



CR 2003/64 - Income tax: assessable income: football umpires: Goulburn Valley Football Umpires Assoc. Inc. receipts

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Class Ruling

Income tax: assessable income: football umpires: Goulburn Valley Football Umpires Assoc. Inc. receipts

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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 8-1 of the *Income Tax Assessment Act 1997* (‘ITAA 1997’) and paragraphs 26(e) and 26(eaa) of the *Income Tax Assessment Act 1936* (‘ITAA 1936’).

Class of persons

3. The class of persons to which this Ruling applies is Australian Rules football umpires who are members of the Goulburn Valley Football Umpires Association Inc. (GVFUA) and receive payments for umpiring matches for any of the following local Australian Rules Football Leagues:

- Goulburn Valley Football League;
- Kyabram District Football League;
- Murray Football League;
- Picola & District Football League;

- Shepparton & District Junior Football Club;
- Goulburn Campaspe Junior Football League;
- Cobram Junior Football League; and
- Seymour Junior Football League.

Qualifications

4. The Commissioner makes this Ruling based on the precise arrangement identified in this Ruling.
5. 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 18 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

8. This Ruling applies from 1 July 2002. However, this 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

9. The arrangement that is the subject of the Ruling is described below.

10. The GVFUA was set up to administer and co-ordinate the functions of providing umpires for Australian Rules Football Leagues within their local area. The GVFUA provides umpires to the:

- Goulburn Valley Football League;
- Kyabram District Football League;
- Murray Football League;
- Picola & District Football League;
- Shepparton & District Junior Football Club;
- Goulburn Campaspe Junior Football League;
- Cobram Junior Football League; and
- Seymour Junior Football League.

11. The GVFUA sends invoices to the various Leagues for umpires that have been appointed to their matches. The GVFUA retains a percentage of the fees charged to cover administration expenses, workcover insurance which covers loss of occupational income in the event of injury, but not loss of match payments, and other expenses incurred by the GVFUA. The balance is paid to umpires as match fees and travel allowances via electronic funds transfer into their nominated financial institution, normally on a monthly basis.

12. Members of GVFUA are paid a match fee for each game they umpire and amounts received in a season depend on the level and number of games at which an umpire officiates. Current fees are such that the expected upper limit of amounts they would receive in a season is between \$2,500 and \$3,000. The individual match fee currently paid to a senior umpire in a senior league is \$116. All fees paid to other umpires, including Boundary umpires and Goal umpires in lesser competitions are less than that amount.

13. In addition to a match fee, all umpires are paid a 'travel allowance' at the rate of 33 cents per kilometre. The per kilometre rate is applied to the distance between an umpire's home base and the match venue. There are eight home bases and each umpire is assigned to one of the home bases nearest to where they live. Each umpire is paid a 'travel allowance' while umpires who are driven to matches by other umpires are required to pass their allocated travel allowance on to the driver.

14. Members do not receive any allowances and benefits other than their match fee and 'travel allowance' (refer paragraphs 12 and 13).

15. The only requirement for an umpire to obtain membership of the GVFUA is to complete an application form. No membership fee is payable.

16. In all cases, umpires are appointed to matches by the GVFUA and no Club or League has any influence over which umpires are appointed to which games. All appointments are on merit whereby the most experienced and capable umpires are appointed to the more senior or important games. Umpires appointed to games are assessed for their ability and further appointments are governed by their capabilities. Although avoided where possible, umpires may officiate at more than one match per week but it is highly unlikely that an umpire would officiate at more than thirty matches in a season.

17. Members are required to incur expenditure for match uniforms and training gear including shoes, whistles, wrist bands, socks, shorts, and shirts. Goal umpires incur expenditure on trousers, coats, ties, hats/caps, flags and flag sticks. As well as uniforms for matches, there are other requirements such as shirts, trousers, shoes, jumpers and ties being the required dress code for umpires to attend matches.

18. The match fees are not intended to, nor do they usually cover expenses. The purpose of the payment is to encourage members of the community to participate in local sporting activities by subsidising the costs associated with participation.

Ruling

19. The match fees and the car allowance received by members of the Goulburn Valley Football Umpires Association Inc. who umpire matches in any of the eight local Australian Football Leagues named in paragraph 3 of this Ruling are not assessable income.

20. Losses and outgoings incurred deriving the match fees and car allowance cannot be claimed as a deduction.

Explanation

21. A payment or other benefit received by a taxpayer 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*).

Ordinary Income

22. Under subsection 6-5(1) of the ITAA 1997 an amount is assessable income if it is income according to ordinary concepts (ordinary income).

23. In determining whether an amount is ordinary income, the courts have established the following 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 a statute dictates otherwise;
- whether the payment received is income depends upon a close examination of all relevant circumstances; and
- whether the payment received is income is an objective test.

24. 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;
- the quality or character of the payment in the hands of the recipient;
- the form of the receipt, that is, whether it is received as a lump sum or periodically; and
- the motive of the person making the payment. Motive, however is rarely decisive as in many cases a mixture of motives may exist.

25. Furthermore, where a taxpayer's activities constitute a pastime or hobby rather than an income-producing activity, money and other benefits received from the pursuit of that pastime or hobby are not assessable income, nor are the expenses allowable deductions.

26. Participation in activities generating pastime or hobby receipts is a social or personal pursuit of a non-commercial nature. Pastime receipts are not intended to, nor do they usually, cover expenses. Even regular receipts obtained from a pastime or hobby are still characterised as receipts from a pastime or hobby and accordingly are not assessable income. A receipt that is an incident of a pastime or hobby would also not be assessable, even if it arises from the provision of a service. However, the nature of such a receipt or receipts is relevant in determining whether the pastime has become a business. The receipt or receipts could indicate, for example: a 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.

Match fees

27. The sporting activities of GVFUA members are considered to constitute a pastime or hobby and therefore, the match fees received from the pursuit of that pastime or hobby are not assessable income.

28. The match fees are not intended to, nor do they usually, cover expenses. The purpose of the payment is to encourage members of the community to participate in local sporting activities by subsidising that participation.

29. In forming the opinion that the GVFUA members who comprise the class of persons to whom this Ruling applies are engaged in a pastime or hobby, we have taken into account the number of games that they officiate, the seniority of those football leagues, the links with the community of those leagues, particularly the social benefits of participation and the quantum of the fees that they can receive.

Travel allowance

30. In addition, the 'travel allowance' does not constitute 'ordinary income' as it is considered a partial reimbursement of a member's expenditure on a private or personal pursuit.

Provisions relating to statutory income

31. Section 6-10 of the ITAA 1997 includes in assessable income amounts that are not ordinary income; these amounts are statutory income.

32. The relevant two provisions of the ITAA 1936 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 ...*’; and
 - paragraph 26(eaa), which provides that the assessable income shall include ‘... *a benefit that, but for section 22 of the Fringe Benefits Tax Assessment Act 1986, would be an expense payment fringe benefit within the meaning of that Act – the amount of the reimbursement referred to in that section ...*’.

Match fees

33. The main issue to consider with respect to paragraph 26(e) is whether the payment is ‘*given or granted to him in respect of ... any employment of or services rendered ...*’. Whilst the GVFUA members are not considered ‘employees’, paragraph 26(e) also includes in assessable income those allowances etc. which are paid in respect of ‘services rendered’.

34. The match fees of GVFUA are considered to be ‘receipts incidental to a pastime’ (refer paragraphs 25 to 29). As such, the match fees are not assessable under paragraph 26(e) because the umpires are not considered to be employees, nor are they ‘rendering services’.

Travel Allowance

35. Both paragraphs 26(e) and 26(eaa) include certain allowances, benefits and reimbursements in assessable income, where those allowances or reimbursements are given or granted in relation, directly or indirectly to any employment or services rendered.

36. Paragraph 26(eaa) specifically includes car expense reimbursements that would be expense payment fringe benefits under the *Fringe Benefits Tax Assessment Act 1986* (‘FBTAA 1986’) but for the exemption contained in section 22 of that Act. The ‘allowance’ received by GVFUA members does not constitute an ‘expense payment benefit’ under section 20 of the FBTAA 1986 as there is no employer/employee relationship, the prerequisite that characterises a fringe benefit.

37. The main issue to consider with respect to paragraph 26(e) is whether the payment is '*given or granted to him in respect of ... any employment of or services rendered ...*'. Whilst the GVFUA members are not considered 'employees', paragraph 26(e) also includes in assessable income those allowances etc. which are paid in respect of 'services rendered'.

38. Given the match fees of GVFUA members are considered to be 'receipts incidental to a pastime' (refer paragraph 34), the related 'travel allowance' is not assessable under paragraph 26(e) because the umpires are not considered to be employees, nor are they 'rendering services'.

General Deductions

39. As the match fees and car allowance received by the umpires are not assessable income, all losses and outgoings that are incurred in respect of deriving those amounts are not allowed as a deduction under section 8-1 or any other provision of the ITAA 1997.

Umpires who officiate in other leagues

40. Where umpires who are members of the GVFUA also officiate in Leagues other than the eight local Leagues listed in paragraph 3, those umpires' activities may have ceased to be that of a hobby or pastime. A more detailed analysis of the circumstances of those umpires may be required. Umpires in this situation should discuss their circumstances with their taxation adviser or the Australian Taxation Office.

Pay As You Go (PAYG) withholding

41. As ruled above, match payments paid to an umpire who is engaged in a hobby or pastime are not assessable income. The payments are not a payment for work and services therefore the PAYG withholding provisions of Subdivision 12-B of Schedule 1 to the *Taxation Administration Act 1953* do not apply. Tax should not be withheld from the match payments of umpires who are in the class of persons to which this Ruling applies.

Detailed contents list

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

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Commissioner of Taxation

6 August 2003

Previous Ruling

Not previously issued in draft form.

Related Rulings/Determinations:

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

Subject references:

- allowances
- assessable income
- hobby v. business

- sports people
- travel allowances
- motor vehicle allowances
- sporting organisations
- sport

Legislative references:

- FBTAA 1986 20
- FBTAA 1986 22
- ITAA 1936 26(e)
- ITAA 1936 26(eaa)

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- ITAA 1997 6-5
 - ITAA 1997 6-5(1)
 - ITAA 1997 6-10
 - ITAA 1997 8-1
 - Copyright Act 1968
 - TAA 1953 Part IVAAA
 - TAA 1953 12-B Sch 1
-

ATO references

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