


CR 2003/93 - Income tax: assessable income: football umpires: Peel Football League Inc. receipts

 This cover sheet is provided for information only. It does not form part of *CR 2003/93 - Income tax: assessable income: football umpires: Peel Football League Inc. receipts*

 This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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: assessable income: football
umpires: Peel Football League Inc. receipts

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.*

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What this Class Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the 'tax laws' 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 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 Australian Rules football umpires who are members of the Peel Football Umpires Association (PFUA) and receive payments for umpiring matches administered by the Peel Football League Inc. (PFL), in the South West region of the state of Western Australia.

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 described below at paragraphs 9 to 22 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:

- 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
- this Ruling may be withdrawn or modified.

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Date of effect

8. This Ruling applies from 1 April 2003. 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

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

10. The PFL is an affiliate member of the Community Football Council, which is affiliated with the Western Australian Football Commission (WAFC). The PFL receives funding of approximately \$18,500 from the WAFC annually. The funding is supplemented by limited source revenue.

11. The PFL administers Australian Rules football matches in the South West region of the state of Western Australia. The PFL pays PFUA members an umpiring payment, which includes a match fee and a rolled-in travel allowance for each match they umpire. Members are paid by electronic transfer to a nominated bank account by the General Manager of the PFL.

12. The amount paid varies and is dependent on what grade (League, Reserves or Colts) is umpired, the level of the umpire and whether the umpire is a field, goal or boundary umpire. The PFUA has approximately one hundred registered umpires each year and the majority of these umpires receive no more than \$1,000 in a season. A small proportion would receive between \$1,000 and \$3,000 in a season and only one or two exceed that amount each season.

13. The travel allowance is included in the umpires' pay rates. The PFL has limited administrative resources and it was determined by the PFL that the maintenance of an additional system in relation to making a separate payment for travel allowance would be too onerous for the administration. Therefore, the travel allowance component has been rolled into the umpire pay rates and is reflected as such.

14. Members do not receive any allowances or benefits other than the payments in accordance with the umpire pay rates as discussed in paragraphs 11 to 13.

15. The completion of a PFUA registration form and the payment of a small administration fee is the only condition precedent of individual membership of the PFUA from year to year. In addition, PFUA members are required to complete an umpire's application form which records the umpire position they wish to apply for, the member's name, address, date of birth and contact number.

16. No contract (written or verbal) exists between the PFUA and PFL. The PFUA (acting on behalf of its members) and the PFL negotiate annually to determine the quantum of the umpires' pay rates, which includes the match fee and travel allowance components, to each category of umpire, taking into consideration the level and the category of the match umpired.

17. The umpires adhere to the Constitution and By-Laws of the PFL, Laws of Australian Rules Football and the guidance and instructions of the Peel Football Umpires Panel (PFUP).

18. Individual umpires can, by their own choice, undertake annual examinations administered by the WAFC in order to attain a higher level. Individual umpires are required to pay a fee to the WAFC. The differences between umpire payments between the different levels are not significant and not reason enough to sit the examinations. It is the increase in knowledge of Australian Rules Football and the possibility of umpiring matches in higher grades of football that compels individual umpires to undertake these examinations.

19. Individual umpire performance is evaluated on a regular basis by the PFUP. The PFUP is appointed by the PFL and has responsibility for the selection of umpires for particular matches. The PFL has no role in relation to the evaluation of umpire performance nor do they have any control over the selection of umpires for particular matches.

20. Umpiring appointments are based solely on merit, such as the best available umpires are appointed to the most important games. Where an umpire's performance has been judged unsatisfactory, the most likely course of action is that they will be demoted to a lesser grade or competition.

21. Members are required to incur expenditure upon their own shoes (white running shoes or football boots), training gear, track suits, whistles, wrist bands, trousers (for goal umpires) and other equipment (liniment, bandages, etc.). Game shirts are currently not provided by PFL.

22. 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. Individual umpires contend that the primary motivation for their involvement in umpiring is a love of Australian Rules Football and a desire to contribute to the communities in which the games are played. Umpiring also provides the opportunity to achieve greater fitness and to enjoy the social camaraderie provided by the membership of the PFUA.

Ruling

23. The umpiring payments received by members of the Peel Football Umpires Association who umpire matches administered by the Peel Football League in the South West region of the State of Western Australia are not assessable income.

24. Losses and outgoings incurred deriving the umpiring payments cannot be claimed as a deduction.

Explanation

25. 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

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

27. 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.

28. 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.

29. 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.

30. 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.

Umpiring Payments

31. The sporting activities of PFUA members are considered to constitute a pastime or hobby and therefore, the umpiring payments received from the pursuit of that pastime or hobby are not assessable income.

32. The umpiring payments 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.

33. In forming the opinion that the PFUA 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 the football league, the links with the community of that league, particularly the social benefits of participation and the quantum of the fees that they can receive.

Statutory income

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

35. The relevant provision of the ITAA 1936 is 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 . . .

Umpiring Payments

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

37. The umpiring payments of PFUA members are considered to be ‘receipts incidental to a pastime’ (refer paragraphs 31 to 33). As such, the umpiring payments are not assessable under paragraph 26(e) because the umpires are not considered to be employees, nor are they ‘rendering services’.

General Deductions

38. As the umpiring payments 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

39. Where umpires who are members of the PFUA also officiate in leagues other than those administered by the PFL, 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

40. As ruled above, umpiring 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 and therefore the PAYG withholding provisions of Subdivision 12-B of Schedule 1 of the *Taxation Administration Act 1953* do not apply. Tax should not be withheld from the umpiring payments of umpires who are in the class of persons to whom this Ruling applies.

Detailed contents list

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

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Commissioner of Taxation

22 October 2003

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| <i>Related Rulings/Determinations:</i> | <i>Legislative references:</i> |
| TR 92/1; TR 92/20, TR 97/16; | - ITAA 1936 26(e) |
| CR 2001/1 | - ITAA 1997 6-5 |
| | - ITAA 1997 6-5 (1) |
| | - ITAA 1997 6-10 |
| <i>Subject references:</i> | - ITAA 1997 8-1 |
| - allowances | - Copyright Act 1968 |
| - assessable income | - TAA 1953 Part IVAAA |
| - hobby v. business | - TAA 1953 12-B Sch 1 |
| - sports people | |
| - travel allowances | |

ATO references

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