


TD 94/D9 - Income tax: is the income earned by a philatelic (stamp collecting) society exempt from income tax?

 This cover sheet is provided for information only. It does not form part of *TD 94/D9 - Income tax: is the income earned by a philatelic (stamp collecting) society exempt from income tax?*

This document has been finalised by TD 94/30.

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: is the income earned by a philatelic (stamp collecting) society exempt from income tax?

1. No. The income derived by philatelic (stamp collecting) clubs and associations does not qualify for exemption from income tax.
2. Philatelic organisations are primarily involved in promoting the collection, display and study of postage stamps and postal marks and often also the study and documentation of postal history.
3. Subparagraph 23(g)(ii) exempts from income tax the income of a society, association or club not carried on for the purpose of profit or gain to its individual members which is established for musical purposes, or for the encouragement of music, art, science or literature. If this subparagraph was to apply to a philatelic organisation it could only be because it was established for the encouragement of art or literature.
4. Art is defined as,

'the production or expression of what is beautiful (especially visually), appealing, or of more than ordinary significance' (*Macquarie Dictionary*);

an 'imitative or imaginative skill applied to design, as in paintings, architecture, etc.' (*Australian Concise Oxford Dictionary*); and

'the use of skill and imagination in the creation of aesthetic objects, environments, or experiences that can be shared with others' (*New Encyclopaedia Britannica*).
5. Philately can not be described as art because it does not involve the *creation* of items of artistic value. The exhibition of stamps arranged for display is not considered to be art.
6. Philately can involve the researching and publishing of postal history, but this activity is not the predominant activity of philatelic societies. In the Full Federal Court in *Cronulla Sutherland Leagues Club Ltd v F C of T 90* ATC 4215, (1990) 21 ATR 300, Lockhart J set out the test to be applied in determining whether exemption is available under paragraph 23(g) where a club carries on several different activities. His Honour (with whom Beaumont J expressed similar views) stated at ATC 4225 (ATR 312) that,

'For a society, association or club to qualify for the exemption granted by s23(g)(iii) it must be one that has as its main object or purpose the encouragement or promotion of an athletic game or athletic sport ... It may have other objects or purposes which are merely incidental or ancillary thereto or which are secondary and even unrelated to the main object or purpose without disqualifying the body from the exemption. But if it has two co-ordinate

objects, one of which is outside the exemption, the exemption cannot apply because it would be impossible to say that one object is the main or predominant object'.

7. If the publishing of postal history amounts to the encouragement of literature, philatelic societies do not qualify for exemption on the basis that philately is literature because their main object is not the publishing of postal history.

8. The other provisions under which philatelic associations could be considered for exemption from income tax include subparagraphs 23(g)(iii) and 23(g)(v). Subparagraph 23(g)(iii) exempts the income of a non-profit society, established for the encouragement or promotion of a game or sport. Game is defined as,

'an amusement or pastime; a contest for amusement in the form of a trial of chance, skill or endurance, according to set rules' (*Macquarie Dictionary*); and

'(form of) contest played according to rules and decided by skill, strength, or luck' (*Australian Concise Oxford Dictionary*).

9. Sport is defined as,

'an activity pursued for exercise or pleasure, usually requiring some degree of physical prowess, as hunting, fishing, racing, baseball, tennis, golf, bowling, wrestling, boxing etc.' (*Macquarie Dictionary*); and

'pastime, game, outdoor pastime, e.g. hunting, fishing, racing, cricket, football' (*Australian Concise Oxford Dictionary*).

10. Philately does not fall within either definition because the necessary element of competition is missing.

11. Subparagraph 23(g)(v) exempts from income tax the income of a non-profit society, established for community service purposes (not being political purposes or lobbying purposes). Taxation Determination TD 93/190 provides a guide to the range of organisations which qualify under this exemption. The Determination explains that the words 'community service purposes' 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 of the community who have a particular need by reason of youth, age, infirmity or disablement, poverty, or social or economic circumstances.

12. However philatelic associations do not possess the necessary altruistic purposes for the benefit of the community to enable them to qualify for exemption under subparagraph 23(g)(v).

Commissioner of Taxation

27/1/94

FOI INDEX DETAIL: Reference No.

Related Determinations: TD 93/190

Related Rulings:

Subject Ref: stamp collecting; exemption from income tax - philatelic associations; art, or literature associations

Legislative Ref: ITAA 23(g)(ii); ITAA 23(g)(iii); ITAA 23(g)(v)

Case Ref: Cronulla Sutherland Leagues Club Ltd v F C of T 90 ATC 4215, (1990) 21 ATR 300

ATO Ref: NAT 9.91/6464-2

ISSN 1038 - 8982