

CR 2006/27 - Income tax: La Trobe University - Victorian Public Health Training Scheme Scholarships



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This document has changed over time. This is a consolidated version of the ruling which was published on *1 January 2006*



Class Ruling

Income tax: La Trobe University – Victorian Public Health Training Scheme Scholarships

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① This Ruling 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 (or in a way that is more favourable for you if we are satisfied that the ruling is incorrect and disadvantages you, and 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 taxation provision(s) identified below apply to the defined class of entities, who take part in the scheme to which this Ruling relates.

Relevant taxation provision(s)

2. The relevant taxation provisions dealt with in this Ruling are sections 6-5, 6-20, 51-1, 51-10 and 51-35 of the *Income Tax Assessment Act 1997* (ITAA 1997).

Class of entities

3. The class of entities to which this Ruling applies are full time students at La Trobe University (the University) who are enrolled in its Master of Health Sciences (Public Health Practice) (MHScPHP) and receive a Victorian Public Health Training Scheme (VPHTS) Scholarship. In this Ruling these entities are referred to as 'students'.

4. The class of entities does not include part-time students who are enrolled in the MHScPHP and receive a VPHTS scholarship.

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 13 to 29 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 January 2006. 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. Furthermore, the Ruling only applies to the extent that:
 - it is not later withdrawn by notice in the *Gazette*; or
 - the relevant taxation provisions are not amended.
10. If this Class 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 Class Ruling is inconsistent with an earlier private ruling, the private ruling is taken not to have been made if, when the Class 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 scheme 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 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 parts of documents incorporated into this description of the scheme are:

- Application for Class Ruling dated 19 December 2005;
- VPHTS Scholarships Conditions of Award and Acceptance Form;
- Draft Master of Health Sciences (Public Health Practice) VPHTS Field Placement Handbook (the Draft Handbook);
- MHScPHP course documentation; and
- Further information provided by telephone and email by the applicant.

14. MHScPHP is a two year full time course offered by La Trobe University for the VPHTS. The VPHTS is an initiative of the Public Health Group of the Department of Human Services and La Trobe University, established to contribute to building the public health workforce in Victoria.

15. The course provides advanced training for health professionals from a variety of backgrounds in the practice of public health to enable them to function as effective public health professionals. The course thereby contributes to the development of the public health workforce in Victoria and Australia and in particular to the strengthening of leadership in public health.

16. The course comprises:

- study of subjects at the University; and
- six approved field placements of four months each which are assessed and credited toward the MHScPHP.

17. Applicants for the MHScPHP are expected to demonstrate that they are well prepared for advanced training in public health and that they have the potential for an outstanding career in public health practice. This will usually mean that they have a primary degree in health science or a human services discipline although applicants from beyond these fields are considered.

18. Applicants are also expected to have demonstrated that they have substantial practical experience in public health work or in another comparable field providing relevant experience. The award is highly competitive and applicants are ranked in terms of their potential contribution to public health practice and the degree to which such potential would be enhanced through undertaking the MHScPHP.

19. Acceptance into the MHScPHP is a precondition to the student becoming eligible for a VPHTS scholarship.

20. The selection requirements for a student being awarded a VPHTS scholarship are that the student must:

- have completed a Master of Public Health degree or an equivalent combination of formal study and experience;
- be enrolled full time in the MHScPHP;
- not be in receipt of another equivalent award, scholarship or salary to undertake the proposed program of study;
- be participating in the VPHTS; and
- participate in approved field placements.

21. VPHTS scholarships are awarded to students to provide financial assistance including undertaking field placements that enable them to apply and develop skills learnt at the university.

22. Each field placement is supported by an agreement with the placement organisation. Such placement organisations include the Department of Human Services, non government organisations, research institutions and universities. The agreement outlines the project(s) to be undertaken during a placement, its purpose and objectives, what involvement and participation in the work unit will occur, competencies and skills to be learned, how they will be measured and assessed, measurable outputs, and the responsibilities of the various parties.

23. During the field placement, La Trobe University appoints a Field Placements Program Coordinator (Program Coordinator). The Field Placement organisation also provides a person as a Project Supervisor (Project Supervisor). The Program Coordinator, Project Supervisor and MHScPHP student liaise together and have rights and responsibilities under the Draft Handbook.

24. For each 12 month period of the course, the student is required to complete a detailed report outlining what has been undertaken and achieved. That assists assessing the competencies and skills achieved by the student, and outcomes of placements. Students are required to maintain a Field Placement program portfolio, with copies of their Field Placement Contracts and reports, project reports and other examples of work such as papers submitted for publication, conference presentations, briefings and options papers.

25. The achievement of competencies and skills is assessed by:
- a Field Placement report written by the Project Supervisor in consultation with the Program Coordinator; and
 - assessing reports and documents produced by the student, including papers for publication, conference presentations relevant to the placement.
26. Students are required to conform to the regulations, policies and guidelines of LaTrobe University governing their candidature, including disciplinary provisions. Students are required to satisfactorily complete MHScPHP assessment and reporting requirements and progress through the course sequence in a timely fashion.
27. The Victorian Government Department of Human Resources fund the VPHTS scholarships. LaTrobe University School of Public Health administers the VPHTS and pays all entitlements including reimbursements.
28. Students are paid a scholarship amount fortnightly by the University over the duration of their enrolment in MScPHP.
29. There is no obligation on the student to render any service to the University or any placement organisation whether as an employee or under the scholarship, either while studying or after completion of their course. Students may be permitted to undertake up to 4 hours of paid employment per week outside the requirements of the VPHTS. However, they will need the approval of the University to undertake any such employment.

Ruling

30. The payments made as described in paragraph 28 of this Ruling to students awarded a VPHTS Scholarship are considered ordinary income and are therefore, in principle, assessable income under subsection 6-5(1) of the ITAA 1997. However, these payments will be exempt from income tax under item 2.1A in the table in section 51-10 of the ITAA 1997.

Commissioner of Taxation

19 April 2006

Appendix 1 – Explanation

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.

31. 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

32. Subsection 6-5(1) of the ITAA 1997 provides that an amount is included as assessable income if it is income according to ordinary concepts (ordinary income).

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. Payments received by the students under the VPHTS Scholarship are considered to be ordinary income as they are periodical payments and are depended upon by the recipient (*Federal Commissioner of Taxation v. Ranson* (1989) 25 FCR 57; (1989) 89 ATC 5322; (1989) 20 ATR 1652).

35. As the payments are considered to be ordinary income, it is not necessary to consider whether they could also be statutory income.

Exempt income

36. Subsection 6-20(1) of the ITAA 1997 provides that an amount of ordinary income or statutory income is exempt income if it is made exempt from income tax by a provision of the ITAA 1997 or another Commonwealth law.

37. Certain amounts of ordinary income and statutory income are exempt from income tax under section 51-1 of the ITAA 1997 if the amount is of a type listed in the tables in Division 51 of the ITAA 1997.

38. Item 2.1A in the table in section 51-10 of the ITAA 1997 provides that payments are exempt from income tax if:

- they are made to a full-time student at a school, college or university;
- they are made by way of scholarship, bursary, educational allowance or educational assistance; and
- they are not subject to the exceptions set out in section 51-35 of the ITAA 1997.

The three conditions are discussed below.

Are scholarship holders full-time students at a school, college or university?

39. Yes. The VPHTS scholarship paid to the class of entities to which this Ruling applies are only full time students enrolled in MHScPHP.

Are payments made by way of scholarship, bursary, educational allowance or educational assistance?

40. Yes. The words 'scholarship, bursary, educational allowance or educational assistance' are not defined in the ITAA 1997. The Macquarie Dictionary, 2nd Revised Edition, defines 'scholarship' as 'the sum of money or other aid granted to a scholar', and 'scholar' as 'a student; who, because of merit, etc., is granted money or other aid to pursue ... studies'. 'Student' is defined as 'one who is engaged in a course of study and instruction at a college, university, or professional or technical school' and 'one who studies a subject systematically or in detail'.

41. Paragraphs 34 to 45 of Taxation Ruling TR 93/39 Income tax: friendly society education funds discuss the meaning of the words 'scholarship, bursary, educational allowance or educational assistance' for the purposes of the former paragraph 23(z) of the *Income Tax Assessment Act 1936*. Paragraph 35 of TR 93/39 states that the words are no more '...than a description of rewards for merit attained as a result of competition or selection on the basis of general criteria...'.

42. In interpreting the meaning of the words 'scholarship, bursary, educational allowance or educational assistance', courts have determined that the relevant characteristics of a scholarship include:

- the selection of recipients based on merit or some other rational criterion (*Re Leitch*, deceased, [1965] VR 204); and
- the education of the recipient is at least one purpose for which the scholarship is provided (*FC of T v. Hall* (1975) 6 ALR 457; 75 ATC 4156; (1975) 5 ATR 450).

43. The opportunity to be offered a VPHTS scholarship is made available each year to all full-time students who are enrolled in the MHScPHP at the University and are also participating in the VPHTS. The award is highly competitive and applicants are ranked in terms of their potential contribution to public health practice and the degree to which such potential would be enhanced through undertaking the MHScPHP. It is accepted that the selection of the students is based on merit.

44. In *Chesterman v. Federal Commissioner of Taxation* (1923) 32 CLR 362 (at 385-6) Isaacs J said that for purposes to be educational they must provide for the giving or imparting of instruction.

45. The VPHTS Scholarship is paid to a student undertaking a full time course for the degree of MHScPHP, including participation in approved field placements. The purpose of the field placements program is to enable the application and development of skills learnt at the University. The field placements program has subject status within the course being studied by the student. It is accepted that there is an educational purpose in the provision of the VPHTS scholarships.

46. The payments are therefore made by way of a scholarship, bursary, educational allowance or educational assistance.

Do the exceptions in section 51-35 apply?

47. No. Section 51-35 of the ITAA 1997 excludes the following payments from exemption:

- payments by the Commonwealth for education or training: paragraphs 51-35(a), (b) and (f) of the ITAA 1997;
- payments made on the condition that the student will (or will if required) become an employee of, or enter into a labour contract with, the payer: paragraphs 51-35(c) and (d) of the ITAA 1997; and
- payments made under a scholarship that is not provided principally for educational purposes: paragraph 51-35(e) of the ITAA 1997.

Are the payments Commonwealth education or training payments?

48. The payments made under the scholarship are not of a kind covered by paragraphs 51-35(a), (b) or (f) of the ITAA 1997.

Are the payments made on the condition that the student will (or will if required) become an employee of or enter into a contract for labour with the payer?

49. No. Paragraphs 51-35(c) and (d) of the ITAA 1997 exclude payments from exemption if they represent:

- (c) a payment by a person or an authority on the condition that the student will (or will if required) become, or continue to be, an employee of the person or authority;
- (d) a payment by a person or an authority on the condition that the student will (or will if required) enter into, or continue to be a party to, a contract with the person or authority that is wholly or principally for the labour of the student.

50. In *FC of T v. Ranson* (1989) 86 ALR 267; (1989) 89 ATC 4353; (1989) 20 ATR 488, the Federal Court took the view that the words 'upon condition that' do not require a contract between the parties to exist or any other form of legal relationship. The Court held that the exemption does not apply where, as a matter of ordinary language, it can be said that the receipt of the scholarship amount is conditional on the recipient working with the payer if the payer so requires.

51. Students undertaking the Field Placement Program as part of the MHScPHP are able to participate in industry placements of four month duration each. Over a two year period of study this enables six placements to occur. The field placements involve the students being placed with various organisations so that the students can apply their academic knowledge in a working environment. It is accepted that the field placement is an integral part of the education of the students and is not employment or a contract for labour by the student with the sponsoring organisation. In addition, both during the course and after graduation, there is no obligation on the students to engage in employment with any organisation, and no organisation is required to offer employment to any of the students.

52. Also, there is no obligation for the student to render any service to the University whether as an employee or under a contract, either while studying or after completion of the course.

Are the scholarships provided principally for educational purposes?

53. Yes. It is accepted that the payments made under the terms of the VPHTS scholarship are provided principally for educational purposes and therefore are not excluded from exemption by paragraph 51-35(e) of the ITAA 1997.

Appendix 2 – Detailed contents list

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

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References

Previous draft:

Not previously issued as a draft

Related Rulings/Determinations:

TR 93/39

Subject references:

- exempt income
- postgraduate research
- scholarships

Legislative references:

- ITAA 1936 23(z)
- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-20
- ITAA 1997 6-20(1)
- ITAA 1997 Div 51
- ITAA 1997 51-1
- ITAA 1997 51-10
- ITAA 1997 51-35
- ITAA 1997 51-35(a)
- ITAA 1997 51-35(b)
- ITAA 1997 51-35(c)
- ITAA 1997 51-35(d)
- ITAA 1997 51-35(e)

- ITAA 1997 51-35(f)

- TAA 1953

- TAA 1953 Sch 1 357-75(1)

- Copyright Act 1968

Case references:

- *Chesterman v. Federal Commissioner of Taxation* (1923) 32 CLR 362
- *FC of T v. Hall* (1975) 6 ALR 457 75 ATC 4156 (1975) 5 ATR 450
- *FC of T v. Ranson* (1989) 86 ALR 267 89 ATC 4353 (1989) 20 ATR 488
- *Federal Commissioner of Taxation v. Ranson* (1989) 25 FCR 57 89 ATC 5322 (1989) 20 ATR 1652
- *Re Leitch, deceased* [1965] VR 204

Other references:

- *The Macquarie Dictionary*, 2nd Revised Edition

ATO references

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