

13 May 2026

Mr Rob Heferen
Commissioner of Taxation
Australian Taxation Office
GPO Box 9990
SYDNEY NSW 2001

By email: rob.heferen@ato.gov.au

Dear Commissioner

ATO CLASS RULING CR 2025/88: IMPACT ON WORKERS COMPENSATION IN WESTERN AUSTRALIA

I write to draw your attention to the [Australian Taxation Office Class Ruling CR 2025/88](#) (the Ruling) concerning the settlement of compensation claims under the *Workers' Compensation and Injury Management Act 2023 (WA)* (the Act). The Ruling provides that the income compensation component of a settlement under the Act constitutes assessable income for taxation purposes.

The Ruling is causing serious issues for the entire workers compensation system in Western Australia, as well as detrimentally impacting injured workers including causing:

- (a) significant injustice for low-income workers who are redeeming years of income compensation but are being taxed as if that income were earned in one financial year;
- (b) exposure to taxation of workers who have resolved their claims after 1 July 2024 and to whom the Ruling applies;
- (c) uncertainty as to previous settlements, given the retrospective application of the Ruling prior to 1 July 2024;
- (d) significant delays in timeframes for settlements, as well as inconsistency between insurers; and
- (e) workers being required to pay income tax on permanent impairment compensation where their condition has not stabilised.

With respect to insurers, the Ruling has:

- (a) increased costs for private insurers and the Insurance Commission of Western Australia;
- (b) caused delays as insurers are reluctant to enter into settlement agreements while obtaining legal and taxation advice on the implications of the Ruling;
- (c) led to inconsistent approaches being taken by different insurers;
- (d) when read with the *Taxation Administration Act 2003*, the Ruling imposes tax withholding obligations on insurers rather than employers, which is deeply problematic to administer given the absence of an employment relationship between an insurer and a worker, and is being applied variably by insurers.

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The Law Society submits that the Commissioner must withdraw this Ruling, and engage with stakeholders to explore alternative approaches to this issue, which include developing a replacement, fit for purpose Class Ruling or legislative changes to address this issue. This Ruling has imposed serious impediments to the administration of the workers compensation scheme in Western Australia and is detrimentally impacting access to justice for injured workers.

If the Commissioner is not minded to withdraw this Ruling, we submit that urgent guidance is required from the Australian Taxation Office to resolve the numerous issues with respect to how this Ruling can be implemented.

The Law Society seeks an urgent response on this matter, and would welcome a meeting with you if that would be useful.

Please contact Ms Susie Moir, Director Advocacy and Professional Development at smoir@lawsocietywa.asn.au or telephone (08) 9324 8646 should you wish to discuss.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Judy McLean', with a stylized flourish at the end.

Judy McLean
President

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Mr Kevin Gillingham: kevin.gillingham@workcover.wa.gov.au