

CR 2007/24 - Income tax: assessable income: Rugby League Officials: Western Australia Rugby League Referees Association



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Class Ruling

Income tax: assessable income: Rugby League Officials: Western Australia Rugby League Referees Association

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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, 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 are members of the Western Australia Rugby League Referees Association (the Association) who receive payments to officiate as referees, touch judges or coaches (referred to individually as such in this Ruling and collectively as 'Rugby League Officials') in rugby league football matches played in the Western Australia Rugby League (WARL) competition.

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 26 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 January 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 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 following description of the scheme is based on information provided by the applicant.

14. The Association is a not-for-profit association incorporated pursuant to the laws of Western Australia. It administers and co-ordinates the provision of referees and touch judges for rugby league football within Western Australia in WARL sanctioned competitions.

15. Referees and touch judges are paid a match fee for each game in which they officiate, as well as a fee to cover attendance at training on a weekly basis.

16. Senior members of the Association (generally those retired from active refereeing) are paid a modest fee to attend the grounds to provide coaching and feedback to referees.

17. The Association issues invoices to the WARL at regular intervals during the season to cover these fees.

18. The Association retains around five percent of the match fees to cover administration, training and related costs.

19. Match fees currently range from \$15 to \$70 with a possible loading, based on accreditation level, of between 10 and 30 percent.

20. The total match and training fees received in a season depends on the level and number of games at which a Rugby League Official officiates, but the maximum earned in the 2006 season was \$3,965 by a referee, with the average being around \$1,250.

21. Rugby League Officials travel to and from matches and training sessions in their own vehicles and are not paid any additional allowance to cover travel costs or motor vehicle expenses. Travel distances are between 10 and 200 kilometre round trips, with an average round trip being 80 kilometres.
22. Officiating duties may require travel on two days per week.
23. Rugby League Officials must have membership in the Association, the current cost for which is \$18 for those under 18 years of age and \$45 for those aged 18 and above. They must also have passed a free one-day accreditation course.
24. Initial costs of uniforms and whistle are met by the Association. Thereafter, Rugby League Officials must meet all their own expenditure.
25. The payments (match, coach and training fees) are not intended to, nor do they usually, cover expenses incurred by the Rugby League Officials. The purpose of the payment is to encourage members of the community to participate in local sporting activities by subsidising the costs associated with participation.
26. The motivation for Rugby League Officials is contended to be the love of rugby league football and the desire to contribute to the community. Involvement in the game enhances fitness and fosters social camaraderie.

Ruling

27. The payments received by Rugby League Officials of the Western Australia Rugby League Referees Association are not assessable income under either section 6-5 or section 6-10.
28. Losses and outgoings incurred by Rugby League Officials in conjunction with their paid officiating activities cannot be claimed as a deduction under section 8-1 or any other provision of the ITAA 1997.

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.*

29. 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

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

31. 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.

32. 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.

33. 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.

34. 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.

35. The sporting activities of Rugby League Officials associated with WARL are considered to constitute a pastime or hobby and, therefore, the payments received from the pursuit of that pastime or hobby are not assessable income.

36. The payments are not intended to, nor do they usually, cover expenses. The stated purpose of the payment is to encourage members of the community to participate in local sporting activities by subsidising the costs associated with participation.

37. In forming the opinion that Rugby League Officials 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 training sessions and matches at which they officiate, the links with the community, the social benefits of participation and the quantum of fees they can receive.

Statutory income

38. 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.

39. 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...

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

41. 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 Rugby League Officials are not considered 'employees', section 15-2 also includes in assessable income those allowances, etc., which are paid 'in respect of' services rendered.

42. The payments received by Rugby League Officials are not assessable under section 15-2 because the Rugby League Officials are not considered to be employees, nor are the payments received 'in respect of' services rendered.

General deductions

43. As the payments received by the Rugby League Officials 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

44. As explained above, payments made to a Rugby League Official 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 Rugby League Officials 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

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

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References

Previous draft:

Not previously issued as a draft

- ITAA 1997 6-5
- ITAA 1997 6-5(1)
- ITAA 1997 6-10

Subject references:

- allowances
- assessable income
- hobby v. business
- sport
- sporting organisations
- sports people

- 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:

- ITAA 1936 26(e)
-

ATO references

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