


CR 2004/72 - Income tax: assessable income: football umpires: South Australian Amateur 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 This ruling contains references to repealed provisions, some of which may have been rewritten.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32 in TR 2006/10 provides further guidance on the status and binding effect of public rulings where the law has been repealed or repealed and rewritten. The legislative references at the end of the ruling indicate the repealed provisions and, where applicable, the rewritten provisions.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: South Australian Amateur
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 laws

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 receive payments for umpiring matches for the South Australian Amateur Football League (the 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 in paragraphs 9 to 27.

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 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. 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 part of documents incorporated into this description of the arrangement are:

- Application for Class Ruling (dated 26 February 2004) received 1 March 2004; and

- Tax Office record of telephone conversations between a representative of the applicant and a taxation officer.

10. The League has a charter to develop Australian Rules Football in metropolitan Adelaide and is affiliated with the South Australian National Football League. The League is funded by member clubs, supplemented by sponsorship from corporations and a grant from the South Australian Government through the Department of Recreation and Sport.

11. The League establishes an annual subscription for member clubs and this includes a component which is used to pay umpires who officiate in matches arranged by the League.

12. The South Australian Amateur Football League Umpires Association (the Association) is an organisation that represents umpires in their negotiations with the League on industrial matters including match fee payments, allowances and other matters.

13. Membership of the Association is voluntary. A significant number of umpires, but not all umpires, choose to be members. Umpires who wish to join the Association can do so by completing an application form and paying a membership fee.

14. Other than in the circumstances covered in paragraph 16, umpires apply to the League to be appointed an umpire in their desired category, namely, central, boundary or goal.

15. If the individual umpires are selected for a match the League makes the agreed match payments and when appropriate pays a separate allowance for the umpires' attendance at tribunals. The payments are made monthly, from May to October, and are paid by electronic funds transfer into the umpires' individual bank accounts.

16. In lower grades of the League, umpires apply directly to member clubs for appointment. The clubs may pay those umpires or may appoint unpaid volunteers, depending on availability. The clubs pay a tribunal allowance in some cases, but not all. Umpires appointed directly by the clubs do not attend League training and are not eligible for the training bonus.

17. The amount received by each umpire for the financial year is dependent upon the number and level of games umpired and the capacity in which they officiate. Current fees are such that the maximum an umpire would receive in any given financial year would be in the range \$2,600 to \$3,200. Although some umpires officiate in more than one game each week, it is expected that only a handful of umpires would reach the upper range of payments.

18. The highest individual match fee currently paid to a central umpire in a senior league is \$115 for a minor round game and \$138 for the grand final. All fees paid to other umpires, including boundary umpires and goal umpires are less than these amounts. Payments made by the clubs, in lower grades, are never higher than the amounts paid to League-appointed umpires.

19. A tribunal allowance is paid to umpires when they are required to attend tribunals, which are held on weekday evenings, to hear matters referred to it under the rules of football. The allowance is \$25 for each attendance. This is designed to compensate for the additional travelling that umpires may need to do to attend these tribunals, and in recognition that umpires may need to purchase meals near the location of the hearings, rather than being able to eat at home.

20. An additional annual training bonus of \$100 is paid to umpires who attend, and satisfactorily complete, at least 75% of training sessions. The training bonus is usually paid in September.

21. Umpires do not receive any allowances and benefits other than their match fees (refer paragraphs 17 and 18), tribunal allowances (paragraph 19) and a possible training bonus (paragraph 20).

22. Representatives of clubs taking part in matches are required to report on the performance of individual umpires. In addition, members of the umpire coaching staff, members of the umpires' appointment board, or volunteer umpires' observers, evaluate umpires officiating in the more senior grades for performance.

23. The umpires' appointment board (the board) is administered by the League and has ultimate responsibility for the selection of umpires for the higher grade matches, and central umpires for some lower grade matches. The board also appoints all umpires for final round matches in the lower grades. Member clubs have no control over the selection of umpires for particular games in that the board appoints umpires, who will be paid by the League.

24. Umpiring appointments are made solely on the basis of merit, and the best available umpire is appointed to the most important games or highest-level games. Where an umpire's performance has been judged less than satisfactory, the most likely course of action is that they will be counselled and/or demoted to a lesser grade within the League competition.

25. In the lower grades umpires are not selected by the umpires' appointment board, except as described in paragraph 23. They are appointed by the clubs, who select umpires from those who applied to that club for appointments.

26. Umpires are required to incur expenditure on match uniforms, running shoes, whistles, flags, coats etc. They also supply their own liniment and bandages where required.

27. 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 the costs associated with participation. Individual umpires contend that the primary motivation for umpiring is a love of Australian Rules Football and a desire to contribute to the community in which the game is played. Umpiring also provides the opportunity to be involved

in the game, achieve a greater fitness level and to meet friends on a regular basis.

Ruling

28. The match fees, tribunal allowance and training bonus paid to people who umpire matches for the South Australian Amateur Football League are not assessable income under either section 6-5 or section 6-10 of the ITAA 1997.

29. Losses and outgoings incurred deriving the match fees, tribunal allowance and training bonus cannot be claimed as a deduction under section 8-1 of the ITAA 1997 or any other provision.

Explanation

30. 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

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

32. 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.

33. 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.

34. 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.

35. 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

36. The sporting activities of umpires appointed to umpire League matches 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. This is the case whether the match fees are paid by the League (in the case of the higher grades) or by the member clubs (in the case of the lower grades).

37. 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.

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

Tribunal Allowance and Training Bonus

39. Neither the 'tribunal allowance' nor the 'training bonus' constitutes 'ordinary income' as they are considered a partial reimbursement of a member's expenditure on a private or personal pursuit.

Statutory Income

40. Section 6-10 of the ITAA 1997 includes in assessable income amounts that are not ordinary income; these amounts are statutory income. A list of the statutory income provisions can be found in section 10-5 of the ITAA 1997. That list includes a reference to paragraph 26(e) of the ITAA 1936, allowances in relation to employment.

41. Paragraph 26(e) may have application to the circumstances of umpires appointed by the League or member clubs. This provision provides that 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 ...

Match Fees

42. 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 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'.

43. The match fees of umpires are considered to be 'receipts incidental to a pastime' (refer paragraphs 36 to 38). 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'.

Tribunal Allowance and Training Bonus

44. Paragraphs 26(e) of the ITAA 1936 includes 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.

45. The main issue to consider is whether the payment is '*...given or granted to him in respect of ... any employment of or services rendered ...*'. As stated at paragraphs 42 and 43 of this Ruling in relation to match fees, the umpires are not considered to be employees, nor are they 'rendering services' and therefore, the tribunal allowance and training bonus do not constitute assessable income under paragraph 26(e) of the ITAA 1936.

General Deductions

46. As the match fees, tribunal allowance and training bonus received by the umpires 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

47. Where umpires also officiate in leagues other than the League, 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

48. As explained above, match payments, tribunal allowances and training bonuses paid 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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Commissioner of Taxation

7 July 2004

Previous draft:

Not previously issued as a draft

- sporting organisations

- sport

*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
- TAA 1953 Part IVAAA
- TAA 1953 Subdiv 12-B Sch 1
- Copyright Act 1968

Subject references:

- allowances
 - assessable income
 - hobby v. business
 - sports people
 - travel allowances
 - motor vehicle allowances
-

ATO references

NO: 2004/9012

ISSN: 1445-2014