




***CR 2002/83 - Income tax: Science Prizes: The Prime Minister's Prize for Science, The Malcolm McIntosh Prize - Physical Scientist of the Year, The Science Minister's Prize - Life Scientist of the Year, The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.***

 This cover sheet is provided for information only. It does not form part of *CR 2002/83 - Income tax: Science Prizes: The Prime Minister's Prize for Science, The Malcolm McIntosh Prize - Physical Scientist of the Year, The Science Minister's Prize - Life Scientist of the Year, The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.*

 This ruling contains references to repealed provisions, some of which may have been rewritten. The ruling still has effect. Paragraph 32 in [TR 2006/10](#) provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.

 This document has changed over time. This is a consolidated version of the ruling which was published on *29 November 2006*



## Class Ruling

### Income Tax: Science Prizes:

- The Prime Minister's Prize for Science.
- The Malcolm McIntosh Prize – Physical Scientist of the Year.
- The Science Minister's Prize – Life Scientist of the Year.
- The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools.
- The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.

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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**, **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, 6-10 and 10-5 of the *Income Tax Assessment Act 1997* ('ITAA 1997') and

paragraph 26(e) of the *Income Tax Assessment Act 1936* ('ITAA 1936').

## **Class of persons**

3. The class of persons to whom this Ruling applies are the winners of the following prizes:

- The Prime Minister's Prize for Science;
- The Malcolm McIntosh Prize – Physical Scientist of the Year;
- The Science Minister's Prize – Life Scientist of the Year;
- The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools; and
- The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools,

all of which are awarded and administered by the Department of Education, Science and Training ('DEST').

## **Qualifications**

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

5. Taxpayers who come within 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 16 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**

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8. This Ruling applies to the years of income commencing both before and after its date of issue. 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**

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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 6 August 2002;
- Information on Internet Website  
<http://www.dest.gov.au/scienceprize> as referred to in the previously mentioned document. Full details about the science prizes on this website was obtained at the last update which was 4 September 2002.

10. The Prime Minister, the Minister for Science and the Minister for Education, Science and Training award a number of annual science prizes. The science prizes are a national tribute to excellence and dedicated work and are part of the Government's ongoing commitment to supporting and promoting the important contribution made to our daily lives by Australian innovations in science and technology. The prizes are those stated in paragraph 3 above.

11. The Prime Minister's Prize for Science is the nation's pre-eminent award for excellence in science. The Prize is a tribute to the contributions that Australian scientists have made to Australia's

and the world's economic and social wellbeing. It is a national award and is normally presented to an individual for an outstanding specific achievement in any area of science advancing human welfare or benefiting society. In this context, science encompasses the natural, applied and technological sciences, engineering and mathematics. There are no restrictions as to when the achievement was accomplished in the candidate's career. The value of the prize in 2002 was \$300,000. The prize may also be awarded jointly to up to four individuals, if the achievement can be clearly shown to be a collaborative or team effort. In addition, the Prize may be considered for a lifetime of achievement for an exceptional candidate. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science at the time of their nomination.

12. The Malcolm McIntosh Prize for Physical Scientist of the Year is awarded annually for outstanding achievement and potential in the physical sciences that advances, or has the potential to advance, human welfare or benefits society. This Prize is awarded to individuals who are no more than 35 years of age at the time of the award and in 2002 was valued at \$35,000. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science at the time of their nomination.

13. The Science Minister's Prize for Life Scientist of the year is awarded annually for outstanding achievement and potential in the life sciences that advances, or has the potential to advance, human welfare or benefits society. This Prize is awarded to individuals who are no more than 35 years of age at the time of the award and in 2002 was valued at \$35,000. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science at the time of their nomination.

14. The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools recognises those teachers who have made an outstanding contribution to science education in Australia. This prize was awarded for the first time in 2002, and was valued at \$35,000. The role of science teachers is seen as critically important to the education and inspiration of Australia's youth. The prize recognises that if Australia is to build upon its scientific and technological capabilities to ensure our future prosperity, it is essential to have teachers who are enthusiastic, well trained and committed to nurturing student interest. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia.

Candidates must have a demonstrable link to Australia and should be active in science education at the time of their nomination.

15. The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools recognises those teachers who have made an outstanding contribution to science education in Australia. This prize was awarded for the first time in 2002, and was valued at \$35,000. The role of science teachers is seen as critically important to the education and inspiration of Australia's youth. The prize recognises that if Australia is to build upon its scientific and technological capabilities to ensure our future prosperity, it is essential to have teachers who are enthusiastic, well trained and committed to nurturing student interest. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science education at the time of their nomination.

16. Nominations for the 2003 Prizes will be invited in late 2002 and as details become available they will be announced on the website shown at paragraph 9 above.

## **Ruling**

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17. The prizes listed at paragraph 3 are not assessable income under either section 6-5 or section 10-5 of the ITAA 1997, or under paragraph 26(e) of the ITAA 1936.

## **Explanations**

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### **Ordinary income**

18. A payment or other benefit is assessable income if it is:

- income in the ordinary sense of the word (*ordinary income*); or
- an amount of benefit that through the operation of the provisions of the tax law is included in assessable income (*statutory income*).

19. 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).

20. In determining whether a prize or gift is ordinary income, the courts have established that consideration of the whole of the circumstances is necessary and that the following factors need to be taken into account:

- how, in what capacity, and for what reason the recipient received the prize or gift (*Squatting Investment Co Ltd v. Federal Commissioner of Taxation* (1953) 86 CLR 570, (1953) 5 AITR 496; (1953) 10 ATD 126 (*Squatting Investment Case*);
- whether the prize or gift is of a kind which is a common incident of the recipient's calling or occupation ( *Scott v. Federal Commissioner of Taxation* (1966) 117 CLR 514; (1966) 10 AITR 367; (1966) 14 ATD 286 (*Scott's Case* );
- whether the prize or gift is made voluntarily;
- whether the prize or gift is solicited ( *Hayes v. Federal Commissioner of Taxation* (1956) 96 CLR 47; (1956) 6 AITR 248; (1956) 11 ATD 68 (*Hayes' Case* ) and *Scott's Case* );
- whether the prize or gift can be traced to gratitude engendered by some service rendered by the recipient to the prize or gift donor (*Squatting Investment Case* );
- the motive of the prize or gift donor (though this factor is rarely decisive in itself) (*Hayes' Case*); and
- whether the recipient relies on the prize or gift for regular maintenance of themselves and any dependants (*Federal Commissioner of Taxation v. Dixon* (1952) 86 CLR 540; (1952) 5 AITR 443; (1952) 10 ATD 82 (*Dixon's Case* ) and *FC of T v. Blake* (1984) 75 FLR 315; (1984) 15 ATR 1006; 84 ATC 4661).

21. The prizes are of an exceptional kind, awarded to each of the recipients in recognition of an outstanding achievement or contribution to society in their particular field of endeavour. Having regard to the nature of these particular prizes, the character of the payments in the hands of the recipients is such that it is not received by virtue of their employment or as a recompense for services rendered, even though the award is made in relation to an achievement or contribution that is related to the vocation of the individual recipients. The nature of each award is that of a personal windfall or gain not having the qualities of income.<sup>1</sup>

22. The Science prizes are not a common incident of the income earning activities of the Scientists to whom this Ruling applies. The Science Prizes are a national tribute to excellent and dedicated work in Australian science and are part of the Government's ongoing

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<sup>1</sup> This is consistent with the approach taken in IT 2145 which deals with the question of whether BHP Awards for the Pursuit of Excellence are assessable income in the hands of the recipients.

commitment to supporting and promoting the important contribution made to our daily lives by Australian research and teaching in science.

23. The Prizes for Excellence in Science Teaching are not a common incident of the income earning activities of teachers to whom this Ruling applies. The Prizes for Excellence in Science Teaching honours teachers who have made an outstanding contribution to science education in Australia, and recognises that excellent science teachers are essential to Australia's scientific and technological future, and therefore to the nation's prosperity.

### **Statutory income**

24. Section 6-10 of the ITAA 1997 provides that a taxpayer's assessable income includes statutory income amounts that are not ordinary income but are included in assessable income by another provision. Section 10-5 of the ITAA 1997 lists those provisions about assessable income. Included in this list and of relevance to this matter is paragraph 26(e) of the ITAA 1936.

25. Paragraph 26(e) of the ITAA 1936 provides that the value to the taxpayer of all gratuities and benefits given or granted to them in respect to, or for or in relation directly or indirectly to, any employment will be included in their assessable income. An issue in this arrangement is whether the prizes were granted 'in relation directly to or indirectly to, employment...' In particular, whether the prizes were granted 'indirectly' in relation to the employment of the recipients of the prizes.

26. The leading cases in connection with this arrangement are *Dixon's Case* and *Scott's Case*. In both cases, it was decided that the phrase 'an indirect consequence of employment' was not an open ended concept. Rather, there must still be a connection between the payment and the employment such that the receipt 'is in a relevant sense a product' of the employment.

27. Having regard to the exceptional nature of the prizes, they cannot be regarded, in a real sense, as a product of the employment of any of the recipients. Nor is it a benefit provided for services rendered. It is a recognition of the achievements and contributions to science that advances human welfare or benefits society. The value of the prizes is therefore not assessable under paragraph 26(e) of the ITAA 1936.

**Conclusion**

28. As the prizes received by the persons to whom this ruling applies does not constitute either ordinary or statutory income, it is not assessable income under either section 6-5 or section 6-10 of the ITAA 1997.

**Detailed contents list**

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

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**Commissioner of Taxation**

13 December 2002

*Previous draft:*

Not previously released in draft form

*Related Rulings/Determinations:*

TR 92/1; TR 92/20; IT 2145;  
CR 2001/1; TR 97/16

*Subject references:*

- Exempt income
- Prizes & Awards
- Windfall gains

*Legislative references:*

- TAA 1953 Pt IVAAA
- ITAA 1936 26(e)
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10
- ITAA 1997 10-5
- Copyright Act 1968

*Case references*

- Squatting Investment Co Ltd v. FC of T (1953) 86 CLR 570 (1953) 5 AITR 496 (1953) 10 ATD 126

- Scott v. FC of T (1966) 117 CLR 514 (1966) 10 AITR 367 (1966) 14 ATD 286
  - Hayes v. DC of T (1956) 96 CLR 47 (1956) 6 AITR 248 (1956) 11 ATD 68
  - FC of T v. Blake (1984) 75 FLR 315; (1984) 15 ATR 1006; 84 ATC 4661
  - FC of T v. Dixon (1952) 86 CLR 540; (1952) 5 AITR 443; (1952) 10 ATD 82
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