


***CR 2009/8 - Income tax: assessable income: Football
Umpires: Combined Southern Leagues Football
Umpires Panel Incorporated***

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Class Ruling

Income tax: assessable income: Football Umpires: Combined Southern Leagues Football Umpires Panel Incorporated

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1 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, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is 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 provisions 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.

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 Combined Southern Leagues Football Umpires Panel Incorporated to officiate Australian Rules matches as umpires in the Great Southern Football League and Southern Football League.

4. Those entities 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 10 to 20 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 2008. However, this Ruling will not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of this Ruling (see paragraphs 75 and 76 of Taxation Ruling TR 2006/10).

Scheme

10. The following description of the scheme is based on information provided by the applicant in the application for class ruling dated 7 November 2008.

11. The Great Southern Football League and Southern Football League (Leagues) establish an annual subscription fee for member clubs. A component of this fee is used to pay the Combined Southern Leagues Football Umpires Panel Incorporated (CSLFUP).

12. The CSLFUP pay umpires to officiate in the Leagues' football matches. These payments are made on a fortnightly basis.

13. The Leagues run local Australian Rules football competitions in the Fleurieu Peninsula of South Australia. Most clubs within the Leagues contain sub-junior, junior and senior colts, senior A grade, reserves and C grade teams.

14. There are 18 rounds per season, with an additional 5 or 6 finals rounds. An umpire may officiate in more than one match per round.

15. The amount of money received by each umpire for the financial year is dependant on the number of matches officiated by that individual. The total amount received by an umpire from the CSLFUP does not exceed \$3,000.00 per season.

16. Umpires participating at the highest level of the Leagues receive \$112.00 per match.

17. Umpires do not receive allowances or benefits other than the match payments.

18. Umpires are required to incur expenditure on the purchase of uniforms, running shoes, whistles, travel and first aid equipment. The match payments are not intended to, and do not usually, cover these expenses.

19. The purpose of the payments made by the CSLFUP is to encourage members of the wider community to participate in local sporting activities by subsidising the costs associated with the participation.

20. Individual umpires contend that the primary motivation for umpiring is the love of Australian Rules and the desire to contribute to the community in which the game is played. Umpiring also provides the opportunity for an umpire to be involved in the game, achieve a greater level of fitness and meet friends on a regular basis.

Ruling

21. The match fee payments made by the CSLFUP to umpires officiating in the Leagues are not assessable income under sections 6-5, 6-10 or 15-2.

22. Losses and outgoings incurred by the umpires officiating in the Leagues in connection with their activities as an umpire cannot be claimed as a deduction under section 8-1 or any other provision of the ITAA 1997.

Commissioner of Taxation

4 March 2009

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.*

23. 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

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

25. 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.

26. 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.

27. 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.

28. The sporting activities of the umpires paid by the CSLFUP 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.

29. The participation of the umpires is a social or personal pursuit of a non-commercial nature, which is motivated by their personal enjoyment in participating in the sport.

30. 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

31. 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.

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

Your assessable income includes the value to you of all allowances, gratuities, compensation, 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...

33. The main issue to consider is whether the payments by the CSLFUP are provided in respect of employment of, or services rendered by, the umpires.

34. The umpires are not considered to be employees of the CSLFUP. 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

35. 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

36. As explained above, payments made to an umpire engaged in a hobby or pastime activity are not assessable income. The payments are not regarded as withholding payments under Division 12 of Schedule 1 to the *Taxation Administration Act 1953*. 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

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

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References

Previous draft:

Not previously issued as a draft

- voluntary payments to sportspersons

Related Rulings/Determinations:

TR 2006/10

*Legislative references:**Subject references:*

- hobby v business
- income
- PAYG withholding
- sport
- sports officials
- sporting organisations
- sports persons

- 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
- Copyright Act 1968

ATO references

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Income Tax ~~ Deductions ~~ miscellaneous expenses