


CR 2007/96 - Income tax: assessable income: football umpires, umpire coaches and umpire trainers: receipts from the Sale Umpires Association Incorporated

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Class Ruling

Income tax: assessable income: football umpires, umpire coaches and umpire trainers: receipts from the Sale Umpires Association Incorporated

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❶ This publication provides you with the following level of protection:

This publication (excluding appendixes) is a public ruling for the purposes of the *Taxation Administration Act 1953*.

A public ruling is an expression of the Commissioner's opinion about the way in which a relevant provision applies, or would apply, to entities generally or to a class of entities in relation to a particular scheme or a class of schemes.

If you rely on this ruling, we must apply the law to you in the way set out in the ruling (unless we are satisfied that the ruling is incorrect and disadvantages you, in which case we may apply the law in a way that is more favourable for you – provided we are not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

What this Ruling is about

1. This Ruling sets out the Commissioner's opinion on the way in which the relevant provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant provision(s)

2. The relevant provisions dealt with in this Ruling are:

- section 6-5 of the *Income Tax Assessment Act 1997* (ITAA 1997);
- section 6-10 of the ITAA 1997;
- section 8-1 of the ITAA 1997; and
- section 15-2 of the ITAA 1997 (former paragraph 26(e) of the *Income Tax Assessment Act 1936* (ITAA 1936)).

All legislative references in this Ruling are to the ITAA 1997 unless otherwise indicated.

Class of entities

3. The class of entities to which this Ruling applies is Australian Rules football umpires, umpire coaches and umpire trainers who receive payments for umpiring, umpire coaching and umpire training from the Sale Umpire Association Inc (SUA) in the Gippsland region in Victoria. In this Ruling these entities are referred to as 'umpires', 'umpire coaches' and 'umpire trainers'.

Qualifications

4. The Commissioner makes this Ruling based on the precise scheme identified in this Ruling.

5. The class of entities defined in this Ruling may rely on its contents provided the scheme actually carried out is carried out in accordance with the scheme described in paragraphs 13 to 24 of this Ruling.

6. If the scheme actually carried out is materially different from the scheme that is described in this Ruling, then:

- this Ruling has no binding effect on the Commissioner because the scheme entered into is not the scheme 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 2006.

9. 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. Furthermore, the Ruling only applies to the extent that:

- it is not later withdrawn by notice in the *Gazette*; or
- the relevant provisions are not amended.

10. If this Ruling is inconsistent with a later public or private ruling, the relevant class of entities may rely on either ruling which applies to them (item 1 of subsection 357-75(1) of Schedule 1 to the *Taxation Administration Act 1953* (TAA)).

11. If this Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Ruling is made, the following two conditions are met:

- the income year or other period to which the rulings relate has not begun; and
- the scheme to which the rulings relate has not begun to be carried out.

12. If the above two conditions do not apply, the relevant class of entities may rely on either ruling which applies to them (item 3 of subsection 357-75(1) of Schedule 1 to the TAA).

Scheme

13. The following description of the scheme is based on information provided by the applicant.

14. SUA administers Australian Rules football matches in the central Gippsland region in Victoria. It is responsible for payments to football umpires, umpire coaches and umpire trainers who provide services in relation to the following leagues:

- North Gippsland Football Netball League;
- Sale and District Junior Football League;
- West Gippsland LaTrobe Football Netball League (part only);
- East Gippsland Football Netball League (occasionally as required); and
- Omeo Football League (occasionally as required).

15. The only requirement for an umpire, umpire coach or umpire trainer to obtain membership of the SUA is to complete an application form. An administration fee is charged to cover accreditation and insurance costs.

16. Umpires are appointed by SUA to officiate in matches based on their experience, ability, knowledge, availability and training attendance.

17. Umpires are paid a match fee for each match they umpire and amounts received in a season depend on the number of matches they umpire, the grades of the matches they umpire (senior, reserve, age group etc) and the discipline in which they umpire (field, boundary or goal). The average appointment fee for a match is approximately \$38.50 and the average total season payment for each individual umpire is approximately \$1,000.

18. In addition to a match fee, umpires may receive a travel allowance calculated by reference to a rate of 56 cents per kilometre over the return trip distance from Sale to each of the respective grounds at which umpiring is carried out. The travel allowance is paid for only five or six vehicles on the assumption that multiple umpires will travel together to minimise costs. To ensure equitable distribution of the travel allowance to those actually incurring the expense, umpires are asked to complete forms at each ground on match days detailing who transported them to and from the grounds. The total travel allowance paid for a specific venue on that day is then pooled and divided amongst the drivers on a pro-rata basis calculated on the number of umpires in each vehicle.

19. Umpires are required to incur expenditure for match uniforms and training gear which may include shoes, boots, socks, shorts, shirts, wristbands, whistles, trousers, caps, sunglasses, rain jackets, flags and flagsticks. Umpires are also required to incur expenditure on dress uniform including shoes, trousers, shirts and jackets being the required dress code for umpires to attend matches and other official events.

20. Umpire coaches and umpire trainers are appointed by the SUA committee of management prior to the beginning of each football season for the duration of one season. Qualified individuals are sought through advertising.

21. While there is an expectation that umpire coaches and umpire trainers appointed to the positions fulfil their respective roles for the entire season, they are not contracted or legally obliged to do so. Any umpire coach or umpire trainer who fulfils their role for only part of a season is paid on a pro-rata basis for the percentage of the season for which they perform their duties.

22. Umpire coaches and umpire trainers receive an average of \$1,350 a season to cover the cost of expenses such as fuel, private motor vehicle usage and home office equipment usage. These are the only payments they receive unless they also undertake the duties of an umpire.

23. SUA normally pays umpires, umpire coaches and umpire trainers on a monthly basis by direct credit to their nominated financial institution.

24. Payments are not intended to fully cover expenses incurred by umpires, umpire coaches and umpire trainers. The purpose of the payments is to encourage members of the community to participate in and facilitate local sporting activities by subsidising the costs associated with participation. The primary motivation for umpiring, umpire coaching and umpire training is a love of Australian Rules football and a desire to contribute to and participate in the community in which the game is played. Motivating factors include the opportunity to be involved in the game, achieve and maintain a greater fitness level and socialise with friends on a regular basis.

Ruling

25. The match fees, travel allowance and payments made to offset expenditure paid to umpires, umpire coaches and umpire trainers of the SUA are not assessable income under either section 6-5 or section 6-10.

26. Losses and outgoings incurred by the umpires, umpire coaches and umpire trainers of the SUA in connection with their activities cannot be claimed as a deduction under section 8-1 or any other provision of the ITAA 1997.

Commissioner of Taxation

24 October 2007

Appendix 1 – Explanation

① *This Appendix is provided as information to help you understand how the Commissioner's view has been reached. It does not form part of the binding public ruling.*

27. 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

28. Under subsection 6-5(1) an amount is assessable income if it is income according to ordinary concepts (ordinary income).

29. 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.

30. 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.

31. 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 associated expenses allowable deductions.

32. Participation in activities generating pastime or hobby receipts is a social or personal pursuit of a non-commercial nature. Pastime or hobby 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 or scale of the activity, or the degree of repetition or regularity of the activity.

33. The payments made by SUA to umpires, umpire coaches and umpire trainers are not intended to, nor do they usually, cover expenses. The stated purpose of the payments is to encourage members of the community to participate in and facilitate local sporting activities by subsidising costs associated with participation.

34. The sporting activities of the umpires, umpire coaches and umpire trainers associated with SUA are a pastime or hobby. The payments received as match fees and travel allowances contribute towards expenses and are not assessable as ordinary income.

35. In forming the opinion that umpires, umpire coaches and umpire trainers who comprise the class of entity to whom this Ruling applies are engaged in a pastime or hobby, we have taken into account the number of matches at which they officiate, the quantum of payments they can receive, the links with the community, the social benefits of participation, and the level or division of the sporting competition.

Statutory income

36. Section 6-10 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. That list includes reference to section 15-2.

37. Subsection 15-2(1) provides that:

Your assessable income includes the value to you of all allowances, gratuities, compensations, benefits, bonuses and premiums provided to you in respect of, or for or in relation directly or indirectly to, any employment of or services rendered by you...

38. Prior to 14 September 2006, the former paragraph 26(e) of the ITAA 1936 applied in the same manner as section 15-2 of the ITAA 1997.

39. The main issue to consider with respect to section 15-2 is whether the payments of match fees and travel allowances are '...provided to you in respect of...any employment of or services rendered...' Whilst the SUA umpires, umpire coaches and umpire trainers are not considered 'employees', section 15-2 also includes in assessable income those allowances, etc, which are paid 'in respect of' services rendered.

40. The payments are considered to be incidental to a pastime and not a product or incident of any employment or services rendered. As such, they are not assessable under section 15-2.

General deductions

41. As the payments received by the umpires, umpire coaches and umpire trainers are not assessable income, all losses and outgoings that are incurred in connection with these activities are not allowed as a deduction under section 8-1 or any other provision of the ITAA 1997.

Appendix 2 – Detailed contents list

42. The following is a detailed contents list for this Ruling:

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References

Previous draft:

Not previously issued as a draft

Subject references:

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|--------------------------|----------------------------|
| - allowances | - ITAA 1997 6-5 |
| - assessable income | - ITAA 1997 6-5(1) |
| - hobby v. business | - ITAA 1997 6-10 |
| - sport | - ITAA 1997 8-1 |
| - sporting organisations | - ITAA 1997 10-5 |
| - sports people | - ITAA 1997 15-2 |
| | - ITAA 1997 15-2(1) |
| | - TAA 1953 |
| | - TAA 1953 Sch 1 357-75(1) |
| | - Copyright Act 1968 |

Legislative references:

- ITAA 1936 26(e)
-

ATO references

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Income Tax ~~ Deductions ~~ miscellaneous expenses