


CR 2004/48 - Income tax: assessable income: football umpires: Adelaide Plains Football League Inc. receipts

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 This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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

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Preamble

*The number, subject heading, **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 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 which this Ruling applies is Australian Rules football umpires who are members of the Adelaide Plains Football League Umpires Panel (APFLUP) and receive payments for umpiring matches administered by the Adelaide Plains Football League Inc (APFL) in the Mid North of South Australia and a limited number of matches in neighbouring leagues.

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 in paragraphs 9 to 18.
6. If the arrangement actually carried out is materially different from the arrangement that is described in this Ruling, then:
 - 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 July 2003. 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 TR92/20). 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. 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 (undated) received 11 March 2004; and
- Tax Office record of telephone conversation between a representative of the applicant and a taxation officer.

10. The APFL administers Australian Rules football matches in the Mid North of the state of South Australia and on behalf of the seven participating clubs in the League, oversees and administers the payment of match fees to umpires who are members of the APFLUP. It invoices the respective clubs for the match fees which are then paid fortnightly to the umpires via electronic funds transfer to their nominated individual bank accounts.

11. APFLUP members are paid a match fee for each game they umpire. The amount of the umpires match fee, which has a built-in travel component, is dependant on the level and the number of games umpired. Umpires are designated senior or junior depending upon the number of games umpired, experience etc. Senior umpires currently receive \$110 per match whilst junior umpires receive a lesser amount. Current fees are such that the maximum an umpire would receive in a season would be in the range of \$3,000 to \$3,500.

12. On a limited number of occasions (2 to 3 times per season) APFLUP members may officiate in neighbouring leagues. This is in accordance with arrangements between the respective leagues to swap umpires for a particular fixture date/s so that teams have exposure to other, unfamiliar umpires. The umpires are paid the normal match fee for these matches by the APFL clubs.

13. Due to a shortage of umpires some umpires may be called upon to umpire more than one match each week however it is envisaged that no umpire would officiate at more than 30 matches per season, including those referred to in paragraph 12.

14. APFLUP members do not receive any allowances or benefits other than their match fees (refer paragraph 11).

15. The only requirement for an umpire to obtain membership of the APFLUP is to complete an application form, no subscription is payable. The panel consists of central umpires only with boundary and goal umpires for each match provided by the competing clubs.

16. Umpire appointments are made on the basis of merit with the most capable umpires officiating at the more important or higher level games. The APFL has no influence over umpire appointments.

17. APFLUP members are required to provide all match uniforms (shoes or boots, shorts, shirts etc) and training gear and to travel to training lectures when necessary. As well as match uniforms there are other requirements such as trousers, shirts, jumpers being the dress code for umpires whilst attending APFL matches.

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

Ruling

19. The match fees paid to members of the Adelaide Plains Football League Umpires Panel who umpire matches in the Adelaide Plains Football League and a limited number of matches in neighbouring leagues are not assessable income under either section 6-5 or section 6-10 of the ITAA 1997.

20. Losses and outgoings incurred deriving the match fees cannot be claimed as a deduction under section 8-1 of the ITAA 1997 or any other provision.

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.

27. The sporting activities of APFLUP 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 APFLUP 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 at which 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

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

31. Paragraph 26(e) of the ITAA 1936 may have application to the circumstances of APFLUP members. This provision 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 ...

32. The main issue to consider with respect to paragraph 26(e) of the ITAA 1936 is whether the payment is *'given or granted to him in respect of any employment of or services rendered'*. Whilst the APFLUP members are not considered 'employees', paragraph 26(e) of the ITAA 1936 also includes in assessable income those allowances etc. which are paid in respect of 'services rendered'.

33. The match fees of APFLUP members are considered to be 'receipts incidental to a pastime' (refer paragraphs 27 to 29). As such, the match fees are not assessable under paragraph 26(e) of the ITAA 1936 because the umpires are not considered to be employees, nor are they 'rendering services'.

General Deductions

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

Umpires who officiate in other leagues

35. Where umpires who are members of the APFLUP also officiate in matches other than those described in paragraphs 10 to 12, those umpires' activities may cease 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

36. As explained above, match payments made to an umpire who is engaged in a hobby or pastime are not assessable income. The payments are not regarded as withholding payments under Division 12 in Schedule 1 to the *Taxation Administration Act 1953*. An entity making match payments to umpires who are in the class of persons to which this Ruling applies will not be required to withhold amounts from these payments.

Detailed contents list

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Previous draft:

Not previously issued as a draft

- sports people
- travel allowances

Related Rulings/Determinations:

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

Legislative references:

- ITAA 1936 26(e)
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10
- ITAA 1997 8-1
- Copyright Act 1968
- TAA 1953 Pt IVA
- TAA 1953 Sch 1 Div 12

Subject references:

- allowances
 - assessable income
 - hobby v. business
 - sport
 - sporting organisations
-

ATO references

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