

Income tax exemption and sporting clubs



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ABOUT THIS GUIDE

This guide is designed for office bearers and advisers of non-profit clubs to use when self-assessing if their club is exempt from income tax as a society, association or club established for the encouragement of a game or sport.

The guide may also be used to determine if a club is a rebatable employer for the purposes of fringe benefits tax.

You should self-assess your club's status each year. You should also do this when there are major changes to your club's structure or activities.

It is also important that you review your club's status as part of your governance processes to ensure your club still meets the requirements for exemption.

You need to remember that income tax exemption is not necessarily permanent. The growth of your club, changes in its constitution, focus and activities can alter the character of your club.

We recognise that many clubs have limited resources to manage their tax affairs and this can affect their ability to fully understand and meet their tax obligations. This guide is designed to make it easier for non-profit sporting organisations to achieve certainty when self-assessing their exemption status.

This guide is not for office bearers or advisers of:

- charities
- other income tax exempt organisations, including clubs established for the encouragement of animal racing, or
- taxable clubs.

TAXABLE CLUBS

If your club is not exempt from income tax, it is taxable. Taxable clubs have access to unique concessions. Receipts derived from mutual dealings with members are not assessable income and not subject to tax. They are called mutual receipts. Mutual receipts include:

- member subscriptions
- drinks sold at the bar to club members
- amounts members pay to attend dinners, parties, dances or social functions organised by the organisation, and
- amounts members pay to attend a workshop or presentation organised by the club.

If your club is taxable, is a non-profit company and has a taxable income of \$416 or less, no tax is payable and it is not required to lodge a tax return.

➤ For information about:

- income tax concessions for charities and other non-profit organisations, see *Income tax guide for non-profit organisations* (NAT 7967)
- the calculation of taxable income and the tax rates for taxable clubs, see *Mutuality and taxable income* (NAT 73436), and
- other taxes and concessions for non-profit organisations, see *Tax basics for non-profit organisations* (NAT 7966).

Only certain types of non-profit organisations are exempt from income tax.

If an organisation does not fall within one of the types of exempt entity specified in the tax law it cannot be exempt.

Under the self-assessment system a club can work out for itself whether it can access tax concessions unless it is also a charity.

INCOME TAX EXEMPTION – AN OVERVIEW

Non-profit organisations, including non-profit sporting organisations, are not automatically exempt from income tax.

The income tax law specifies the types of entities that can qualify for income tax exemption. If an organisation does not fall into one of these entity types, it will not qualify for the exemption.

There are more than 30 types of exempt entity. They include charitable institutions, non-profit hospitals, public educational institutions, registered employer associations, and non-profit societies established for the encouragement of music.

Charity

If your club is a charity, even though it may fall in another exempt entity type, it must be endorsed by the Australian Taxation Office (ATO) to access income tax exemption.

Briefly, a charity is an institution or fund established and operated solely for purposes that are charitable at law. These purposes are much broader than most people would think. Charitable purposes are the relief of poverty or sickness or the needs of the aged, the advancement of education, the advancement of religion, other purposes beneficial to the community, and the provision of child care services on a non-profit basis.

The vast majority of sporting clubs are not charities. However, a sporting club will be a charity if its encouragement of the game or sport is wholly integrated in carrying out purposes that are charitable.

Sporting clubs that are charities include:

- a club wholly integrated in a school or university and furthering its educational aims
- a club that primarily uses a game or sport to help rehabilitate the sick, and
- a club that primarily uses a game or sport to relieve disability.

➤ For more information about the other income tax exempt categories, including charities, see *Income tax guide for non-profit organisations* (NAT 7967).

Self assessment

The self-assessment system allows you to work out if your club meets the requirements of an income tax exempt category. You do not need to seek ATO endorsement of your club's status unless your club is a charity.

What are your responsibilities?

It is your responsibility to assess if your club is exempt from income tax or if it is taxable. If it is not exempt your club must lodge a tax return (subject to mutuality and the tax-free threshold for non-profit companies). The return must be signed, complete and correct. A taxable club may also want to lodge a tax return if losses arise to avail itself of a period of review under the review of self assessment (ROSA) legislation.

Even if someone else – including a tax agent – helps you to assess your income tax status or prepare your tax return and any related schedules, you are still legally responsible for the accuracy of your information.

What if you find your assessment is incorrect?

If you become aware that you have incorrectly assessed your club as income tax exempt or that your club's tax return is incorrect, you must contact us straight away.

Initiatives to complement self assessment

There are several systems and entitlements that complement self assessment, including:

- the private ruling system
- the amendment system (if you lodge tax returns and find you have left something out of your tax return), and
- your entitlement to interest on early payment or overpayment of a tax debt.

Do you need to ask for a private ruling?

If you are uncertain about how a tax law applies to your club's affairs, you can apply for a private ruling or contact us on **1300 130 248**.

Lodge your tax return by the due date, even if you are waiting for the response to your application. You may need to request an amendment to your tax return once you have received the private ruling.

We publish edited versions of written binding advice on our website to enhance the integrity and transparency of the private ruling system. This advice is edited to protect the secrecy and privacy of the person or entity to which it was provided.

INCOME TAX EXEMPTION – SPORTING CLUBS

Your club will be exempt from income tax and can self-assess its exemption if during the year of income it is an entity that:

- is a non-profit society, association or club
- is established for the encouragement of a game or sport
- is not a charity, and
- meets at least one of three tests.

These characteristics are explained in chapter 2.

Main purpose

The main purpose of your club must be encouragement of a game or sport. Any other purpose of the organisation must be incidental, ancillary or secondary to encouragement of the game or sport.

If your club's main purpose is providing social and recreational facilities and activities for its members, it will not be exempt. This is the case even if your club also gives money to encourage games or sports.

EXAMPLE

A non-profit club's main purpose is providing dining, gaming and leisure facilities for its members. It does not conduct any sporting activity itself, but gives a yearly grant to an associated entity that is a rowing club. It is not exempt.

Fringe benefits tax

If your club is an income tax exempt sporting club, it will also qualify as a rebatable employer for the purposes of fringe benefits tax (FBT).

Rebatable employers are entitled to have their liability to fringe benefits tax reduced by a rebate equal to 48% of the gross FBT payable (subject to a \$30,000 capping threshold per employee). If the total grossed-up taxable value of fringe benefits provided to an individual employee is more than \$30,000, a rebate cannot be claimed for the FBT liability on the excess amount.

SELF ASSESSMENT – SPORTING CLUBS

If your club is not a charity, take the following steps to determine whether your club is income tax exempt:

- 1 Read chapter 2 – 'Exempt sporting clubs'. This chapter explains the requirements for exemption. If your club has extensive non-sporting activities in addition to its sporting activities, you should also read chapter 3 – 'Multiple purpose clubs'.
- 2 Complete the worksheet in chapter 4 – 'Self-assessing your club's tax status'. If your club has extensive non-sporting activities in addition to its sporting activities, you will also need to complete the 'Schedule for multiple purpose clubs'.

If your club is income tax exempt:

- Your club does not need to pay income tax or lodge an income tax return, unless specifically asked to.
- Your club does not need to get confirmation of its exemption from the ATO.
- You should self-assess your club's status each year to check if your club is still exempt. You should also do this when there are major changes to your club's structure or activities.

If your club is not a tax exempt sporting club it may fall in another type of exempt entity or it may be taxable. If it is taxable, it may have the benefit of special rules for calculating taxable income, lodging income tax returns and special rates of tax.

➤ For more information, see *Income tax guide for non-profit organisations* (NAT 7967).

If you cannot work out your club's income tax status

contact us on **1300 130 248**. We can provide advice in working out your club's status and help with applying for a private ruling.

Irrespective of whether your club is income tax exempt, other taxes and concessions may apply to your club.

➤ For information about other taxes and concessions for non-profit organisations, see *Tax basics for non-profit organisations* (NAT 7966).

A sporting club that is not a charity will be exempt from income tax and can self assess its exemption in a year of income if it is a non-profit society, association or club; is established for the encouragement of a game or sport, and it meets at least one of 'three tests'.

The main purpose of the club must be the encouragement of a game or sport.

Income tax exemption will not apply to a group of entities collectively described as 'the club'. Each particular entity in the group must assess its income tax exempt status.

ENTITY

An entity for the purposes of income tax exemption as a tax exempt sporting club includes a corporation, unincorporated association, a trust or a partnership.

Income tax exemption will not apply to a group of entities collectively described as 'the club'. Each particular entity in the group must assess its own income tax exempt status.

EXAMPLE

A sporting group includes two incorporated associations. One association operates a leagues club and the other a football club. Each entity, the leagues club and the football club, must assess its own income tax exempt status. This would be the case irrespective of whether the sporting group was referred to collectively as 'the club'.

The following features on their own, will not be sufficient to show that your club is exempt:

- control of your club by an exempt entity or entities
- common membership of the board of both your club and the exempt entity
- use of your club's surplus funds for exempt entities or their purposes
- the commitments of members of your club being related to those of an exempt entity or entities
- common motives inspiring your club and associated exempt entities
- the providing of free services to associated exempt entities
- the holding of property by your club on trust for exempt entities.

The consolidation regime – under which a consolidated group of entities is treated as a single entity for income tax purposes – does not apply to income tax exempt entities.

NON-PROFIT

To qualify for income tax exemption as a sporting organisation, your club must be non-profit.

An organisation is non-profit if it is not carried on for the profit or gain of its individual members. This applies for direct and indirect gains and both while the organisation is being carried on and on its winding up.

The income tax law does not prescribe a form of words that a non-profit company must have in its constituent documents. The following example clauses would be acceptable, as long as other clauses were not contrary to them. The organisation's activities must be consistent with the clauses.

EXAMPLE: 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.

EXAMPLE: 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 another organisation with similar purposes which is not carried on for the profit or gain of its individual members.

The following do not prevent a club from being non-profit:

- benefits received by members communally as members, such as use of club's facilities
- benefits received by members incidental to the pursuit of a club's objects, such as sports uniforms, or
- payment of reasonable remuneration to members for services they provide to the club.

A non-profit organisation can still make a profit, but this profit must be used to carry out its purposes and must not be distributed to owners, members or other private people.

EXAMPLE

A society makes a \$40,000 profit for the year. It uses the profit to reduce its debts and provide for its activities in the following year.

SOCIETY, ASSOCIATION OR CLUB

The term ‘society, association or club’ is not defined in the tax law and takes the ordinary meaning of the words. It can include incorporated bodies.

Although clubs may be distinguished by their purposes from societies or associations, they nevertheless fall within the dictionary definition of ‘society’. The three words describe bodies made up of people who have come together to implement common purposes and objects.

Consequently, an individual is not a society, club or association and will not qualify as an exempt sporting club.

An incorporated body having one member may also not be a society, association or club and not qualify as an exempt sporting club.

An entity that is a fund is not considered a society, association or club.

EXAMPLE

A fund is established under an instrument of trust to manage and/or hold property on trust for a sporting organisation. The fund is not a society, association or club.

The members of a society, association or club need not be natural persons. The term therefore includes associations of sporting clubs.

THE THREE TESTS

To be a tax exempt sporting club, your club must also pass one of the following tests:

- 1 physical presence in Australia test
- 2 deductible gift recipient test, or
- 3 prescribed by law test.

Physical presence in Australia test

Your club will meet this test if:

- it has a physical presence in Australia (which is greater than merely operating through an agent in Australia or holding property in Australia – a division in Australia would show the necessary physical presence), and
- to the extent that it has a physical presence in Australia, it incurs its expenditure and pursues its objectives principally in Australia. In determining this, there are special rules for offshore use of amounts you received as gifts or government grants.

Deductible gift recipient test

Your club will meet this test if:


- it has been endorsed as a deductible gift recipient (DGR) in its own right and not merely for a fund, authority or institution it operates, or
- it is listed by name in the income tax law as a DGR.

DGRs are entities to which donors can make income tax deductible gifts. The income tax law determines which organisations and types of organisations can qualify as DGRs.

Prescribed by law test

Your club will meet this test if it is prescribed by name in the income tax regulations, which is decided by government, and

- is located outside Australia and is exempt from income tax in its country of residence, or
- has a physical presence in Australia but incurs its expenditure and pursues its objectives principally outside Australia.

 For more information about the three tests, see *Income tax guide for non-profit organisations (NAT 7967)*.

GAME OR SPORT

The words ‘game’ and ‘sport’ are not defined in the tax law and take their ordinary meaning.

The Australian Sports Commission regards 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 a sport’.

For income tax exemption purposes, ‘game or sport’ extends to:

- non-athletic games such as chess and bridge
- sports such as motor racing in which machines facilitate the competition of people
- non-competitive activities such as mountaineering.

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.

EXAMPLE

Endeavours such as stamp collecting, coin collecting, body building and train modelling are not games or sports. Similarly, keeping guinea pigs or fish, greyhound racing, or the activities of participants in car owner clubs are not games or sports.

EXAMPLE

Dancing may be organised in a game or sport-like manner, however it is commonly a means of promoting sociability, participation and relaxation.

The nature of the activity must also be considered in the context of determining the club's main purpose.

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.

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.

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. 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 (for example hunting, fishing, and walking).

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

Examples – games or sports

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 put 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 lifesaving, synchronised swimming and water polo.

Games or sports played with ball or projectile – badminton; baseball; basketball; bocce; bowling (tenpin); bowls; cricket; croquet; football (all codes); golf; handball; hockey; ice hockey; lacrosse; marbles; netball; softball; squash; table tennis; tennis; underwater hockey; volleyball.

Activities involving animals – equestrian activities; polo; pony club activities; rodeo activities.

Sports or activities that involve 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.

Sports or activities that involve 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; waterskiing; weightlifting; windsurfing; wood-chopping.

Contests involving combinations of activities – triathlons; Highland Games; Olympic Games.

Card and board games – bridge; backgammon; chess and mah-jong.

Examples – not games or sports

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; coin collecting; stamp collecting; playing of gaming or gambling machines; breeding and showing of animals.

ENCOURAGEMENT

The term 'encouragement' is not defined in the tax law and takes its ordinary meaning. It covers both directly carrying on activities and supporting them less directly.

Encouragement can occur directly by:

- forming, preparing and entering teams and competitors in competitions in the game or sport
- coordinating activities
- organising and conducting tournaments including providing match officials
- preparing and maintaining the rules of a game or sport
- improving the abilities of participants
- improving the standard of trainers, coaches and other sports officials
- providing or operating the venue for a game or sport
- providing jerseys, uniforms, scarves and flag
- encouraging increased and wider participation and improved performance
- encouraging club members to be spectators at and to support the game or sport, or
- organising raffles to fund club members' participation in a specific event in the game or sport in which the club's teams or competitors are involved.

Encouragement can occur indirectly:

- through marketing
- by initiating or facilitating research and development, or
- by providing accounting, legal and management services that directly facilitate the sporting activities.

Other examples of encouragement are:

- a club set up to run all aspects of the controlling club's sporting activities for juniors
- a supporters club associated with a football club that operates solely to take spectators to away games
- an association whose purpose is to carry out research into ways that new technologies can help in the preparation of playing surfaces
- an association whose purpose is to produce a radio program which airs on a community station during the season that provides extensive insight into the major competitions of the game and includes educational content particularly aimed at junior players, and
- an association established to promote a sport by running public events to publicise and fundraise for representative players or state or national sporting events.

MAIN PURPOSE

To be eligible for the exemption in the year of income, your club's main purpose in that year must be the encouragement of a game or sport.

If your club also encourages social or other non-sporting activities for its members, provided the activities are merely ancillary or incidental, or secondary, to encouraging the game or sport, they will not prevent the club from being exempt.

Your club's constituent documents will help identify the purpose for which the club was set up and should be consistent with the aim of encouraging a game or sport. Your club's activities in the year of income must then demonstrate that the club's main purpose is the encouragement of its game or sport.

Other club records which will help indicate your club's activities and purpose include:

- resolutions made by the persons controlling your club, such as the board, committee or directors
- minutes of meetings of the board, committee or directors
- business plans
- promotional material concerning your club's activities, and
- published reports about the club, such as its annual report.

If the main purpose of a club is the carrying out of non-sporting activities, the club is not exempt.

EXAMPLE: Main purpose not sport

The Sandy Shores Country Club's constitution states that the club's object is to provide social and sporting facilities for its members.

The club's main activity is the operation of its clubhouse as a social, gaming and entertainment facility. A small number of members play in bridge, darts and snooker teams sponsored by the club. The club allocates a proportion of its surpluses to local sports and community associations in order to meet certain requirements under state gaming laws.

The club's main purpose is providing social amenities for members.

For many sporting clubs that mostly conduct activities directly related to their game or sport, it will be clear that the club's main purpose is the encouragement of a game or sport.

EXAMPLE: Main purpose encouragement of sport

A club's primary object in its constitution is the promotion of netball. In the year of income, the club entered several teams at all levels in the local competition. Its sources of income were membership subscriptions, game day food and drink sales, corporate sponsorship, 'sports and recreation' grants, raffles and functions to support representative players, and venue hire. Minutes of meetings, business plans and other club material mostly detail sporting matters.

The club's main purpose is the encouragement of sport.

The sale of a club's assets to fund its ongoing sporting commitments will not of itself disturb its encouragement of sport.

EXAMPLE: Sale of assets

The club in the above example sells a portion of land it owns adjacent to its courts to upgrade its courts and clubhouse facilities and enter a team in a state-wide competition.

The club's main purpose is the encouragement of sport.

Difficulties in working out main purpose arise if a club conducts both sporting and non-sporting activities and the non-sporting activities are not incidental or ancillary to the sporting activities. The following activities originally offered for the recreation of sporting members may become significant themselves:

- operating bar and dining facilities for extended periods beyond game time
- having or operating significant gaming and other recreational facilities on club premises
- owning temporary accommodation available to members and non-members for holiday rental.

If your club conducts significant non-sporting activities in addition to its sporting activities, difficulties may arise in determining your club's main purpose. You will need to ask:

- Are the non-sporting activities my club engages in merely incidental or ancillary to the encouragement of the club's game or sport?
- Can my club justify to its members and the public that its main purpose is the encouragement of a game or sport?

WHAT TO DO NEXT

If your club's non-sporting activities are not incidental or ancillary to the sporting activities read chapter 3 – 'Multiple purpose clubs' for an explanation of the features the ATO considers persuasive in indicating main purpose and the application of these features for clubs with significant social as well as sporting undertakings.

If your club mostly conducts activities directly related to its game or sport and you are satisfied that your club's main purpose is the encouragement of sport, go to chapter 4 – 'Self-assessing your club's tax status'.

The main purpose of an exempt sporting club must be to encourage a game or sport.

Difficulties in working out main purpose can arise for clubs that conduct both sporting and non-sporting activities and the non-sporting activities are not incidental or ancillary to the sporting activities. Non-sporting activities provided for members typically include social activities such as entertainment, dining, gambling and accommodation.

Working out a club's main purpose is not based on a formula set out in the tax law. A club's main purpose can only be ascertained after objectively considering all a club's features.

FEATURES INDICATING SPORTING PURPOSE

The ATO considers the following features as being persuasive in indicating the main purpose of a club as being the encouragement of a game or sport.

Highly persuasive features

- The club conducts activities directly related to a game or sport.
- The sporting activities encouraged by the sporting club are very extensive.
- The club uses a significant proportion of its surplus funds in encouraging its game or sport.
- 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. The club's history demonstrates that the club has in fact continued to encourage a game or sport.

Relevant but less persuasive features

- A high level of participation by members in the sport or game encouraged by the club.
- 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).
- 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.
- 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.

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, for example, 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.

The absence of a feature, for example, junior members of a club not having voting rights, or the proximity of social facilities to sporting facilities, may not be detrimental to the exempt status of a club.

➤ For more information, see Taxation Ruling TR 97/22
Income tax: exempt sporting clubs.

For clubs providing social activities such as entertainment, dining, gambling and accommodation in addition to the sporting encouragement, you need to ask:

- Is my club a sporting club with social facilities provided in furtherance of the sporting purpose?
- Is my club a social or community club with a sporting interest?

The provision of food, drink and other entertainment may be integral to a sporting event. For many sporting clubs the provision of such entertainment is also a potential source of funds to further the sporting purpose:

- profits from game day sales and fundraising events assist in sporting equipment purchases
- extended operation of the club's catering facilities may help to offset the deficit of the sporting activities, or
- surpluses from gambling and entertainment operations may fund both capital and operational sporting expenditures.

Provided such activities are merely ancillary or incidental, or secondary, to encouraging the club's game or sport, they will not prevent the club from being exempt.

Where the club's main purpose is providing social amenities and licensed club facilities to its members, the exemption does not apply.

The table on the next page contrasts features indicating a club's main purpose is the encouragement of sport with features indicating a non-sporting purpose. The presence or absence of a feature may not be detrimental to a club's claim that its main purpose is the encouragement of sport. For example, a small sports club will not have extensive sporting activities, but its main purpose may still be the encouragement of its sport.

Feature	Encouragement of sport	Not encouragement of sport
Highly persuasive features		
Sporting activities conducted	<p>The club conducts activities directly related to its game or sport.</p> <p>Social activities are incidental or ancillary to the sporting activities.</p> <p>Club's history indicates continual involvement in sport.</p>	<p>No sporting-related activity conducted by the entity. Social purposes are dominant.</p> <p>Sporting activity conducted by associated entity.</p>
Extent of sporting activities	<p>Sporting activities extensive.</p> <p>Social activities are secondary to the sporting activities.</p>	Sporting activities are secondary to social activities or business activities including where sporting activities are significant.
Use of surplus	<p>Surplus used in encouraging the club's sport (or sports).</p> <p>History indicates that surplus is used in encouraging the club's sports.</p>	<p>Use of surplus directed mostly to encouraging club's social activities.</p> <p>Surplus used to fund sporting activities of another entity.</p>
Purposes in constitution	<p>Primary object in constitution is the encouragement of a game or sport.</p> <p>The game or sport conducted is named in the constitution.</p>	No mention of sport in constitution.
Persuasive features		
Member participation in sport	<p>Significant numbers of members participate in the sporting activities conducted by the club.</p> <p>Other members indirectly support in volunteering, fundraising, assisting juniors or regular match attendance.</p>	Majority of membership not involved in the sports encouraged by the club.
Control	<p>Persons administering club have sporting background.</p> <p>Board comprises sporting members elected by sporting members.</p>	No particular requirement for sporting background.
Voting	Voting members are mostly members participating in the club's game or sport.	Most voting members not involved in sport or do not have particular interest in the sport.
Promotion	Sporting activities promoted in newsletters.	Other activities promoted. Minor promotion of sporting activities.
Other features		
Proximity	Sporting and social facilities co-located.	Social facilities removed from sporting facilities (if any).
Clubhouse	Sporting memorabilia displayed prominently throughout clubhouse.	No particular emphasis on sport in clubhouse décor.

EXAMPLES FROM CASE LAW

Exemption as a sporting club has been reviewed on several occasions in the Administrative Appeals Tribunal and in the Federal Court.

Detailed summaries of six case judgments are provided to help you work out your club's main purpose. The full text of each case judgment is available on the ATO's Legal Database at www.ato.gov.au

Three of the summaries describe clubs that were not exempt from income tax and three clubs that were exempt.

The case judgments describing clubs that were not exempt are:

- *Cronulla Sutherland Leagues Club Limited v. FC of T* 90 ATC 4215; (1990) 21 ATR 300 (Cronulla)
- *South Sydney Junior Rugby League Club Limited v. FC of T* [2006] AATA 265; (2006) 62 ATR 1123; 2006 ATC 2150 (21 March 2006) (South Sydney Juniors)
- *North Suburban Club Inc v. FC of T* [1999] AATA 463; (1999) 42 ATR 1111; 99 ATC 2254 (28 June 1999) (North Suburban).

The case judgments describing clubs that were exempt are:

- *St Marys Rugby League Club Limited v. FC of T* 97 ATC 4528; (1997) 36 ATR 281 (St Marys)
- *Terranora Lakes Country Club Limited v. FC of T* 93 ATC 4078; (1993) 25 ATR 294 (Terranora)
- *Tweed Heads Bowls Club v. FC of T* 92 ATC 2087; AAT Case 8267 (1992) 24 ATR 1068 (Tweed Heads).

Other examples include:


- NT88/297 and Commissioner of Taxation [1989] AATA 629; Case W114 (Grand United Port Macquarie West Bowling Club v. FC of T) 89 ATC 891; (1989) 20 ATR 4125 – exempt
- AT89/27, 28 and 29 and Commissioner of Taxation [1990] AATA 34; Case X25 90 ATC 251; (1990) 21 ATR 3257 – exempt – golf, tennis and social activities.

The summaries describe the clubs in the year of review and may not reflect their current operations or tax exempt status.

A discussion on the following judgment of the High Court on the income tax exemption of a charity is also provided in *Commissioner of Taxation v. Word Investments Ltd* [2008] HCA 55; 2008 ATC 20-072; 70 ATR 225 (Word).

If, after reading this section, you consider that your club is exempt, it is still recommended that you use the worksheets in chapter 4 – 'Self-assessing your club's tax status' to document your assessment of your club's entitlement to income tax exemption.

Cronulla

 The following summary of the judgment in *Cronulla Sutherland Leagues Club Limited v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- to establish, equip, furnish and maintain a club for the benefit of members and to promote social sporting and educational undertakings... of members, and
- to provide any or all of the facilities necessary to further the aims of the Cronulla-Sutherland District Rugby League Football Club and the Cronulla-Caringbah Junior Rugby League Football Club.

The club conducted its affairs to maximise support to the football club by providing:

- most of the football club's income
- a playing field and grandstand for the football club, with advertising rights
- car parking revenue (2,000 cars) on game days
- two fully equipped offices and other meeting facilities
- exclusive use of a part of the clubhouse with a viewing window on game days.

The club ran small internal sub-clubs encouraging several sports.

The club and the football club were associated as follows:

- Control of the leagues club was by persons interested in promoting the football club. This control was historical and not formalised.
- The directors of the leagues club become directors of the football club.

The clubhouse was next to the playing field and included:


- squash courts, gymnasium, training facilities for members and footballers
- several bars, poker machines, bistro, restaurant, auditorium, function room and games lounge for table tennis, carpet bowls, cards and snooker
- office accommodation and several viewing areas overlooking the playing field.

Club membership was approximately 13,000.

The court decided that the main purpose of the club was the provision of the social amenities to its members, not the encouragement of rugby league. The following were noted:

- The encouragement of rugby league and the provision of a social club for members were considered separate purposes.
- Annual revenue was from poker machines, bar trading and other entertainment; and expenditure was geared in large part to produce this income.
- The absence of a legal obligation, in its rules or by contract, to support the football club, was not fatal to the club's claim for exemption but the potential to apply surplus funds for purposes other than the encouragement of rugby league was considered significant.

South Sydney Juniors

 The following summary of the judgment in *South Sydney Junior Rugby League Club Limited v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- to provide a social and sporting club, and
- to promote rugby league.

The club's support of rugby league was by:

- profits paid to South Sydney District Junior Rugby Football League Limited and South Sydney District Rugby League Football Club Limited, and
- non-cash support of junior football.

The club had 31 sporting and non-sporting sub-clubs with a membership of approximately 1,500.

Under the club rules the junior football league appointed four out of the seven directors.

Club membership was approximately 45,000.

The club's non-sporting facilities included:

- entertainment and shows at its auditorium
- two restaurants, a bistro/snack bar and seven bars
- gaming facilities – TAB, Keno and 545 poker machines
- tourist hotel called 'Una Voce'
- holiday units at the Entrance and Forster
- harbour cruises on its 'luxury' catamaran

- coach trips on the club's buses
- a facility for the provision of home and business loans
- investment in real estate, including land from which rental income was derived and land held for resale.


The club described itself in annual reports as follows:

'The parent entity operates predominantly in the licensed club industry. The principal activities of the parent entity are to provide club facilities and services to its members'.

The tribunal decided the club was not exempt and noted:

- The encouragement of rugby league was not a main object or equal to that of the licensed club itself.
- The club's reports indicated a principle activity other than sport.
- The club did not field any teams or provide a sporting field except contribute to the maintenance of one field.
- There was no evidence that the members (or a substantial body of them) were interested in rugby league.
- The rugby league club was a separate entity and its results could not be consolidated with the club.
- The club had a very large membership and offered a large range of activities and facilities and entertainment.

North Suburban

 The following summary of the judgment in *North Suburban Club Inc v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- to provide for members associated together for social, sporting, charitable, and educational purposes, and
- in particular, to establish and maintain accommodation and facilities for the playing of lawful games, and for musical, dramatic, and other social entertainments for members and their guest.

The club was originally founded as a cycling club. In the year of review its sporting activities were squash, snooker, billiards, table tennis and social golf.

Expenditure directly related to sport was minor expenditure on billiards, squash, badges and trophies. Sporting activities were supported by various fund raising measures with bingo being popular.

Trading results for that year revealed income mostly from poker machines and bar trading profit with expenditure geared mostly to these activities.

No particular qualifications were required for membership or election to the committee of the club.

The annual report included the words 'whilst the Club's core business is poker machines, some of you will be aware that our functions and bistro business continues to grow.'


The club was not exempt.

Whilst the club was established in 1895 as a cycling club, it is necessary to consider the purpose of the club in the relevant years of income.

The constitution and activities showed that the club had a primary purpose of providing gambling and social activities.

The sporting activities formed a relatively minor part of the total activities of the club.

St Marys

 The following summary of the judgment in *St Marys Rugby League Club Limited v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- the management and promotion of rugby league football in the St Marys district
- assisting other rugby league clubs, and
- providing clubhouse and playing facilities for members.

The club had its origins as a rugby league club in 1908. It fielded 32 teams involving 450 players in Junior League, Reserve Grade and Metropolitan Cup competitions and leased several playing fields. Golf, snooker, darts, softball, cricket and fishing sub-clubs existed.

Football grants were between 10% and 20% of total expenditure and roughly 20% of net income. Cash reserves were \$2.4 million to be used to construct football fields. A motel was also under consideration.

Membership was 6,500, the majority of whom fell under the following membership categories:

- life members
- football members – existing or past players in the Penrith competition
- supporting members – existing or past players in other rugby league competitions. Persons who have been supporting members for two years were eligible to become football members
- associate members – consistent match attendees and football club volunteers.

Only life members and football members could be on the board.

Clubhouse facilities included:

- two auditoriums, restaurant and bar facilities
- snooker tables, club keno and 90 poker machines
- offices and meeting rooms
- parking area for 200 cars
- golf range leased to an independent operator.

Photographs of life members and players, blazers of champion players and trophies were on display.

The court decided that the club was exempt. It noted:

- Rugby league was the major object in the club's rules.
- The membership categories and control given to football members in the rules pointed to significance of football.
- The intensity of activity directed towards football tipped the balance in favour of exemption.
- The history was of close association with rugby league.

The following differences from *Cronulla* were also noted:

- *Cronulla* involved a football club and a leagues club.
- *Cronulla*'s only connection with football was the grants and facilities provided to the football club.
- The membership structure of *Cronulla* did not give emphasis and importance to footballers or supporters.
- Control of *Cronulla* was not formalised.
- The sheer size and intensity of the social activities of *Cronulla* led to the conclusion that the social activity was of such great significance that it was impossible to conclude that the main purpose of the club was the encouragement of rugby league.

Terranora

! The following summary of the judgment in *Terranora Lakes Country Club Limited v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- to promote the games of golf, bowls, tennis and other sports, games and pastimes, indoor and outdoor
- to construct, establish, provide, maintain and conduct golf links, bowling greens, tennis courts, playing areas and grounds ... and to construct, provide, establish, furnish and maintain club houses, pavilions and other buildings and conveniences in connection therewith.

The club operated sporting sub-clubs promoting cricket, clay target shooting, hockey, tennis, golf, bowls, touch football, softball and equestrian sports. The sub-clubs participated in local and away competitions. A professional golf coach and a professional tennis coach were employed.

Club membership totalled 4,076 ordinary, 226 junior and 130 social members. Sub-club membership totalled 2,854 however some members may have been members of more than one sub-club.

The club had facilities on two sites which included:

- members' lounge, locker rooms, billiards and darts junior games room, meeting rooms, TAB agency, 200 poker machines, auditorium, bars, bistro, restaurant
- 18-hole golf course, bowling greens, clay target shooting ranges, 50-metre swimming pool, tennis courts, change rooms, squash court, hockey and touch football fields, cricket oval and football field and barbecue areas, and
- the first stage of a time-share resort.

A yearly program of sporting activities was published.

The sub-clubs promoted facilities and events to members through regular newsletters.

The club carried on a substantial licensed and gaming club:

- expenditure on social activities exceeded sporting expenditure – poker machines provided 58.1% of income, bar trading 13.7%, and catering 18.5%
- in the year of income the club had begun development of a holiday resort on its own land
- the bulk of visitors (1,000 per day) and a proportion of members did not use the sporting facilities
- the club's promotion was heavily directed towards gambling, dining, entertainment and accommodation.

The court decided that the club was exempt. It concluded that, while the social activities were very extensive and could clearly be seen as an end in themselves, those activities were pursued to finance the extensive sporting activities.

Tweed Heads

! The following summary of the judgment in *Tweed Heads Bowls Club v. FC of T* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

The objects in the club's constitution included:

- to take over the Tweed Heads Bowling Club
- to promote the game of bowls and... other sports, games, amusements, entertainments and recreations
- to construct and maintain such bowling greens, courts and grounds ...and to construct, furnish and maintain clubhouse pavilions and other buildings in connection therewith, and
- to carry on the business of caterers for the purpose of supplying refreshments liquid or solid to persons using or to visitors to the Clubhouse and premises.

The club had a 70 year history of playing bowls. Intra and inter club bowls tournaments and championships and national and international events were conducted. The club had eight qualified coaches and employed three full-time greenkeepers and one full-time gardener.

Club membership was:

- 830 bowling members – 530 male and 300 female
- 170 non-bowling members – persons who no longer bowl or spouses of bowling members
- four life members.

Only bowling members could attend and vote at meetings and hold office on the board. Bowling members were either registered bowlers or qualified through the club's training program including six two-hour lessons on the indoor green and six one-hour lessons on the outdoor greens.

There was an internal quarterly magazine, *Rapport*, which was forwarded to the members of the club outlining the principal activities of the club and future significant events.

The club's facilities were on four levels and included outdoor and indoor bowling greens and associated facilities, and restaurants, bars, poker machines and function rooms.

Approximately 70% of the area of club's premises and its fixed asset value were directly applied to bowls or the promotion of bowls.

The club had over 400,000 visitors annually to play the poker machines and enjoy the facilities. Profits were reinvested into club facilities and the promotion of bowls.

The tribunal member was satisfied on the evidence that the non-bowling activities of the club had not overtaken the club's main object. It was noted that the club's vast reserves were earmarked for further improvements to both the sporting and club facilities.

Word

! The following summary of the judgment in *Commissioner of Taxation v. Word Investments Ltd* is provided to help you self-assess if your club is a society, association or club established for the encouragement of a game or sport. A copy of the published case judgment is available from the ATO's legal database at www.ato.gov.au

Word Investments Ltd was a company with objects which advanced religious purposes and others which aided those purposes, such as carrying on any business. Word operated a business of conducting funerals and, as set out in its rules, passed on surpluses from the business to a charitable institution. It also retained earnings to continue the business.

The High Court found that Word Investments Ltd was itself a charitable institution, as its objects were confined to advancing religious charitable purposes. Although the commercial fundraising activity (the funeral business) was not intrinsically charitable it was charitable in character because it was carried out in furtherance of a charitable purpose.

A comparison between *Word* and *Cronulla* and *South Sydney Juniors* may be drawn as the clubs in these cases provided surplus funds for the encouragement of sport.

An essential element in the *Word* judgment was that Word Investments Ltd had one set of objects confined to advancing religion. In *Cronulla* and *South Sydney Juniors*, the objects in the constitutions included both sporting objects and social or recreational objects. In both cases the provision of the social amenities was found to be a purpose in itself and not carried on only in furtherance of the sporting object.

Further, there is no evidence in the *Word* decision that benefits or services were provided to members of Word Investments Ltd. The *Word* decision does not disrupt the *Cronulla* or *South Sydney Juniors* decisions.

! For more information, see the Commissioner's decision impact statement in *Commissioner of Taxation v. Word Investments Ltd*.

REVIEW OF THE SPORT EXEMPTION CASES

The clubs in the *Cronulla*, *South Sydney Juniors* and *North Suburban* judgments were not exempt as each club's main purpose was providing social amenities and licensed club facilities to members.

In *Cronulla*, the provision of the football ground and financial support provided to rugby league were accepted as significant encouragement of sport. However the scale of the social activities provided to members was of greater significance.

South Sydney Juniors illustrates that merely providing extensive sporting encouragement does not result in a club's main purpose being that encouragement. All of a club's features, sporting and non-sporting, must be considered.

North Suburban highlights that you should review your club's status annually. Exemption is not based solely on the original reasons for the establishment of a club.

The *St Marys*, *Tweed Heads* and *Terranora* decisions involved clubs where the social amenities and licensed club facilities did not disrupt the clubs main purpose of encouraging sport.

In *St Marys* the rules of the club recorded rugby league as the major object. The membership categories and control given to football members in the rules pointed to the significance of the football activities over the social activities. This type of formalised structure appears in the constituent documents of many sporting clubs. Whilst the club also provided social facilities for its members, the intensity of activity directed towards football tipped the balance in favour of exemption.

If your club's features are similar to *St Marys* and the significance of your club's social activities compared to its sporting activities are no more than those in *St Marys*, your club's main purpose will be the encouragement of sport. However when making your assessment you need to consider the following:

- The possibility of cash reserves being used to construct a motel was a matter of concern in *St Marys*.
- *South Sydney Juniors* was not exempt despite its rules requiring four of the seven directors to be appointed by the Junior Football League – the scale of the non-sporting facilities having greater significance.

Tweed Heads and *Terranora* illustrate circumstances where trading with visitors to the club did not alter either club's main purpose. Both cases involved New South Wales clubs close to the Queensland border before poker machines were available in Queensland clubs. Leaving the extensive trading with visitors aside, the features of both clubs indicated a main purpose of encouraging sport. Notably, the control of the club in *Tweed Heads* was formalised in its constitution and the sporting membership was high. In both decisions the extensive social amenities provided mostly to visitors did not overtake the club's sporting purpose.

Similar considerations may apply to sporting clubs in holiday regions offering their social facilities to visitors to the club.

Terranora however, cannot be applied to clubs with features similar to the clubs in *Cronulla* and *South Sydney Juniors*. The main purpose of such clubs is providing social and recreational facilities and activities for their members.

The other examples provided in 'Examples from case law' involve a bowling club and a country club. Both involved small clubs, active in their sporting endeavours and operating their bar, dining and gaming facilities beyond game time. In both cases, the clubs were found to be exempt.

Comparison with case judgments

The table below summarises the features of the case judgments described in 'Examples from case law'. Each of these clubs had extensive social, entertainment and gaming facilities in the years under review. Review your club's features comparing them with the summary below.

Feature	Exempt			Taxable		
	Tweed Heads	Terranora	St Marys	Cronulla	South Sydney	North Suburban
<i>Highly persuasive features</i>						
Sporting activities conducted	Bowls	Sporting sub-clubs	Rugby league Minor sub-clubs	Financial & in kind support to associated football clubs Sporting sub-clubs	Financial & in kind support to associated football clubs Sporting sub-clubs	Minor sporting sub-clubs
Extent of sporting encouragement	Sporting facilities equal to 70% of fixed asset value Local, national, and global tournaments	Golf, tennis, bowling, rugby, soccer, cricket and other sports facilities and teams	32 rugby league teams Leased several playing fields from councils	Stadium gate, car parking, and advertising rights	Football club dependent on income Sporting sub clubs	Minor sporting sub-clubs
Use of surplus	Expended on own sporting activity and developing club facilities	Expended on own sporting activity and developing club facilities	Expended on own sporting activity and developing club facilities	Paid to associated clubs and expended on clubhouse	Paid to associated clubs and expended on clubhouse	Minor amount spent on own sporting activity
Objects	Promotion of bowls and good fellowship among members	Promotion of golf, bowls, tennis and other sports, games and pastimes	Manage and promote rugby league in St Marys district and providing for members	Maintain social club and providing sport facilities for associated clubs	Providing social and sporting club and promoting rugby league	Providing for members associated for social, sporting, charitable and educational purposes

Feature	Exempt			Taxable		
	Tweed Heads	Terranora	St Marys	Cronulla	South Sydney	North Suburban
<i>Persuasive features</i>						
Membership and sporting members	920 total 830 bowling members	4,400 total 2,854 sub-club members	6,500 total 450 players, others ex-players or supporters	13, 000 total Sub-club members not reported	45,000 total 1,470 sub-club members	Not reported
Control	Constitution restricted board to 'bowling members'	No particular qualification for election of board	Constitution restricted board to life and football members	Board consisted of persons associated with the football club – historical, not formal	Four of seven directors appointed by the football club	No particular qualification for election of board
Voting	Bowling members only	Open	Open	Open	Open	Open
Promotion	Bowling magazine Social facilities heavily promoted	Sports newsletters Social facilities heavily promoted	Not reported	Mostly social facilities promoted	Mostly social facilities promoted	Mostly social facilities promoted
<i>Other features</i>						
Proximity	Facilities in and around clubhouse	Facilities adjacent to clubhouses	Not reported	Stadium adjacent to clubhouse	No field	No field
Clubhouse	Not reported	Not reported	Clubhouse reflected rugby league club	Not reported	Not reported	Not reported

04

SELF-ASSESSING YOUR CLUB'S TAX STATUS

We recommend that you assess your club's status and complete a separate worksheet for each year.

You should also review when there has been a major change in structure or activities.

WORKSHEET – WORKING OUT YOUR CLUB'S INCOME TAX STATUS

This worksheet has been designed for use by sporting societies, associations and clubs to self-assess their income tax status.

We recommend that you assess your club's status each year and complete a separate worksheet for each year. You should also review when there has been a major change in structure or activities.

What you will need

For the year of assessment, you will need the following information as it applied in that year:

- your club's constituent or governing documents such as its memorandum and articles of association, constitution, rules or charter
- information about your club's activities, finances, plans, advertisements and history, and
- an up-to-date copy of this guide.

Check that you are using documents applicable to the year of assessment when completing this worksheet.

How to use this worksheet

To complete this worksheet, you will need to answer the questions in the order provided.

If you need help or a question tells you that your club is not exempt, see 'Self assessment – sporting clubs' on page 4.

Once you have worked out your club's income tax status, you do not need to apply to the ATO to have it confirmed.

Keep this worksheet with your club's records. It will show why and how you arrived at the decision of your club's income tax status and help future office bearers.

Your assessment will apply only to the year for which you have completed this worksheet. For another year, get another copy of the worksheet and complete it in terms of your club's facts and circumstances for that year.

If your club operates through several entities, complete this worksheet for each entity.

1 Full name of your club

2 Australian business number (ABN)

3 Year of income

4 Reason for review (please tick)

Annual review

Change in circumstances

Other: please specify

5 Is your club a charity?

No Go to question 6. Yes Do not continue this worksheet. Go to 'Charity' on page 3.

Sporting clubs that are charities include:

- a club wholly integrated in a school or university and furthering its educational aims
- a club that primarily uses a game to help rehabilitate the sick, and
- a club that primarily uses a sport to relieve disability.

There is an endorsement process for charities to be exempt from income tax.

6 Is your club a non-profit entity?

No Your club is not income tax exempt. Go to 'Taxable clubs' on page 2. Yes Go to question 7.

The ATO accepts a club as being non-profit where, by operation of law or by its constituent documents the club is prevented from distributing its profits or assets among members while the club is operating and on its winding-up. The club's actions must be consistent with the prohibition.

An entity for these purposes includes a corporation, unincorporated association, a trust or a partnership.

7 Is your club a society, association or club?

No Your club is not exempt as a non-profit sporting club. Go to 'Self assessment – sporting clubs' on page 4.

Yes Go to question 8.

Society, association or club is not defined in the tax law and takes the ordinary meaning of the words. It has been accepted as referring to a voluntary organisation having members associated together for a common or shared purpose.

8 Did your club meet at least one of the 'three tests'?

No Your club is not income tax exempt. Go to 'Taxable clubs' on page 2. Yes Go to question 9.

Sporting clubs that are not charities must pass one of the following three tests to be exempt from income tax:

- physical presence in Australia test
- deductible gift recipient test, or
- prescribed by law test.

Notes

Sports and activities

The tax law requires that exempt sports organisations be established for the main purpose of encouraging a game or sport.

Evidence of being established for this encouragement is provided by your club's constituent documents. You will most likely find this in the 'objects' clause or 'purposes' clause of the constituent document. The word 'encourage' or 'encouragement' might be used, but other words like 'advance', 'foster', 'further' or 'promote' might be used with a similar intention.

Your club must demonstrate by reference to its activities in the year of income that its main purpose is the encouragement of a game or sport. Evidence of your club's activities may be found in the minutes of meetings and resolutions of your club's board or committees, the club's business plans, material promoting the club's activities, and published reports about the club, such as its annual report.

9 Do your club's constituent documents include an object or purpose being the encouragement of a game or sport?

No Your club may not be exempt as a non-profit sporting club, see 'Self assessment – sporting clubs' on page 4.

Yes Go to question 10.

Your club's constituent documents may specify a particular game or sport, or they may merely state as one of the club's objects, the encouragement of a game(s) or sport(s).

Note the games or sports your club encourages below.

10 Does your club actively encourage its games or sports?

No Your club may not be exempt as a non-profit sporting club, see 'Self assessment – sporting clubs' on page 4.

Yes Go to question 11.

A significant feature of a tax exempt sporting club is that the club actively encourages its games or sports.

Encouragement can be directly carrying on activities or supporting them less directly.

Note your club's encouragement of its sports below.

Notes

11 Did your club conduct or provide at least one of the following in the relevant year?

- bar or dining facilities for extended periods
- significant gaming and recreational facilities
- holiday and other temporary accommodation
- other business activities.

No Go to question 12. Yes Go to 'Schedule for multiple purpose clubs' on page 22.

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

12 Is the main purpose of your club the encouragement of a game or sport?

No Your club is not exempt as a non-profit sporting club, see 'Self assessment – sporting clubs' on page 4.

Yes You have self-assessed that your club is exempt from income tax.

To be eligible for the exemption, your club's main purpose must be to encourage a game or sport. If your club's main purpose is providing social amenities and licensed club facilities to its members or the carrying on of some other enterprise, the exemption does not apply.

If your club's non-sporting activities are minor compared to its sporting activities and it satisfies the other requirements for exemption, answer yes to this question.

Once you have completed this worksheet you should sign it and keep it with your organisation's other records.

Name of person conducting review

Position held

Signature

Date

Approval by Board/Committee/Trustee

SCHEDULE FOR MULTIPLE PURPOSE CLUBS

If your club conducts significant non-sporting activities it is necessary to review your club's features to identify if the club has as its main purpose the encouragement of a game or sport. You may need to refer to the following information:

- your club's constituent documents
- resolutions of the committee or of the persons controlling your club's direction
- 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.

This schedule is provided as a guide to compile information necessary to weigh the sporting and non-sporting features of your club. When you have completed this schedule, review your club's features with the information and tables provided in chapter 3 – 'Multiple purpose clubs'.

When you have completed your review:

- 1 if you are satisfied that your club's main purpose is the encouragement of sport, go to question 12.
- 2 If you are satisfied that your club's main purpose is not the encouragement of sport, or you need further assistance, go to 'Self assessment – sporting clubs' on page 4. It lists options for you including 'If you cannot work out your club's income tax status.'

1 Year of income

2 History

Provide a brief history of your club.

3 Non-sporting activities

Describe your club's non-sporting activities and other facilities – bars, restaurants, poker machines, function rooms, non-sport use of gymnasiums and fitness centres, clubhouse car parking, holiday accommodation including any operations conducted by contractors on club premises.

Notes

4 Financial comparison – sporting and non-sporting

Complete the schedule below to compare the extent of your club's sporting and non-sporting activities. It is for comparison purposes only. A precise allocation of amounts is not required. However, you should note any assumptions made.

Schedule of activities	Revenue \$,000	Expenses \$,000	Value of Assets \$,000	Salary \$,000
<i>Non-sporting activities</i>				
Bar trading				
Poker machines				
Keno, TAB				
Dining facilities				
Entertainment				
Holiday accommodation				
Membership subscriptions and expenses				
Other operations				
Capital expenditure				
Grants to other clubs				
Total non-sport items				
<i>Sporting activities</i>				
Provision of facilities				
Teams and competitors				
Coordinating competitions				
Provision of equipment				
Game day sales				
Other operations				
Capital expenditure				
Grants to other clubs				
Membership subscriptions and expenses				
Total sport items				
<i>Other activities</i>				
Total				

5 Your club's sporting features

Complete this schedule to help you in weighing your club's features.

Feature	
Sporting activities conducted	List your club's sports and the encouragement provided.
Extent of sporting activities	Describe the extent of the encouragement provided – include for example: number of teams, nature of the competition, facilities provided, supporter base.
Use of surplus funds	<p>Does your club have a policy for the application of its surplus or profits? If so, describe it below.</p> <p>How did your club apply its surplus? – include both sporting and non-sporting use of funds.</p>
Constitution	Review your club's objects in its constituent or governing document. Do the objects emphasise that the club's main purpose is to encourage a game or sport? Does the club operate in accordance with those documents?
Member participation	<p>What is your club's total membership?</p> <p>How many members participate in the sport (or sports) your club encourages, including regular supporters?</p>

Control	<p>Review your club's rules regarding membership of the governing body as they appear in its constituent or governing document. Is there a requirement for members of the club's board to be participants in or concerned with the encouragement of the game or sport?</p> <p>List the members of the club's board and note whether they are participants in or concerned with the encouragement of the game or sport (as distinct from day-to-day management of the club).</p>
Voting	<p>Review your club's rules for voting at meetings as they appear in its constituent or governing document. Are some voting rights restricted to sporting members? If so, list these.</p>
Promotion	<p>Does the club promote itself to patrons and the public mainly as a sporting club and do its advertisements and publicity emphasise the sporting activities over the social activities?</p>
Proximity	<p>Describe the location of the clubhouse and the club's sporting facilities (both leased and owned).</p>
Clubhouse	<p>Describe sporting memorabilia displayed in the clubhouse.</p>

