


CR 2004/70 - Income tax: assessable income: football umpire coaches and umpire observers: leagues and associations affiliated with the West Australian Football Commission 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 This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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 umpire coaches and umpire observers: leagues and associations affiliated with the West Australian Football Commission 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 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 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 umpire coaches and umpire observers engaged by the football leagues and associations affiliated with the West Australian Football Commission (WAFC).

4. Should further leagues and associations junior to the West Australian Football League (WAFL) become affiliated with the WAFC, subject to the qualifications in paragraphs 6 to 8, this Ruling will apply to the umpire coaches and umpire observers engaged by those leagues and associations.

5. Umpire coaches and umpire observers engaged by the WAFC to service the WAFL competition and the Australian Football League competition (the National competition) are not included in the class of persons to which this ruling applies.

Qualifications

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

7. 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 11 to 18.

8. 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

10. 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 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

11. The arrangement that is the subject of the Ruling is described below. This description is based on the following documents which are attached to the file record maintained by the Australian Tax Office for this ruling. 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 19 March 2004;
- facsimile transmission from the applicant dated 1 June 2004; and
- Tax Office record of telephone conversation between a representative of the applicant and a taxation officer.

12. The WAFL is the elite football competition based in the State of Western Australia and the WAFC is the peak administrator of Australian football matches played in the WAFL.

13. The controlling body for each league and association affiliated with the WAFC engages their own umpire coaches and umpire observers. The personnel who are engaged in these positions are all ex-umpires.

14. The duties of umpire coaches include:

- Conducting regular coaching sessions on the laws of the game, fitness and skill drills.
- Observing and evaluating umpire performances and providing relevant feedback to those umpires.
- Appointing umpires to match fixtures.
- Conducting or assisting with accreditation schemes.
- Attending regular meetings.
- Maintaining umpires and coaches registers.
- Preparing various monthly and annual reports.

The duties of umpire observers include:

- observing and evaluating umpire performances and providing relevant feedback to those umpires; and
- attending training and coaching sessions.

15. Umpire coaches and umpire observers are paid an honorarium each season. The amounts paid vary up to \$3,500 but most umpire coaches and umpire observers receive less than \$1,000 per year.

16. Umpire coaches and umpire observers do not receive any allowances or benefits other than their honorarium payments.

17. Umpire coaches and umpire observers are required to incur expenditure upon travel, telephone, stationery and correspondence etc.

18. The payments to the coaches and observers 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.

Ruling

19. The payments made to umpire coaches and umpire observers engaged by leagues and associations affiliated with the West Australian Football Commission are not assessable income under either section 6-5 or 6-10 of the ITAA 1997.

20. Losses and outgoings incurred deriving the payments 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, and the services provided by, the umpire coaches and umpire observers are considered to constitute a pastime or hobby and therefore, the payments received from the pursuit of that pastime or hobby are not assessable income.

28. The honorarium 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.

29. In forming the opinion that the umpire coaches and umpire observers who comprise the class of persons to whom this Ruling applies are engaged in a pastime or hobby, we have taken into account the services they have provided, 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 payments 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 umpire coaches and umpire observers. 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 umpires coaches and observers 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 honorarium payments received by the umpires coaches and observers are considered to be 'receipts incidental to a pastime' (refer paragraphs 27 to 29). As such, the payments are not assessable under paragraph 26(e) of the ITAA 1936 because the umpire coaches and umpire observers are not considered to be employees, nor are they 'rendering services'.

General Deductions

34. As the honorarium payments 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.

Umpire coaches and umpire observers engaged in other leagues

35. Where umpire coaches or observers are engaged in more than one league or competition, those person's activities may cease to be that of a hobby or pastime. A more detailed analysis of the circumstances of those officials may be required. Umpire coaches and umpire observers 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, payments made to umpire coaches and umpire observers who are 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 payments to umpire coaches and umpire observers 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

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

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Commissioner of Taxation

7 July 2004

CR 2004/70

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
-

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