


CR 2008/60 - Income tax: assessable income: Australian Rules umpires: Hills Football League

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Class Ruling

Income tax: assessable income: Australian Rules umpires: Hills Football League

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ⓘ 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 all individuals who receive payments from the Hills Football League to officiate in the Hills Football League Australian Rules matches as umpires.

4. Those entities as described in paragraph 3 of this Ruling to whom this Ruling applies will be collectively referred to in this Ruling as umpires.

Qualifications

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

6. 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 14 to 22 of this Ruling.

7. 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

9. This Ruling applies from 1 July 2007.

10. 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.

11. 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)).

12. 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.

13. 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

14. The following description of the scheme is based on information provided by the applicant. The following documents, or relevant parts of them, form part of and are to be read with the description:

- the application for class ruling (dated 6 May 2008);
- further information supplied by the applicant (dated 15 August 2008).

15. The Hills Football League (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.

16. The League runs local Australian Rules football competitions in the Adelaide Hills in South Australia. Most clubs within the League field teams in Junior Primary, Senior Primary, Junior and Senior Colts as well as senior 'A' Grade and 'A2' sides.

17. The League makes payments to umpires to officiate in the League's football matches. These payments are made electronically on a monthly basis.

18. The amount of money received by each umpire for the financial year is dependent upon the number of games umpired by that individual. There are eighteen rounds of matches for the season, and then five rounds of final matches. Some umpires would participate in more than one game a week, however the total amount received for the season would not exceed \$2,500 by any one individual.

19. Umpires participating in the highest level of the League receive \$120 per game.
20. Umpires do not receive any allowances and benefits other than their match fees.
21. Umpires are required to incur expenditure on the purchase of uniforms, running shoes, whistles, travel, and first aid equipment.
22. 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

23. The match fee payments made by the League to umpires officiating in the League are not assessable income under either section 6-5, section 6-10 or section 15-2.
24. Losses and outgoings incurred by the umpires officiating in the League 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

1 October 2008

Appendix 1 – Explanation

❶ *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.*

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) 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. 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.

29. Participation in activities generating pastime or hobby receipts is a social or personal pursuit of a non-commercial nature. 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.

30. The sporting activities of the umpires associated with the League are considered to constitute a pastime or hobby and, therefore, the payments received from the pursuit of that pastime or hobby are not ordinary income.

31. Their participation in refereeing activities is a social or personal pursuit of a non-commercial nature, which is motivated by their personal enjoyment in participating in the sport.

32. In forming the opinion that umpires who comprise the class of entity to whom this Ruling applies are engaged in a pastime or hobby, the Commissioner has taken into account the number of matches at which they officiate, the quantum of payments they can receive, the social benefits of participation, and the level or division of the sporting competition.

Statutory income

33. 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.

34. 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...

35. The main issue to consider with respect to section 15-2 is whether the payment is '...provided to you in respect of...any employment of or services rendered...' Whilst the umpires are not considered 'employees', section 15-2 also includes in assessable income those allowances, etc., which are paid 'in respect of' services rendered.

36. 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

37. As the payments received by the umpires 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.

Pay As You Go (PAYG) withholding

38. As explained above, payments made to a referee who is engaged in a hobby or pastime are not assessable income. The payments are not regarded as withholding payments under Division 12 of Schedule 1 to the TAA. An entity making payments to umpires who are in the class of entities to which this Ruling applies will not be required to withhold amounts from these payments, nor would they have any other associated PAYG withholding obligations – for example, obtaining Tax File Number declarations, providing payment summaries, or annual reporting.

Appendix 2 – Detailed contents list

39. 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:

- hobby vs business
 - income
 - PAYG withholding
 - sport
 - sports officials
 - sporting organisations
 - sports persons
 - voluntary payments to sportsperons
- ITAA 1936 26(e)
 - ITAA 1997
 - ITAA 1997 6-5
 - ITAA 1997 6-5(1)
 - ITAA 1997 6-10
 - ITAA 1997 8-1
 - ITAA 1997 10-5
 - ITAA 1997 15-2
 - ITAA 1997 15-2(1)
 - TAA 1953
 - TAA 1953 Sch 1 Div 12
 - TAA 1953 Sch 1 357-75(1)
 - Copyright Act 1968

Legislative references:

ATO references

NO: 2008/15209

ISSN: 1445-2014

ATOlaw topic: Income Tax ~~ Assessable income ~~ other payments
Income Tax ~~ Deductions ~~ miscellaneous expenses