TR 97/22 - Income tax: exempt sporting clubs

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Taxation Ruling
Income tax: exempt sporting clubs

other Rulings on this topic

TD 93/194; TR 94/2; TR 94/3; TR 94/4; TR 94/5; TR 94/6; TR 94/7

contents para

What this Ruling is about 1
Class of person/arrangement 1
Ruling 7
Overview of exemption 7
Non-profit requirement 9
Encouragement 11
Game or sport 12
Main purpose 13
Highly persuasive features 15
Relevant but less persuasive features 16
Date of effect 17
Explanations 19
Non-profit requirement 21
Game or sport 24
Sporting or game-like activity 31
Intention 34
Rules and conventions 35
Competition 36
Examples of games and sports 38
Main purpose 41
Indicators of purpose 47
Highly persuasive features 51
Relevant but less persuasive features 57

*This Ruling, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the **Taxation Administration Act 1953**, is a public ruling for the purposes of that Part. Taxation Ruling TR 92/1 explains when a Ruling is a public ruling and how it is binding on the Commissioner.*

What this Ruling is about

Class of person/arrangement

1. This Ruling applies to sporting organisations seeking to determine whether they are exempt from income tax.

2. It describes the circumstances under which a society, association or club (a club) is regarded as being established for the encouragement of a game or sport. Where this is the case, provided the club is not carried on for the purposes of profit or gain to its individual members, the club is exempt from income tax under paragraph (c) of item 9.1 of the table in section 50-45 (section 50-45) of the *Income Tax Assessment Act 1997* (the Act).

3. The Ruling is to assist a club's office holders to determine whether their club is exempt from income tax. Where the office holders are satisfied that the club is exempt it is not necessary to seek approval from the Taxation Office. However, if there is reason to do so, the club may request the Taxation Office to make a private ruling.

4. Section 50-45 expresses the same ideas as subparagraph 23(g)(iii) of the *Income Tax Assessment Act 1936* (the 1936 Act).

5. The *Taxation Laws Amendment Act (No 4) 1997* amended paragraph 23(g) of the 1936 Act. The amendments do not alter the principles outlined and discussed in this Ruling.

6. Clubs that promote or encourage animal races are not covered by this Ruling. A separate provision of the Act, paragraph (a) of item 9.1 of the table in section 50-45, exempts such clubs.

Ruling

Overview of exemption

7. For a club to be exempt from income tax under section 50-45, it needs to satisfy three tests. It cannot be carried on for the purposes of profit or gain to its individual members. It must be for the encouragement of a game or sport. That encouragement must be the club's main purpose.

8. Where a club does not satisfy all three requirements, it is not exempt from income tax under section 50-45. However, in calculating its assessable income it is subject to the 'mutuality principle'. Broadly, this means that member receipts (which include members' subscriptions and trading income relating to members) are not included in the club's assessable income for tax purposes: see Taxation Determination TD 93/194 in relation to subparagraph 23(g)(iii) of the 1936 Act.

Non-profit requirement

9. A club must not be carried on for the purposes of profit or gain to its individual members.

10. A club's Memorandum and/or Articles of Association or other constituent documents should contain a prohibition against a distribution of profits and assets among members while the club is functional and on its winding-up. Alternatively, a club satisfies the test if the law governing its activities prevents the club from making distributions to members. The club's activities should conform to the prohibition.

Encouragement

11. 'Encouragement' means 'stimulation by assistance', according to the *Macquarie Dictionary*. It is essential that the encouragement of a game or sport is the main or dominant purpose of a club. Encouragement can occur directly by:

- forming, preparing and entering teams and competitors in competitions in the game or sport;
- co-ordinating activities;
- organising and conducting tournaments and the like;
- improving the abilities of participants;
- improving the standard of trainers and coaches;

- providing purchased or leased facilities for the activities of the game or sport for the use of club members and visitors; or
- encouraging increased and wider participation and improved performance;

and can occur indirectly:

- through marketing; or
- by initiating or facilitating research and development.

Game or sport

12. There is no special definition of what constitutes a game or sport for the purposes of section 50-45. Accordingly, the words should be given their ordinary meaning.

Main purpose

13. To be exempt, the main purpose of the club must be the encouragement of the relevant game or sport.

14. A club's main purpose can only be ascertained after objectively weighing all of the club's features, including those features described in paragraphs 15 and 16. The presence or absence of a feature may not conclusively determine that the club's main purpose is or is not the encouragement of a game or sport.

Highly persuasive features

15. Features that are highly persuasive in supporting a conclusion that the main purpose of the club is to encourage a game or sport include:

- the club conducts activities in the relevant year that are directly related to the game or sport (see paragraph 51);
- the sporting activities encouraged by the club are extensive (see paragraph 53);
- the club uses a significant proportion of its surplus funds in encouraging the game or sport (see paragraph 54); and
- the club's constituent documents emphasise that the club's main purpose is to encourage a game or sport and the club operates in accordance with those documents (see paragraph 56).

Relevant but less persuasive features

16. Other features that are relevant but less persuasive include:

- a high level of participation by members in the game or sport (see paragraph 57);
- the members of the committee, or persons who control the direction, of the club are predominantly participants in or concerned with the encouragement of the game or sport (as distinct from day to day management of the club) (see paragraph 58);
- voting rights in the club vest only in members involved in encouraging the game or sport, whether by personal participation or by encouraging participation by others (see paragraph 59); and
- the club promotes itself to patrons and the public as one encouraging the game or sport, and its advertisements and publicity emphasise the game or sporting facilities provided (see paragraph 60).

Date of effect

17. Paragraph 23(g) of the 1936 Act applies to assessments for the 1996-97 year of income or an earlier year of income but does not apply to an assessment for the 1997-98 year of income or a later year of income. Section 50-45 of the Act commenced on 1 July 1997.

18. This Ruling applies to years commencing both before and after its date of issue. However, the Ruling does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Ruling (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Explanations

19. Consistent with self assessment principles, where a club satisfies the tests described in this Ruling, it is exempt from income tax and does not need to seek approval from the ATO. However, if a club assumes an exemption from income tax that is not reasonably arguable, interest and culpability penalties may be applied on assessment by the ATO: see Taxation Rulings TR 94/2 to TR 94/7 (inclusive). Where doubts exist about status, office holders may consider it prudent to request a private ruling.

20. Section 50-1 of the Act provides:

> '50-1 The total ordinary income and statutory income of the entities covered by the following tables is exempt from income tax. In some cases exemption is subject to special conditions.'

The table in section 50-45 provides:

Item	Exempt entity	Special conditions
9.1	a society, association or club established for the encouragement of: ... (c) a game or sport; or ...	not carried on for the profit or gain of its individual members

Non-profit requirement

21. Section 50-45 requires that a club is not to be carried on for the purposes of profit or gain of its individual members. Where members, in their individual capacity, are to receive benefits from a club, the club fails the non-profit test. However, benefits received by members communally as members (e.g., by using the club's facilities) and incidental to the pursuit of a club's objects do not prevent the club from passing the non-profit test nor does the payment of reasonable remuneration to members for services they provide to the club.

22. We accept a club as being non-profit where, by operation of law (for example, a statute governing a club's activities) or by its constituent documents, the club is prevented from distributing its profits or assets among members while the club is functional and on its winding-up. The club's actions must, of course, be consistent with the prohibition. Examples of suitable clauses in constituent documents are:

> **Non-profit clause**
>
> The assets and income of the organisation shall be applied solely in furtherance of its above mentioned objects and no portion shall be distributed directly or indirectly to the members of the organisation except as bona fide compensation for services rendered or expenses incurred on behalf of the organisation.
>
> **Dissolution clause**
>
> In the event of the organisation being dissolved, the amount that remains after such dissolution and the satisfaction of all debts and liabilities shall be transferred to any organisation that is carried on predominantly for the encouragement of a game or

sport and is not carried on for the profit or gain of its individual members.

Alternative words may be used provided the result is achieved that funds and assets of the club cannot find their way to members (or their associates or nominees).

23. Where the law or the constituent documents do not prohibit distributions, it is a question of fact in each case as to whether the club is not carried on for purposes of profit or gain to the individual members. Factors that we consider relevant include whether distributions have been made, whether there is a stated or demonstrated policy to make or not to make such distributions and whether winding-up is contemplated. Where it is clear from the objects, policy statements, history, activities and proposed future directions of the club that there will be no distributions to members, we accept that the non-profit test has been satisfied.

Game or sport

24. There is no special definition of what constitutes a 'game' or 'sport' for the purposes of section 50-45. Accordingly, those words should be given their ordinary meanings.

25. Various sources can throw light on what is meant by a game or sport. Some sources are the legislative history and explanations of the relevant statutory provisions, dictionaries, and definitions adopted by sporting organisations.

26. Prior to 1990, exemption was available to a club established to encourage or promote an athletic game or athletic sport in which human beings were the sole participants. Amendments in 1990 to subparagraph 23(g)(iii) of the 1936 Act removed the 'athletic' test and also removed the requirement that human beings be the sole participants. The explanatory memorandum accompanying the amendment explained that the words 'game or sport' are not to be given any special definition but are intended to be given their wide and natural meaning. The explanatory memorandum also noted that this new meaning would include '... non-competitive activities such as mountaineering'.

27. Dictionary definitions provide only limited guidance in determining the meaning of 'game or sport.' In *Case 10/93* 93 ATC 152; *AAT Case 8635* (1993) 26 ATR 1009, it was argued before the Administrative Appeals Tribunal that a club involved in modelling of railways should be exempt from income tax on the basis that modelling of railways fitted within certain reputable dictionary definitions of 'game' and 'sport' and therefore should be considered a game or sport for the purposes of subparagraph 23(g)(iii) of the 1936

Act. The Tribunal rejected this argument. It considered, at ATC 159-160; ATR 1017, that it was not compelled to follow the particular dictionary definitions used. It considered these definitions were inconsistent with the accepted meaning of the words and therefore would not be applied. The Tribunal concluded that 'game or sport' for the purposes of subparagraph 23(g)(iii) has a wide natural meaning. However, it did not accept that modelling of railways fell within this wide natural meaning.

28. Useful guidelines as to what constitutes a sport are provided by the Australian Sports Commission (ASC). The ASC, which is the Federal Government agency responsible for the development of sport in Australia, defines sport as 'a human activity capable of achieving a result requiring physical exertion and/or physical skill that, by its nature and organisation, is competitive and is generally accepted as being a sport'. This definition is used, in part, to determine whether a sport is entitled to funding and support by the ASC.

29. We note that the definition used by the ASC, while appropriate for its purposes, does not cover all of the meaning of 'game or sport' for the purposes of section 50-45. In particular, it emphasises competition whereas the 1990 amendments were intended, in part, to remove the element of competition from being a necessary part of the subparagraph's meaning.

30. We believe that, in the majority of cases, clubs have little difficulty in determining whether their activities involve a game or sport. We recognise, however, that there may be some areas of uncertainty. The following features and indicators may assist in resolving the more difficult situations.

Sporting or game-like activity

31. Games and sports can be contrasted with endeavours where a thing, object or animal is the essential focus, or where the activities are merely a means to some other end. Endeavours such as philately, numismatism, body building and train modelling are not games or sports because the activities that give rise to the desired results are not games or sports either by their nature, competition or rules. Similarly, keeping guinea pigs or fish is not a game or sport. The activities of participants in car owner clubs are not participation in sports for similar reasons; the participants' focus is on their common interest in a type or make of motor vehicle and not on any sport or game-like activity.

32. Activities that could be games or sports may be merely a means to other ends. This is so where the activities themselves are not organised in a sport- or game-like way, and some other purpose is

predominant. For example, while the activity of dancing could be organised in a game- or sport-like way, it is commonly a means of promoting sociability, participation and relaxation. In such cases it does not constitute a game or sport.

33. The nature of the activity must also be considered in the context of determining the club's main purpose. For example, bingo conducted in-house may be regarded as a game. However, in most cases, a club's bingo games would be a minor activity incidental to its main purpose, such as promoting sociability, communal activities or some other purpose. Guidelines for determining a club's main purpose are detailed below.

Intention

34. The participants must intend that the activities they perform are the activities of a particular game or sport and that the intention and activities must be shared by the other participants. In *Adcock and Others v. Wilson* [1967] 1 All ER 1028, bingo players bought bingo tickets for one shilling of which sixpence was paid as a stake on the house game conducted at the club and sixpence was retained by the club as a contribution to prizes in the National Golden Scoop Club 'game'. About 500 clubs participated in the 'Golden Scoop'. It was held that the 'Golden Scoop' was not a game but more like a lottery. In coming to this conclusion, the court considered that competitors in a game must be able to share in the activity and entertainment that the game provides. Where the competitors had no chance of communicating with each other (as they were in 500 separate clubs) and no opportunity to share in the entertainment that a game should provide, the court decided that such activity could not constitute a game.

Rules and conventions

35. A common feature of a game or sport is a set of conventions, expectations and rules. This contributes to the element of organisation that is commonly indicative of a game or sport. While written or defined rules are not essential, the imposition of such rules and conventions in an organised group of participants can convert an otherwise ordinary leisure activity into a game or sport (e.g., hunting, fishing, walking).

Competition

36. Competition is a very common feature although not essential. Competition is an important indicator where the activity is not obviously a game or sport.

37. The element of competition also has some judicial support. In *Adcock and Others v. Wilson*, Widgery J, at 1037, indicates that the ordinary meaning of 'game' encompasses a competition involving entertainment and fun in which a number of competitors pursue a similar and known object.

Examples of games and sports

38. The following non-exhaustive list provides examples of activities that would be considered a 'sport' for the purposes of section 50-45, provided they satisfy the features outlined above:

> **athletic activity:** aerobics, if competitive; amateur wrestling; athletics including hurdling, jumping, running and walking; boxing; dancing, such as ballroom dancing, if competitive; 'field games', including discus, javelin, shot putt and hammer throwing; martial arts such as judo, kung fu, ju jitsu and karate; mountaineering; orienteering; rogaining; water-based sports including diving, swimming, surfing, surf life-saving, synchronised swimming and water polo;
>
> **played with ball or projectile:** badminton; baseball; basketball; bocce; bowling (ten-pin); bowls; cricket; croquet; football (all codes); golf; handball; hockey; ice-hockey; lacrosse; marbles; netball; softball; squash; table tennis; tennis; underwater hockey; volleyball;
>
> **involving animals:** equestrian activities; polo; pony club activities; rodeo activities;
>
> **using equipment to achieve mobility:** canoeing; cycling; dragon boat racing; drag racing; go-kart racing; hang-gliding; kayaking; motor-car racing (circuit, rally); motor cross; motorcycle racing; mountain bicycle riding; rowing; yachting;
>
> **using other equipment:** abseiling; archery; billiards; darts; fencing; gymnastics; pool; power lifting; snooker; skateboarding; snow sports including bobsled, luge, skiing, ski-jumping and snow boarding; target shooting; water skiing; weight-lifting; windsurfing; wood chopping;
>
> **contests involving combinations of activities:** swimming/running/cycling; swimming/surf ski/running; Highland Games; Olympic Games;

any outdoor sport when played indoors; and

any indoor sport when played outdoors.

39. A 'game' includes card games such as bridge and board games such as backgammon, chess and mahjong.

40. Activities that we do not consider to be a 'game or sport' include bird-raising, bird-keeping and bird-watching; body building; car owners clubs/associations; dancing as a social activity (including ballroom dancing, line dancing, square-dancing and Highland dancing); modelling of railways; numismatism; philately; playing of gaming or gambling machines; breeding and showing of animals.

Main purpose

41. To be eligible for the exemption, the club's main purpose must be to encourage a game or sport. Difficulties can arise where the club conducts other activities, particularly social or commercial activities.

42. Where the other activities are merely ancillary or incidental, or secondary, to the encouragement of the game or sport we accept that the main purpose may be that encouragement. Lockhart J in *Cronulla Sutherland Leagues Club Limited v. FC of T* 90 ATC 4215 at 4225; (1990) 21 ATR 300 at 312 said:

> 'It [the club] 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.'

43. However, if the main purpose becomes the carrying out of those other activities, the club is not exempt. Nor is it exempt if it continues to be involved in the game or sport to a substantial degree but is equally involved with another purpose or purposes. As Lockhart J said at ATC 4225; ATR 312:

> '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.'

44. Therefore, the fact that a sporting club also encourages social and other activities does not, of itself, preclude the club from being exempt. The club is still exempt provided the encouragement of a game or sport is the club's main purpose. By contrast, where the club's main purpose is providing social amenities and licensed club facilities to its members, the exemption does not apply.

45. The effect of non-sporting activities is illustrated by the decision of the Full Federal Court in *Cronulla Sutherland*. The club had some

13,000 members and extensive social facilities. It was incorporated in 1957 and had as one of its objects the promotion and development of rugby league. In 1963, the Cronulla Sutherland District Rugby League Football Club was formed as a separate club to administer football activities. In time, the club supported the entry of a team into the first grade competition organised and administered by the NSW Rugby League (NSWRL). Thereafter, the football club was almost entirely dependent upon the leagues club for financial assistance in the form of grants, the provision of facilities and guarantees of expenditure.

46. The majority of the Full Federal Court in *Cronulla Sutherland* held that the leagues club's main object was the provision to its members of social amenities and licensed club facilities, not the encouragement of sport. Consequently, it was not entitled to exemption. Foster J, in dissenting, noted that the taxpayer had:

> ' ... rendered financial assistance to the sporting body to such an extent as to prevent it making expenditures on maintenance of club facilities which would otherwise have been deemed desirable.' (at ATC 4250; ATR 339).

Indicators of purpose

47. The determination of a club's main purpose in the relevant year of income is a matter of fact and degree. In *Cronulla Sutherland*, Lockhart J in the Full Federal Court said, at ATC 4225; ATR 312:

> 'The material facts and circumstances which should be examined to characterise the main purpose of the relevant body include its constitution, its activities, its history and its control. These may alter from time to time and the purpose of establishment may correspondingly change. It is not sufficient to look to the formation of the body and to ascertain what was at that time the purpose of its formation. The statute gives a periodic operation to the words and directs the inquiry to a particular time, namely, the year of income so that consideration must be given not only to the purpose for which the society was established but also the purpose for which it is currently conducted.'

48. Section 50-45 looks to the year of income to determine whether each of its elements is satisfied. Evidence of the purpose for which the club was originally or later set up is helpful but the club must demonstrate by reference to its activities in the year of income that it has as its main purpose the encouragement of the game or sport.

49. In order to identify a club's activities, regard would normally be had to sources such as:

- the club's constituent documents;

- resolutions of the committee or of the persons controlling the direction of the club;
- minutes of meetings of that committee or of those persons;
- the club's business plans;
- promotional material concerning the club's activities; and
- published reports about the club, such as its annual report.

50. The features of a club described below indicate that its main purpose may be the encouragement of a sport. Also, the cases discussed illustrate the weighing of the different features. Clubs should consider these factors and their weighing in identifying their main purpose.

Highly persuasive features

51. A highly persuasive feature that supports a conclusion that a club has a main purpose of encouraging a game or sport is that the club conducts activities in the relevant year that are directly related to the game or sport. Examples of such activities include:

- participating in competitions or tournaments involving the game or sport;
- bringing into existence, organising and running such competitions or tournaments;
- providing referees, umpires or other officials for the game or sport;
- coaching participants in the game or sport;
- encouraging club members to be spectators at and to support the game or sport; and
- fundraising, for specific events in the game or sport in which the club's teams or competitors are involved, such as organising raffles to fund a club member's participation in an overseas event.

52. The importance of the activities being directly related to the game or sport is illustrated by the decision in *Cronulla Sutherland*. There, the Full Federal Court recognised that without the financial support of the leagues club, the football club could not have continued in the NSWRL. Substantial amounts of money were given to the football club by the leagues club. These were features highly supportive of the claim for exemption. However, when weighed against the club's other activities, Lockhart J (at ATC 4226; ATR 313) and Beaumont J (at ATC 4244; ATR 332) considered that, notwithstanding the financial support, the main purpose of the leagues

club was to provide licensed social facilities for its members and guests.

53. Where the sporting activities encouraged by the sporting club are very extensive, it is highly persuasive that the club's main purpose is the encouragement of a game or sport. In *Terranora Lakes Country Club Limited v. FC of T* 93 ATC 4078; (1993) 25 ATR 294, the club had a membership of nearly 4,100 and provided and promoted an extensive range of sporting activities. Its sporting facilities included: an 18 hole golf course; three bowling greens; three clay-shooting ranges; one 50 metre swimming pool; five tennis courts; three hockey/touch football fields; a turf cricket wicket; a synthetic cricket wicket; and a football field. Within its structure, its sporting clubs included: a cricket club; a clay target shooting club; a hockey club; a tennis club; junior, ladies, veterans and members' golf clubs; men's and ladies bowls clubs; a touch football club; a softball club; a bluewater boat club; and an equestrian club. All of these features were highly supportive of the country club being exempt. However, the Commissioner argued (at ATC 4086; ATR 304) that the sporting activities were subordinate to the provision of social amenities or facilities for members and non-members. The club also had extensive social facilities that were used by members and by the large number of visitors - approximately 1,000 per day - to the club. In the most recent year reported in the case, 90.3% of the club's income came from poker machines, bar trading and catering but only 16.9% was spent on sporting activities. Hill J concluded that:

> ' ... while the social activities ... were very extensive and could clearly be seen as an end, or perhaps as ends in themselves, those activities were ... pursued as a means of financing the extensive sporting activities conducted by the club.' (at ATC 4086-4087; ATR 304)

54. The club should use a significant proportion of its surplus funds in encouraging its game or sport. As noted by Lockhart J in *Cronulla Sutherland* at ATC 4226; ATR 313, '...the potential of [a club] to apply its surplus funds for purposes having nothing to do with the encouragement or promotion of [a sport or game] is a significant matter'. What is important is the way such funds are used and the activities that are financed by the club.

55. In *St Marys Rugby League Club Limited v. FC of T* 97 ATC 4528; (1997) 36 ATR 281, it appeared that the Club's liquidity had increased to a point where it had almost $2.5m of funds on deposit or short term investment. Oral testimony indicated that the Club desired to build two football fields on the Club's land and that feasibility studies had been undertaken. The case concerned the application of

subparagraph 23(g)(iii) of the 1936 Act. Hill J said (ATC 4534; ATR 288):

> 'That evidence suggests that the funds accumulated were being kept liquid for the purpose of developing a football oval, a circumstance which would be favourable to the Club's claim. The other possibility, however, is that the Club was accumulating funds for a possible motel development. I do not think that the evidence permits me to reach a conclusion, one way or the other, as to the proposed use of the funds. I should say, however, that if the Club were to proceed with the building of a motel ... the conclusion that it was established for the purpose of "the promotion or encouragement" of rugby league would become progressively more difficult to arrive at.'

56. The constitution and founding documents of an exempt organisation should be consistent with the aim of encouraging a game or sport. The club's history should also characterise it as one that was established, originally or after its foundation, by people with an interest in the game or sport and one that has in fact continued to encourage a game or sport: *St Marys* case ATC 4534, ATR 288; *Case G53* (1956) 7 TBRD 301 at 309; *Case T52* (1968) 18 TBRD 271 at 276; cf *Case K24* 78 ATC 216 at 238. See also *Brookton Co-operative Society Limited v. FC of T* 81 ATC 4346; (1981) 11 ATR 880; *A & S Ruffy Pty Ltd v. FC of T* (1958) 98 CLR 637; and paragraphs 47 and 48 above.

Relevant but less persuasive features

57. A high level of participation by members in the sport or game encouraged by the club would also support the club's main purpose being the encouragement of the game or sport: *Case W114* 89 ATC 891 at 898; *AAT Case 5452* (1989) 20 ATR 4125 at 4133 (Grand United Port Macquarie West Bowling Club v. FC of T); *St Marys* case ATC 4534, ATR 288. Where members are chiefly involved in the club's social activities and not in the sporting activities, it may indicate that its main purpose is not the encouragement of the game or sport. In both the *Cronulla Sutherland* and *Terranora* cases, the entertainment activities of the clubs were similarly extensive but the courts characterised the activities differently in each case. The activities in *Cronulla Sutherland* were characterised as the provision of social amenities to members and guests, which led to the club not being exempt. The entertainment activities in *Terranora* were characterised as a means of financing the members' sporting activities, which led to the club being exempt. One factor behind the difference in characterisation was the high sporting participation of members in *Terranora* and the low participation in *Cronulla Sutherland*.

58. The way a club is run and controlled on behalf of its members and the nature of the voting membership, are relevant in determining its purpose. Where the committee of a club is interested and involved in the promotion of its sport, it supports a conclusion that it is established for the encouragement of the game or sport: *Re Tweed Heads Bowls Club v. FC of T* 92 ATC 2087 at 2100; *AAT Case 8267* (1992) 24 ATR 1068; *St Marys* case ATC 4534, ATR 288.

59. A situation in which only members participating in the game or sport have voting rights, and only participants in the game or sport have a direct say in the running and direction of the club, would be indicative but not conclusive of a club's main purpose being encouraging a sport; for example, a club for golfers or bowlers that is controlled, by the golf committee or the bowls committee, respectively, of the club: see *Tweed Heads* at ATC 2100; ATR 1083; *St Marys* case ATC 4534, ATR 288.

60. An exempt club should promote itself to patrons and the public as one encouraging a game or sport, and its advertisements and publicity, including the organisation's annual report, should emphasise the game or sport it encourages.

61. Other factors that may be supportive of a conclusion that a club's main purpose is to encourage a game or sport include:

- the proximity of the club's social facilities to its sporting facilities; and
- the decoration and fit out of the club so as to reflect its game or sporting nature, e.g., the display of trophies, honour rolls or boards, pictures or statues of outstanding sporting achievers, displays of sporting equipment, etc., along with the actual game or sporting facilities.

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- ITAA97 50-45

case references
- A & S Ruffy Pty Ltd v. FC of T (1958) 98 CLR 637
- Adcock and Others v. Wilson [1967] 1 All ER 1028
- Brookton Co-operative Society Limited v. FC of T 81 ATC 4346; (1981) 11 ATR 880
- Cronulla Sutherland Leagues Club Limited v. FC of T 90 ATC 4215; (1990) 21 ATR 300
- Re Tweed Heads Bowls Club v. FC of T 92 ATC 2087; AAT Case 8267 (1992) 24 ATR 1068
- St Marys Rugby League Club Limited v. FC of T 97 ATC 4528; (1997) 36 ATR 281
- Terranora Lakes Country Club Limited v. FC of T 93 ATC 4078; (1993) 25 ATR 294
- Case 10/93 93 ATC 152; AAT Case 8635 (1993) 26 ATR 1009
- Case G53 (1956) 7 TBRD 301
- Case K24 78 ATC 216
- Case T52 (1968) 18 TBRD 271
- Case W114 89 ATC 891; AAT Case 5452 (1989) 20 ATR 4125 (Grand United Port Macquarie West Bowling Club v. FC of T)