



# Affinity

TAX & COMMERCIAL LAWYERS

## AFLPA MEMBERS TAX BRIEF 30 JUNE 2017

### Introduction

This Tax Brief provides AFLPA Members with general guidelines concerning the preparation of their personal Australian 30 June 2017 Income Tax Return. The Tax Brief is only a guide of AFL Player related tax considerations. The Tax Brief does not attempt to cover all areas that should be considered, such as a Player's non-sports financial arrangements, or payments made to associated Trusts or Companies for the use of a Player's Name, Likeness or Image.

You should confirm with your own Tax Agent how the tax issues outlined in this Tax Brief apply to you.

### Australian Taxation Office: Assistance and Review Activity

The Australian Taxation Office (ATO) regularly review AFL Clubs for compliance with Fringe Benefits Tax and PAYG Withholding Legislation. The ATO data match and cross-check information supplied by an AFL Club against your personal income tax return to ensure the information is consistent.

The ATO are in regular consultation with the AFL and have a clear understanding of the relevant Collective Bargaining Agreements, Playing Contracts and Additional Services Agreements that apply to AFL Players.

The ATO website also offers valuable information including a guide for professional footballers that can be found at:

<https://www.ato.gov.au/individuals/income-and-deductions/in-detail/deductions-for-specific-industries-and-occupations/professional-footballers---general-tax-guide/>

We recommend you review that guide.

The ATO also offers the electronic option called My Tax that allows you to prepare your own personal income tax return electronically. This option can be accessed at:

<https://www.ato.gov.au/Individuals/Lodging-your-tax-return/Lodge-online/>

If you prepare and lodge your own tax return, you must do so by 31 October 2017. If your Tax Agent prepares your income tax return, you may be given an extension of time to lodge beyond 31 October 2017. However, you must be registered with your Tax Agent prior to this date.

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## Income

All earnings from professional sport are taxable, including:

- Salaries and Playing Fees
- Match payments
- Clinic payments and appearance fees
- Club, league and media awards
- Sponsorships and endorsements
- Royalties from product endorsements
- Sportsman's nights
- Television and media appearance money
- Income protection insurance payments received due to injury
- Other payments received from any other sports related sources
- Prize money or non-cash prizes from sport

Non-cash benefits received by a sportsperson from his employers in respect of their employment are subject to Fringe Benefits Tax. Fringe Benefits Tax is payable by the employer. However, other non-cash benefits received from a personal sponsor or via an endorsement contract (e.g. use of a car or free goods) will generally be assessable to the player with the tax referable to the value of the goods.

If you receive non-cash benefits from non-club sources, you should confirm with your Tax Agent the appropriate tax treatment.

## Income Averaging for Sportspersons

AFL Players may qualify for the tax concessions available from "income averaging".

These tax concessions aim to protect the sportsperson who is pushed into a higher tax bracket as a result of sports earnings being higher than normal. These provisions effectively even out the tax payable on your sporting income over four years.

Averaging of sporting income can be of particular benefit to players who have minimal non-sporting income and their sports remuneration fluctuates considerably between years.

Averaging may be of benefit for those sportspersons who have just commenced their professional sporting career.

*The averaging rules will not apply automatically. If you are preparing your own tax return, you should follow the e-tax/TaxPack instructions carefully to ensure that you provide the relevant details necessary for the calculation.*

Alternatively, you may wish to seek advice from your Tax Agent to determine whether you benefit in your particular circumstances.



## Frequent Flyer Benefits

Air travel received as a result of membership in a frequent flyers scheme where frequent flyer benefits arose out of employer paid travel will not be assessable to players. This will be the case if, broadly, the player's flight rewards arose under a personal contractual relationship between the player and the reward arranger, (i.e. totally independent of their employer).

## Deductions

Many expenses incurred in earning your sporting income are allowable deductions (see below), if substantiated.

Examples of such expenses include:

- Equipment/training gear
- Work related Memberships
- Work related telephone calls
- Income Protection insurance premiums
- Home Office expenses
- Cleaning expenses relating to your income producing activities
- Motor vehicle expenses for work related travel costs incurred between a player's place of employment and official training, where bulky sports goods are transported or there is a practical necessity to travel by car. Travel costs incurred between a player's residence and official training or games will generally be deductible where the player's residence is considered a 'base of operations'.
- Player Agent's fees
- Costs incurred in re-negotiating contracts
- Work related travel costs
- Tax Agent Fees
- League imposed fines

These deductions are discussed in more detail in Appendix 1 to this guide.

*Note: Any expense which is paid or reimbursed by your employer cannot be claimed.*

The Commissioner of Taxation will strongly resist players claiming costs associated with:

- Personal Grooming
- Attendance at Social Functions (e.g. tickets to a club function, cost of hiring formal clothing)
- Cost of Ordinary Meals (i.e. not undertaken whilst travelling), even where additional food is purchased on advice of the coach to maintain or increase weight
- Medical Expenses generally even where the expense is to treat a work-related injury

## Self-Assessment Requirements

It is important that players understand the way the tax return process works. Under the current system, tax returns will not be subject to detailed examination when lodged. A notice of assessment will be issued on the basis of the return lodged. However, taxpayers may be "audited" by the ATO at a later date. This means that a Tax Officer will check your tax return. Please note, the ATO will continue to focus on employment related expense deductions and sportspersons generally.



Where taxable income is increased as a result of an ATO tax audit, severe penalties may be imposed. *The maximum additional tax penalty is up to 75% of any extra tax found to be payable, plus late payment penalties and interest.*

## Substantiation Rules

No deduction will be allowed unless documentary evidence, (usually a receipt), is available to support expenses so claimed. This documentary evidence must be made available to the ATO on request, but is not required to be lodged with the taxpayer's return.

The documentary evidence must contain the following:

- The date and amount of the expense incurred;
- name of the person or business who supplied the goods or services;
- the nature of the goods or services provided; and
- the date of the document.

Where money spent on total work-related expenses (excluding motor vehicle expenses) does not exceed \$300 a year, the substantiation provisions will not apply. Where the total expenses exceed \$300, you will be required to substantiate the entire amount, not just the amount above \$300.

For individual items costing less than \$10 and totaling \$200 or less (where the nature of the expense makes it impractical to insist upon a receipt), it is sufficient to keep a diary of the expenses. The diary should state the date, amount, supplier and description of items purchased and each entry should be signed.

Separate substantiation rules apply for motor vehicles.



## Appendix One

### TAX DEDUCTIONS

Expenses incurred in earning sports related income are allowable deductions if they can be substantiated.

Examples of expenses that may be deductible include:

#### Equipment

Equipment used in earning sports income is generally considered to be a depreciating asset. As a Small Business Taxpayer, AFL Players are entitled to an immediate deduction for the cost of acquiring equipment on or after 7.30pm on 12 May 2015 that costs less than \$20,000,(excluding GST) and installed ready for use by 30 June 2017.

As motor vehicles are unlikely to be 100% exclusively for work related purposes, this write off may not apply to the acquisition of a car.

This concession will continue until 30 June 2018.

Immediate deductions are available for the cost of weights, fitness equipment, bicycles and other pieces of equipment used exclusively for the purpose of producing sporting income that costs less than \$20,000.

Assets that cost \$20,000 or more, should be allocated to a “*general small business pool*” and written-off over time. The write-off is 15% in the first year the asset is allocated to the pool. For each subsequent year, a 30% deduction on the opening balance of the general small business pool is deducted.

Where the pool balance is less than \$20,000 at the end of the income year, the entire pool balance can be written-off.

#### Memberships

Membership to your Players' Association is 100% tax deductible.

Membership to gyms to maintain fitness may also be deductible.

Costs incurred in playing other sports (e.g. squash) to maintain fitness will be deductible where the sport is played as part of a regular training program drawn up and directed by a club coach.

#### Fines for on field indiscretions

Fines and penalties for on-field conduct and legal expenses associated with such fines and penalties (e.g. a Tribunal imposed fine) will be tax deductible. This is on the basis they relate to your performance as a Player as part of the game.

Fines imposed by your employer Club for off-field breaches of conduct (e.g. breaking team rules) will not be tax deductible.

Other fines imposed under Australian Law generally (e.g. speeding or parking fines) are also not tax deductible.

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## Motor Vehicle Expenses

There are two methods under which expenses for motor vehicles you either lease or own can be claimed. You may use a different method each year to obtain the maximum allowable deduction.

### ***Where a Player Travels More than 5,000 Business Kilometres a Year***

Where you travel more than 5,000 business kilometres a year on an annualised basis you can claim motor vehicle expenses using any of the following methods:

#### *Actual Motor Vehicle Expenses – Log Book Method*

The actual motor vehicle expenses include: petrol, maintenance costs, depreciation, registration, insurances. To claim the actual business portion of these running costs a log book must be maintained.

A log book must be kept for at least 12 continuous weeks to establish the appropriate portion of travel which is business related. This business percentage, established with reference to the log book and any variations in the pattern of the use of the car, is then multiplied by the actual motor vehicle costs incurred for the year to calculate the appropriate tax deduction. Care must be taken in ensuring AFL players document their business versus private travel. Opening and closing odometer records also need to be maintained. Once a 12-week log book for the first year is prepared, the taxpayer is generally able to apply the business percentage established in calculating motor vehicle costs in each of the following four years.

A new log book will need to be kept at least every five years. Players who have not kept a log book since 2011/2012 will need to prepare a new log book for the 2016/2017 year. A new log book may also need to be prepared if your circumstances significantly change for example, moving to an interstate team.

If the logbook is not kept or ceases to apply, you will need to use the cents per kilometre method to calculate your motor vehicle expense deduction.

Players also need to maintain all expense receipts for a period of 5 years except for petrol and oil expenses, for which an expense diary or other record should be maintained.

#### *Cents per Business Kilometre Method*

Players can claim a flat rate per business kilometre travelled as a tax deduction up to a maximum of 5,000 kilometres. The rate can be a flat rate of 66 cents per kilometre for the 2016/2017 year.

A reasonable estimate of the business kilometres needs to be made by the Player.

### ***Where a Player Travels More Less than 5,000 for the Year***

Players that travel less than 5,000 business kilometres may still claim motor vehicle expenses under the "Actual Business Expense" method or the "Cents per Kilometre" method (see above).

## Income Protection Insurance

Premiums on disability insurance for the loss of income due to injury are generally fully deductible.



## Cleaning Expenses

Cleaning expenses incurred in maintaining yours and club specific sports gear or sports attire are fully deductible. When cleaning is done at home a tax deduction is allowable according to a usage pattern. A player would have to substantiate the percentage of total laundry costs associated with professional sports purposes. Laundry expenses (excluding dry cleaning) up to \$150 per annum do not have to be substantiated.

Laundry costs for cleaning conventional sporting gear, such as track suits, tank tops, jerseys and thermal wear that are not supplied by the team are generally not tax deductible.