CJ and Williams J regarded four factors as relevant in reaching the conclusion that the payments were income:

(i) the payments were regular and periodical;

(ii) the payments arose out of circumstances attending Mr Dixon's war service;

(iii) the payments formed part of the receipts that Mr Dixon depended upon for regular expenditure for himself and his dependants; and

(iv) the payments were made for that purpose.

37. Fullagar J also held that the payments were income, on the basis of the expected regularity of the receipts and the fact that the payments

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[15] *FC of T v. Dixon* (1952) 86 CLR 540; (1952) 10 ATD 82.

were made in substitution for the salary and wages Mr Dixon would have earned had he not enlisted.[16] The payment accordingly acquired the characteristics of the payment for which it was substituted.

Subsequent court decisions

38. Subsequent court decisions have confirmed and further defined the extent of the principles arising from *Dixon's* case. These cases show that:

- to determine if a voluntary payment is income, a broad judgment must be made of all the circumstances in each particular case. There is no fixed set of criteria against which a particular receipt has to be measured;[17]
- the form of a receipt is an important factor in determining whether a receipt is income; however, form on its own will seldom determine the issue;[18]
- personal gifts, such as charitable payments for an individual's maintenance, are income;[19]
- an aged person's pension is income;[20] and
- scholarships can be income (although some scholarships are specifically exempted from assessable income under paragraph 23(z) of the ITAA 1936).[21]

When voluntary payments are income

39. Although there is no set of fixed criteria, the decisions of the courts show that voluntary payments, such as grants, made to a sportsperson are income where they are:

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[16] *FC of T v. Dixon* (1952) 86 CLR 540; (1952) 10 ATD 82 (at CLR 568; ATD 92).

[17] *FC of T v. Blake* 84 ATC 4661; (1984) 15 ATR 1006 - refer comments of Carter J (at ATC 4664; ATR 1010).

[18] *FC of T v. The Myer Emporium Ltd* (1987) 163 CLR 199; 87 ATC 4363; (1987) 18 ATR 693 - refer to the comments of the full High Court (at CLR 215; ATC 4370; ATR 701); *FC of T v. Hyteco Hiring Pty Ltd* 92 ATC 4694; (1992) 24 ATR 218 - refer to comments of Hill J (at ATC 4700; ATR 224).

[19] *The Squatting Investment Co. Ltd v. FC of T* (1953) 86 CLR 570; (1953) 10 ATD 126 - refer comments of Webb J (at CLR 613; ATD 137).

[20] *Keily v. FC of T* 83 ATC 4248; (1983) 14 ATR 156.

[21] *FC of T v. Ranson* 89 ATC 5322; (1989) 20 ATR 1652 - refer comments of Davies and Hill JJ (at ATC 5327; ATR 1658).

(i) made under an agreement or arrangement to provide periodic, regular or recurrent payments;

(ii) received in circumstances where the sportsperson has an expectation of receiving the payments as part of periodic, regular or recurrent payments, and accordingly the sportsperson is able to rely on the payment for his or her regular expenditure; or

(iii) part of periodic, regular or recurrent payments made in substitution of income.

Financial grants paid to a sportsperson

40. Financial grants are generally paid to a sportsperson by a third party when a sportsperson has attained a specific standard.

41. The sportsperson enters into the arrangement with the third party payer, whereby the payer undertakes to provide payments to the sportsperson on a periodic and regular basis while the sportsperson continues to perform at the required standard.

42. The arrangements between the payer and the sportsperson generally also contain clauses governing conduct and behaviour of the sportsperson, which, if breached, may result in the termination of the agreement.

43. The grants are paid regularly and periodically to the sportsperson, to provide financial support to the sportsperson in meeting ongoing living and sport related expenses. They are also often paid in substitution for amounts that would be income, for example, social security payments or salary.

44. The circumstances in which the payments are made enable the sportsperson to reasonably rely on continuing to receive the periodic payments, while he or she satisfies their obligations to the payer. Accordingly, the sportsperson is able to rely on the payments to meet their regular expenses. As discussed in paragraph 25, a financial grant made on behalf of, or at the direction of the sportsperson would also be income of the sportsperson.

45. It is therefore considered that, in many cases, grants paid to a sportsperson clearly constitute income as they possess the qualities outlined in paragraph 39 (refer **Example 2**).

'One off' voluntary payments

46. There may be situations where a 'one off' voluntary payment, such as an award or prize, is received by a sportsperson. Whether the

receipt of a 'one off' voluntary payment is income needs to be determined on a case by case basis.

47. As well as the general principles and factors outlined in paragraphs 13 and 14, other relevant factors also need to be considered. These factors include:

- how and why it came about that the payment or gift was made;[22]
- whether the payment or gift is of a kind which is a common incident of the recipient's calling or occupation;[23] and
- whether the payment or gift is solicited.[24]

48. In *Hayes v. FC of T*[25] Fullagar J said, at CLR 54 and ATD 72:

> 'A voluntary payment of money or transfer of property by A to B is prima facie not income in B's hands. If nothing more appears than that A gave to B some money or a motor car or some shares, what B receives is capital and not income. But further facts may appear which show that, although the payment or transfer was a "gift" in the sense that it was made without legal obligation, it was nevertheless so related to an employment of B by A, or to services rendered by B to A, or to a business carried on by B, that it is, in substance and in reality, not a *mere* gift but the product of an income-earning activity on the part of B, and therefore to be regarded as income from B's personal exertion.'

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[22] *The Squatting Investment Co Ltd v. FC of T* (1953) 86 CLR 570; (1953) 10 ATD 126 per Kitto J (at CLR 627-628; ATD 149).

[23] *Scott v. FC of T* (1966) 117 CLR 514; (1966) 14 ATD 286 (at CLR 526; ATD 293).

[24] *Scott v. FC of T* (1966) 117 CLR 514; (1966) 14 ATD 286 (at CLR 526; ATD 293); *FC of T v. Harris* (1980) 43 FLR 36; 80 ATC 4238; (1980) 10 ATR 869.

[25] *Hayes v. FC of T* (1956) 96 CLR 47; (1956) 11 ATD 68.

'One off' voluntary payments that are considered income

49. It is considered that a 'one off' voluntary payment received in respect of[26] sporting activities is assessable income if the recipient is an employee, is engaged in the provision of services, or carries on a business or a business like activity in respect of those sporting activities.[27] Such payments are assessable even though they are in respect of past or future employment, the provision of services, or a business or a business like activity (refer **Example 4**).

'One off' voluntary payments that are not considered income

50. In most cases a 'one off' voluntary payment made in respect of sporting activities but received in circumstances other that those outlined in paragraph 49, is not income. Such payments are usually in the nature of a 'windfall gain'.

51. If a 'one off' voluntary payment is received as an incidence of a hobby or pastime it is not income. This occurs where a sportsperson receives a 'one off' payment in respect of a service provided as part of a pastime or hobby (refer **Example 5**). However, a 'one off' voluntary payment that is not an incidence of a hobby, or is from a service or business like activity that is not related to a hobby, is income (refer **Examples 3** and **6**).

52. A 'one off' voluntary payment given and received on purely personal grounds is not income. For example, a 'one off' voluntary payment given on a specific personal event or because of some particular need is not income.

Examples

Example 1: Proceeds of carrying on a business

53. Helen has a public profile as a result of considerable success in swimming at international level. Helen regularly receives and expects to receive substantial payments including money for swimming. Due to her success in swimming she has attracted numerous sponsorships, appearance fees and product endorsements.

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[26] *Smith v. FC of T* (1987) 164 CLR 513; 87 ATC 4883 - refer comments of Brennan J (at CLR 526; ATC 4890). Also refer Taxation Ruling IT 2674.

[27] *The Squatting Investment Co Ltd v. FC of T* (1953) 86 CLR 570; (1953) 10 ATD 126; *Hayes v. FC of T* (1956) 96 CLR 47; (1956) 11 ATD 68; *Scott v. FC of T* (1966) 117 CLR 514; (1966) 14 ATD 286; *FC of T v. Harris* (1980) 43 FLR 36; 80 ATC 4238; (1980) 10 ATR 869 - refer comments of Bowen CJ (at FLR 40; ATC 4241; ATR 872); *Smith v. FC of T* (1987) 164 CLR 513; 87 ATC 4883.

54. Early in the year Helen entered into an endorsement contract with a national manufacturer of skin care products and agreed to a series of media advertisements and appearances at shopping centres. A condition of the contract is that she continue to participate in her chosen sport so as to maintain her level of recognition by the public. Helen engages a manager to solicit, negotiate and arrange her activities. It is considered that Helen carries on her swimming activities as a business.

55. Helen received a considerable sum of money as a result of the above endorsement. In addition, Helen was awarded a prize of a motor vehicle by the National Controlling Body (NCB) of her sport as the inaugural winner of the 'NCB and Car Manufacturer X's Performer of the Year Award'. The prize had been donated by the car manufacturer and the event was televised nationally.

56. The receipts from the endorsement contract are income according to ordinary concepts and form part of Helen's assessable income. The money value of the car is also income to Helen because it is derived in connection with her business.

Example 2: Voluntary payments; grant income

57. Mary has participated in her chosen sport for some time and her successful performances have eventually included national and international events.

58. The NCB of her sport has recently obtained funding, and is now able to implement a scheme whereby Mary is guaranteed monthly cash payments of a nominated amount for a set period. Mary uses the payments to meet her day to day living expenses, and to meet ongoing training expenses. During the payment period Mary is required to train in preparation for a program of events determined by the NCB.

59. The payments are income according to ordinary concepts and therefore form part of Mary's assessable income. This would still be the case if the NCB varied the intervals over which the payments were made.

Example 3: 'One off voluntary payment' - taxpayer in receipt of grant

60. Steve is a talented swimmer whose only income in relation to sport is a financial grant. The grant is paid regularly to provide financial support to Steve to meet ongoing living and sport related expenses. Accordingly, the grant is assessable income (refer paragraphs 40 to 45).

61. The meetings Steve competes in regularly offer prizes of value for participants. Prizes are often awarded for: coming in the first three; breaking a personal best or record; or showing outstanding promise. These prizes are advertised so that athletes competing at meetings know that valuable prizes will be awarded. For being 'most promising swimmer' Exploitation Co, sponsors of the competition, award Steve a prize valued at $5,000.

62. The receipt of an assessable grant does not mean that the prize money is automatically also income, but the factors relevant to Steve receiving the grant are also relevant in determining whether the prize money is income. For example, the fact that Steve receives the grant indicates he has attained a high standard of swimming and is competing to maintain and enhance those skills. He therefore needs to undertake his swimming activities in a systematic, regular and organised manner both to enhance his skills and to continue to receive the grant. The receipt of prize money is also an expected outcome from these activities. The combination of these factors means that the $5,000 prize is a common incident of a business like activity, and is thus income according to ordinary concepts.

Example 4: 'One off' voluntary payment related to services

63. Peter is contracted to play basketball for the Winners. He has played for the Winners for the last 10 years. He is a colourful personality within his sport and his presence at a sporting event is guaranteed to generate a high level of excitement and interest.

64. A group of his supporters lobbied the management of the club to promote an event to recognise the contribution made and services rendered by Peter to the club over the years. The main source of revenue for the event is gate takings which are gifted to Peter.

65. As the testimonial receipts are in recognition of Peter's past services, they form part of his assessable income. This would still be the case if Peter had retired.

Example 5: Receipts incidental to a hobby

66. Ron is a car enthusiast. As a hobby he races and demonstrates his car; the expenses of competing are far greater than any prize money or other payments he could receive. Ron has a full time job as a accountant; it is the money he receives as an accountant that he uses to support himself and his hobby.

67. Some of the events Ron competes in offer prize money. Winning prizes is not the reason he competes; he competes to show

off his car. A local car detailing firm offers to sponsor Ron's car, on a one off basis, for a particular high profile race.

68. As long as Ron's activities constitute a hobby, receipts in the form of prize money are not assessable income. The money received from the sponsor is not in relation to employment, services, a business or a business like activity: it is an incidence of his hobby. Accordingly, it is also not income in Ron's hands.

Example 6: Hobby income - non related fee for service

69. As a social pastime or hobby Ian competes in triathlons. As a result of having won a recent event he has a high public profile. Because of his skills and high public profile, a media network asks him to appear on TV and provide commentary at a series of Ironman events.

70. Ian receives $1,000 for each of his appearances on TV. Appearing in the media, as a commentator, is not a normal incidence of Ian's hobby. The money is received in respect of him making himself available for TV and is not a result of his hobby. Accordingly, such benefits are assessable income in Ian's hands.

Your comments

71. If you wish to comment on this Ruling, please send your comments by: 30 June 1998
to:

Contact Officer: Brian Whitby

Telephone: (02) 4923 1816

Facsimile: (02) 4923 1680

Address: SBI Law Clarification
8th Floor
Australian Taxation Office
PO Box 9990
NEWCASTLE NSW 2300.

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