



***CR 2002/83 - Income tax: Science Prizes: - The Prime Minister's Prize for Science, - The Prime Minister's Prize for the Commercial Application of Science, - The Malcolm McIntosh Prize for Physical Scientist of the Year, - The Frank Fenner Prize for Life Scientist of the Year, - The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, - The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.***

 This cover sheet is provided for information only. It does not form part of *CR 2002/83 - Income tax: Science Prizes: - The Prime Minister's Prize for Science, - The Prime Minister's Prize for the Commercial Application of Science, - The Malcolm McIntosh Prize for Physical Scientist of the Year, - The Frank Fenner Prize for Life Scientist of the Year, - The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, - The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.*

 This document has changed over time. This is a consolidated version of the ruling which was published on *11 February 2015*



## Class Ruling

### Income Tax: Science Prizes:

- The Prime Minister’s Prize for Science.
- The Prime Minister’s Prize for the Commercial Application of Science.
- The Malcolm McIntosh Prize for Physical Scientist of the Year.
- The Frank Fenner Prize for Life Scientist of the Year.
- The Prime Minister’s Prize for Excellence in Science Teaching in Primary Schools.
- The Prime Minister’s Prize for Excellence in Science Teaching in Secondary Schools.

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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.

**[Note:** This is a consolidated version of this document. Refer to the Legal Database (<http://law.ato.gov.au>) to check its currency and to view the details of all changes.]

## What this Ruling is about

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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 10-5 of the ITAA 1997, and
  - Section 15-2 of the ITAA 1997.

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

### Class of entities

3. The class of entities to whom this Ruling applies are the award recipients of the following Prizes:
- The Prime Minister's Prize for Science
  - The Prime Minister's Prize for the Commercial Application of Science
  - The Malcolm McIntosh Prize for Physical Scientist of the Year
  - The Frank Fenner Prize for Life Scientist of the Year
  - The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools, and
  - The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools.

All of these listed Prizes are awarded and administered by Questacon – the National Science and Technology Centre, a Division of the Commonwealth Department of Industry.

### 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 9 to 16 of this Ruling.

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

- (a) 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
- (b) this Ruling may be withdrawn or modified.

7. [Omitted.]

## **Date of effect**

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8. This Ruling applies to the years of income commencing both before and after its date of issue. However, 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 (see paragraphs 75 to 76 of Taxation Ruling TR 2006/10).

## **Scheme**

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9. The scheme that is the subject of the Ruling is described below. This description is based on the following documents. 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 scheme are:

- Application for Class Ruling dated 6 August 2002
- Application for Class Ruling addendum dated 26 November 2014, and
- Information on Internet Website [www.industry.gov.au/scienceprizes](http://www.industry.gov.au/scienceprizes) as referred to in the previously mentioned document. Full details about the Prime Minister's Prizes for Science can be obtained from this website, last updated on 31 October 2014.

10. The Prime Minister and the Minister responsible for Science award a number of annual science and science teaching prizes. The Prime Minister's Prizes for Science are a national tribute to excellence and dedicated work and are part of the Government's ongoing commitment to supporting and promoting the important contribution made to our daily lives by Australian innovations in science and technology and science education. The Prizes are those stated in paragraph 3 of this Ruling.

11. The Prime Minister's Prize for Science is the nation's pre-eminent award for a significant advancement of knowledge in the excellence in science. The Prize is a tribute to achievement in the advancement of knowledge that contributes to, or has application in other fields of knowledge. It is a national award and is normally presented to an individual for an outstanding specific achievement or a series of related achievements in any area of science advancing human welfare or benefiting society. In this context, science encompasses the natural, applied and technological sciences, engineering and mathematics. There are no restrictions as to when the achievement was accomplished in the candidate's career. The value of the Prize is \$250,000. The Prize may also be awarded jointly to up to four individuals, if the achievement can be clearly shown to be a collaborative or team effort. In addition, the Prize may be considered for a lifetime of achievement for an exceptional candidate. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science at the time of their nomination.

11A. The Prime Minister's Prize for the Commercial Application of Science is the nation's pre-eminent award for a significant technological innovation that has led to the betterment of humanity. The Prize was created to recognise the need to improve Australia's economic performance through better translation of research into commercial outcomes, to celebrate the collaborative achievements of Australian science; and to highlight the contributions of these achievements to our quality of life. It is normally presented to an individual for an outstanding specific achievement or a series of related achievements in any area of science advancing human welfare or benefiting society. In this context, science encompasses the natural, applied and technological sciences, engineering and mathematics. There are no restrictions as to when the achievement was accomplished in the candidate's career. The value of the Prize is \$250,000. The Prize may also be awarded jointly to up to four individuals, if the achievement can be clearly shown to be collaborative or team effort. In addition, the Prize may be considered for a lifetime of achievement for an exceptional candidate. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science at the time of nomination.

12. The Malcolm McIntosh Prize for Physical Scientist of the Year is awarded annually for outstanding achievement and potential in the physical sciences that advances, or has the potential to advance, human welfare or benefits society. This Prize is awarded to individuals whose nominated achievement was realised not more than ten years after being awarded their highest degree, the ten years being measured on either a full time or full time equivalent basis. The value of the Prize is \$50,000. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and at least four years of the candidate's research career must have been spent in Australia at the time of their nomination.

13. The Frank Fenner Prize for Life Scientist of the year is awarded annually for outstanding achievement and potential in the life sciences that advances, or has the potential to advance, human welfare or benefits society. This Prize is awarded to individuals whose nominated achievement was realised not more than ten years after being awarded their highest degree, the ten years being measured on either a full time or full time equivalent basis. The value of the Prize is \$50,000. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and at least four years of the candidate's research career must have been spent in Australia at the time of their nomination.

14. The Prime Minister's Prize for Excellence in Science Teaching in Primary Schools recognises those teachers who have made an outstanding contribution to science education in Australia. The Prize of \$50,000 is shared equally between the teacher and the school, that is, the teacher receives \$25,000 and the school where the teacher is employed at the time of nomination receives \$25,000. The role of science teachers is seen as critically important to the education and inspiration of Australia's youth. The Prize recognises that if Australia is to build upon its scientific and technological capabilities to ensure our future prosperity, it is essential to have teachers who are enthusiastic, well trained and committed to nurturing student interest. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science education in the Australian school system at the time of their nomination.

15. The Prime Minister's Prize for Excellence in Science Teaching in Secondary Schools recognises those teachers who have made an outstanding contribution to science education in Australia. The Prize of \$50,000 is shared equally between the teacher and the school, that is, the teacher receives \$25,000 and the school where the teacher is employed at the time of nomination receives \$25,000. The role of science teachers is seen as critically important to the education and inspiration of Australia's youth. The Prize recognises that if Australia is to build upon its scientific and technological capabilities to ensure our future prosperity, it is essential to have teachers who are enthusiastic, well trained and committed to nurturing student interest. Eligibility for this Prize is limited to Australian citizens or those who hold permanent resident status in Australia. Candidates must have a demonstrable link to Australia and should be active in science education in the Australian school system at the time of their nomination.

16. Nominations for the Prizes are usually invited at the beginning of each year and as details become available they will be announced and promoted on the website shown at paragraph 9 of this Ruling.

## Ruling

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17. The Prizes listed at paragraph 3 of this Ruling are not assessable income under sections 6-5, 6-10 or 15-2.

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**Commissioner of Taxation**

13 December 2002

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## 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.*

### Ordinary income

18. A payment or other benefit is assessable income if it is:
- income in the ordinary sense of the word (*ordinary income*), or
  - an amount of benefit that through the operation of the provisions of the tax law is included in assessable income (*statutory income*).
19. Subsection 6-5(1) provides that an amount is included as assessable income if it is income according to ordinary concepts (*ordinary income*).
20. In determining whether a prize or gift is ordinary income, the courts have established that consideration of the whole of the circumstances is necessary and that the following factors need to be taken into account:
- how, in what capacity, and for what reason the recipient received the prize or gift (*Squatting Investment Co Ltd v. Federal Commissioner of Taxation* (1953) 86 CLR 570; [1953] HCA 13; (1953) 5 AITR 496; (1953) 10 ATD 126 (*Squatting Investment Case*))
  - whether the prize or gift is of a kind which is a common incident of the recipient's calling or occupation (*Scott v. Federal Commissioner of Taxation* (1966) 117 CLR 514; [1966] HCA 48; (1966) 10 AITR 367; (1966) 14 ATD 286 (*Scott's Case*))
  - whether the prize or gift is made voluntarily
  - whether the prize or gift is solicited (*Hayes v. Federal Commissioner of Taxation* (1956) 96 CLR 47; [1956] HCA 21; (1956) 6 AITR 248; (1956) 11 ATD 68 (*Hayes' Case*) and *Scott's Case*)
  - whether the prize or gift can be traced to gratitude engendered by some service rendered by the recipient to the prize or gift donor (*Squatting Investment Case*)
  - the motive of the prize or gift donor (though this factor is rarely decisive in itself) (*Hayes' Case*), and
  - whether the recipient relies on the prize or gift for regular maintenance of themselves and any dependants (*Federal Commissioner of Taxation v. Dixon* (1952) 86 CLR 540; [1952] HCA 65; (1952) 5 AITR 443; (1952) 10 ATD 82 (*Dixon's Case*) and *Federal Commissioner of Taxation v. Blake* (1984) 75 FLR 315; 84 ATC 4661; (1984) 15 ATR 1006.



21. The Prizes are of an exceptional kind, awarded to each of the recipients in recognition of an outstanding achievement or contribution to society in their particular field of endeavour. Having regard to the nature of these particular Prizes, the character of the payments in the hands of the recipients is such that it is not received by virtue of their employment or as a recompense for services rendered, even though the award is made in relation to an achievement or contribution that is related to the vocation of the individual recipients. The nature of each award is that of a personal windfall or gain not having the qualities of income.<sup>1</sup>

22. The Science Prizes are not a common incident of the income earning activities of the Scientists to whom this Ruling applies. The Science Prizes are a national tribute to excellent and dedicated work in Australian science and are part of the Government's ongoing commitment to supporting and promoting the important contribution made to our daily lives by Australian research and teaching in science.

23. The Prizes for Excellence in Science Teaching are not a common incident of the income earning activities of teachers to whom this Ruling applies. The Prizes for Excellence in Science Teaching honours teachers who have made an outstanding contribution to science education in Australia, and recognises that excellent science teachers are essential to Australia's scientific and technological future, and therefore to the nation's prosperity.

## **Statutory income**

24. Section 6-10 provides that a taxpayer's assessable income includes statutory income amounts that are not ordinary income but are included in assessable income by another provision. Section 10-5 lists those provisions about assessable income. Included in this list and of relevance to this matter is section 15-2.

25. Section 15-2 provides that the value to the taxpayer of all gratuities and benefits given or granted to them in respect to, or for or in relation directly or indirectly to, any employment will be included in their assessable income. An issue in this scheme is whether the Prizes were granted 'in relation directly to or indirectly to, employment....' In particular, whether the Prizes were granted 'indirectly' in relation to the employment of the recipients of the Prizes.

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<sup>1</sup> This is consistent with the approach taken in IT 2145 which deals with the question of whether BHP Awards for the Pursuit of Excellence are assessable income in the hands of the recipients.

26. The leading cases in connection with this scheme are *Dixon's Case* and *Scott's Case*. In both cases, it was decided that the phrase 'an indirect consequence of employment' was not an open ended concept. Rather, there must still be a connection between the payment and the employment such that the receipt 'is in a relevant sense a product' of the employment.

27. Having regard to the exceptional nature of the Prizes, they cannot be regarded, in a real sense, as a product of the employment of any of the recipients. Nor is it a benefit provided for services rendered. It is a recognition of the achievements and contributions to science that advances human welfare or benefits society. The value of the Prizes is therefore not assessable under section 15-2.

### **Conclusion**

28. As the Prizes received by the persons to whom this ruling applies does not constitute either ordinary or statutory income, it is not assessable income under sections 6-5, 6-10 or 15-2.

## **Appendix 2 – Detailed contents list**

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

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## References

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### *Previous draft:*

Not previously released in draft form

### *Related Rulings/Determinations:*

IT 2145; TR 2006/10

### *Subject references:*

- Exempt income
- Prizes & Awards
- Windfall gains

### *Legislative references:*

- ITAA 1997
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10
- ITAA 1997 10-5
- ITAA 1997 15-2
- TAA 1953

- Federal Commissioner of Taxation v. Dixon (1952) 86 CLR 540; [1952] HCA 65; (1952) 5 AITR 443; (1952) 10 ATD 82
- Hayes v. Federal Commissioner of Taxation (1956) 96 CLR 47; [1956] HCA 21; (1956) 6 AITR 248; (1956) 11 ATD 68
- Scott v. Federal Commissioner of Taxation (1966) 117 CLR 514; [1966] HCA 48; (1966) 10 AITR 367; (1966) 14 ATD 286
- Squatting Investment Co Ltd v. Federal Commissioner of Taxation (1953) 86 CLR 570; [1953] HCA 13; (1953) 5 AITR 496; (1953) 10 ATD 126

### *Other references*

- [www.industry.gov.au/scienceprizes](http://www.industry.gov.au/scienceprizes)

### *Case references*

- Federal Commissioner of Taxation v. Blake (1984) 75 FLR 315; 84 ATC 4661; (1984) 15 ATR 1006

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### ATO References

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