

TD 93/D22 - Income tax: what is the scope of the exemption from income tax provided by subparagraph 23(g)(v) of the Income Tax Assessment Act 1936?

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This document has been finalised by TD 93/190.

Draft Taxation Determinations (TDs) represent the preliminary, though considered, views of the ATO. Draft TDs may not be relied on; only final TDs are authoritative statements of the ATO.

Draft Taxation Determination

Income tax: what is the scope of the exemption from income tax provided by subparagraph 23(g)(v) of the *Income Tax Assessment Act 1936*?

1. Subparagraph 23(g)(v) provides that the income of a society, association or club established for community service purposes (not being political purposes or lobbying purposes), and is not carried on for the purposes of profit or gain to its individual members, shall be exempt from income tax.
2. The purpose of enacting subparagraph 23(g)(v) was to create a category of exemption for community bodies whose activities are not accepted as being charitable for the purposes of paragraph 23(e), but which, nevertheless, conduct activities of benefit to the community. In other words, some organisations that do not qualify for exemption under subparagraph 23(e) may, nevertheless, be exempt under subparagraph 23(g)(v).
3. There are four heads of charitable purpose, one of which is purposes beneficial to the community; but this is limited to those purposes which are also charitable. The term 'community service purposes' is intended to have a broader meaning than other purposes beneficial to the community which are also charitable. The Explanatory Memorandum accompanying the legislation which introduced subparagraph 23(g)(v) states that the words 'community service purposes' are to be given a wide interpretation. Those words are intended to extend to a range of altruistic purposes that are not otherwise charitable, such as promoting, providing or carrying out activities, facilities or projects for the benefit or welfare of the community or any members who have a particular need by reason of youth, age, infirmity or disablement, poverty or social or economic circumstances.
4. However, the provision does not give exemption from income tax to a broad range of organisations that are established within the community, but whose purposes are not of an altruistic nature. Altruistic purposes are an essential element of even the widest interpretation of 'community service purposes'.

Examples:

Traditional service clubs such as Apex, Rotary, Lions, Zonta, Quota and the like and community service organisations such as the Country Women's Association of Australia and its constituent Associations are considered to be exempt from income tax under 23(g)(v).

Other examples of associations or clubs which are considered to be exempt include:

- (a) *non-profit child care centres, including those providing long day care facilities, after school care and day child care in activity caravans;*
- (b) *age pensioner or senior citizens associations;*

- (c) *associations of play groups; and*
- (d) *associations of Justices of the Peace.*

Examples of associations or clubs which are not considered to be exempt include:

- (a) *clubs which promote public speaking or debating;*
- (b) *clubs which provide a social forum for retired and semi-retired business people, senior public servants and the like;*
- (c) *clubs which provide a social forum for expatriates of a particular country;*
- (d) *bodies established to promote tourism;*
- (e) *military service unit organisations; and*
- (f) *social clubs for newcomers to a particular residential area.*

Commissioner of Taxation

04/02/93

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