



CR 2001/8 - Income tax: Swinburne University Bachelor of Information Technology Scholarship

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 This document has changed over time. This is a consolidated version of the ruling which was published on *18 April 2001*



Class Ruling

Income tax: Swinburne University Bachelor of Information Technology Scholarship

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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**, **Withdrawal**, **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 Ruling are
- Item 2.1A Section 51-10 of the *Income Tax Assessment Act 1997* ('ITAA 1997');
 - Section 51-35 of the ITAA 1997.

Class of persons

3. The class of persons to whom this Ruling applies is those who receive a payment made under the arrangement described below. In this Ruling these persons are referred to as 'Students'.

Qualifications

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

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5. The class of persons defined in this Ruling may rely on its contents provided the arrangement described below at paragraphs 10 to 17 is carried out in accordance with the details of the arrangement provided in this Ruling.

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

- (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- (b) this Ruling may be withdrawn or modified.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 18 April 2001, the date this Ruling is made. 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 and 22 of Taxation Ruling TR92/20).

Withdrawal

9. This Class Ruling is withdrawn and ceases to have effect after 30 June 2004. This Ruling continues to apply, in respect of the tax law(s) ruled upon, to all persons within the specified class who enter into the specified arrangement during the term of the Ruling. Thus, the Ruling continues to apply to those persons, even following its withdrawal, who entered into the specified arrangement prior to withdrawal of the Ruling. This is subject to there being no material difference in the arrangement or in the persons' involvement in the arrangement.

Arrangement

10. The arrangement that is the subject of this Ruling is described below. This description is based on information provided by Swinburne University of Technology ('the University').

11. This arrangement is called the Swinburne University Bachelor of Information Technology Scholarship. Participants enter into an arrangement to obtain a scholarship for the three years it takes to complete a Bachelor of Information Technology.

12. The Bachelor of Information Technology program ('the Course') is offered only on a full-time basis.

13. All students admitted to the Bachelor of Information Technology program receive a scholarship for each of the three years of the course. The amount of the scholarship is approximately \$9,000 per annum. The scholarship is paid by the University directly to the student.

14. The student scholarship is granted by the University from a fund derived by contributions from sponsoring organisations. Sponsoring organisations do not directly identify students when providing the scholarship funds. They can participate in student selection for the course by assisting in interviewing and assessing a course applicant's suitability for the course.

15. Students undertaking the Course are required to complete two Industry Based Learning ('IBL') segments. An IBL segment involves the student working at a sponsoring organisation for a period of twenty weeks. This provides the student with a valuable opportunity to apply their academic knowledge in a working environment. The students are not paid a salary by the organisations. All IBL placements in the Course are made with the sponsoring organisations.

16. The University places no additional requirements on students, either during or after completion of the Course.

17. Students are not required to engage in employment with a sponsor after graduating and sponsors are not required to offer employment to any of the students after their graduation from the Course.

Ruling

18. Payments made under the Swinburne University of Technology Scholarship will be exempt income under Item 2.1A, section 51-10 of the ITAA 1997.

Explanations

19. Item 2.1A, section 51-10 provides an income tax exemption in relation to payments:

- to a full-time student at a school, college or university;
- made by way of scholarship, bursary, educational allowance or educational assistance; and
- that are not subject to the exceptions set out in section 51-35.

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

20. This requirement is satisfied as the Bachelor of Information Technology is only offered by Swinburne University of Technology on a full-time basis.

Are payments made by way of scholarship?

21. The payments being made to students by Swinburne University of Technology are scholarships.

22. The Macquarie Dictionary, 2nd Revised Edition, defines 'scholarship' as 'a sum of money or other aid granted to a scholar'. 'Scholar' is defined as 'a student; pupil'. 'Student' is defined as 'one who is engaged in a course of study and instruction at a college, university, or professional or technical school' and 'one who studies a subject systematically or in detail.'

23. The payments here relate only to the educational course.

Do the exceptions in section 51-35 apply?

24. Section 51-35 excludes the following payments from exemption:

- payments made under a scholarship that is not provided principally for educational purposes: paragraph 51-35(e);
- 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); or
- payments by the Commonwealth for education or training: paragraphs 51-35 (a), (b) and (f).

25. None of these exceptions apply to the scholarship payments made by Swinburne University of Technology to students in the Bachelor of Information Technology course.

Is the amount provided principally for educational purposes?

26. The scholarship is only given to those students who are accepted into the Bachelor of Information Technology program.

27. The Bachelor of Information Technology is a degree course concerned with the design, implementation and management of computer systems in all types of organisation.

28. All students admitted to the Bachelor of Information Technology receive the scholarship from the University for the three years of the course.

Is the payment made on the condition that the student enter into employment or a contract for labour with the payer?

29. There is no obligation for the student to work for the University, either while studying or after completion of the Course.

30. In *FC of T v Ranson* (1989) 86 ALR 267; (1989) 89 ATC 4353; (1989) 20 ATR 488, the Federal Court took the view that the words 'upon condition' do not require a contract between the parties to exist or any other form of legal relationship. The Court held that the exemption does not apply where, as a matter of ordinary language, it can be said that the receipt of the scholarship amount is conditional on the recipient working with the payer if the payer so requires.

31. In *AAT Case 4470*; *AAT Case V100* (1988) 88 ATC 650; (1988) 19 ATR 3642, it was held that there was no contractual bargain between the taxpayer and the society whereby the taxpayer was obliged to render future service to the society and therefore the scholarship was exempt pursuant to section 23(z) of the ITAA 1936. This was so even though the taxpayer worked for the payer of the scholarship during holiday periods and, after completing full-time education, on a full-time basis.

Is the payment a Commonwealth education or training payment?

32. The scholarship payment is made by the University, not by the Commonwealth.

33. Subsection 6(1) of the ITAA 1936 defines a Commonwealth education or training payment as 'a payment by the Commonwealth, of an allowance or reimbursement...'

Detailed contents list

34. Below is a detailed contents list for this Product Ruling:

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Commissioner of Taxation18 April 2001

Previous draft:

Not previously released in draft form

- ITAA 1997 51-35(a)

- ITAA 1997 51-35(b)

- ITAA 1997 51-35(c)

Related Rulings:

TR 92/20

- ITAA 1997 51-35(d)

- ITAA 1997 51-35(e)

- ITAA 1997 51-35(f)

Subject references:

- scholarship

- ITAA 1936 23(z)

- ITAA 1936 Subsection 6(1)

Legislative references:

- ITAA 1997 51-10

- ITAA 1997 51-35

Case references:

- *FC of T v Ranson* (1989) 86 ALR
267; 89 ATC 4353; (1989) 20 ATR
488

- *AAT Case 4470; AAT Case V100*
88 ATC 650; (1988) 19 ATR 3642
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