

18 May 2018

The Hon. Scott Morrison MP
Treasurer
Federal Member for Cook
PO Box 1306
Cronulla NSW 2230

via email: Scott.Morrison.MP@aph.gov.au

Dear Treasurer

Re: Taxation of income for an individual's fame or image

COMPPS consists of the following organisations:

- Australian Football League (**AFL**);
- Cricket Australia (**CA**);
- Football Federation Australia (**FFA**);
- National Rugby League (**NRL**);
- Netball Australia (**NA**);
- Rugby Australia (**RA**) and
- Tennis Australia (**TA**).

These sports play a significant role in developing, promoting and presenting sport in Australia from the grass roots through to the professional and international level. They are not-for-profit bodies and are responsible for the long-term development and sustainability of their sports.

Each of these organisations is the governing body and custodian of a major professional sport in Australia. They are mass participation sports - between them, they have over 9 million participants and 16,000 clubs.

Each of them conducts a league and/or events that provide employment for professional athletes in Australia and overseas. These athletes include men and women who are high-income earners as well as men and women at the other end of the scale who need external employment to follow their dream of playing their sport at the highest level.

For many years the Sports have worked with tax authorities to try to find a system that ensures that athletes meet their tax obligations. For the past two decades, part of this system has been the practice of athletes assigning their image to another tax-paying entity and engaging that entity to exploit and protect the athlete's commercial opportunities. It is a lawful mechanism that has been adopted by the Sports as part of their contract regime and salary cap structures after consultation with the ATO, government officials and accountants. It provides athletes at all levels with the opportunity to obtain a modest but greatly appreciated level of tax relief. As you



would be aware, the ATO has recently enhanced its support for this lawful mechanism via the release of Draft Practical Compliance Guideline 2017/D11 entitled: *Tax treatment of payments for use and exploitation of a professional sportsperson's 'public fame' or 'image'*. This Guideline proposed to allow professional sportspersons to safe harbour up to 10% of their income in recognition of IP use, without the need for a private tax ruling.

We were surprised to read in last week's budget papers that this practice will not be permitted beyond 1 July 2019 as it *"creates opportunities to take advantage of different tax treatments and facilitates misreporting and incorrect tax outcomes"*.

Given the history of consultation between sports and government on tax and other related issues, we are surprised that there was no prior consultation with sporting bodies.

In other countries, specific tax relief, including protection of image rights, is provided to athletes in recognition of their short career span and inherent risks of the career being cut short by injury.

This proposed legislation will provide a disincentive for more athletes who compete internationally or who are participants in a global labour market to structure their tax affairs in Australia – Australia will be a less attractive market for these athletes to live and carry out their profession. This has the very real potential to have a detrimental impact on the quality of our competitions and their overall appeal to fans and commercial partners.

These unforeseen or unintended consequences will indirectly undermine and diminish the ability of the Sports to support the growth and development of sport in Australia.

Additionally, this proposed change will impact directly on the Sports, as their obligations to meet Payroll Tax will increase.

We urge you to reconsider the government's position on this matter and engage in dialogue concerning the appropriate tax regime for professional athletes in Australia.

We would welcome the opportunity to meet with you to discuss this matter.

Yours sincerely,



Malcolm Speed AO
Executive Director
COMPPS