


TD 93/D49 - Income tax: are organisations which are established to promote tourism exempt from income tax under paragraph 23(h) of the Income Tax Assessment Act 1936?

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This document has been finalised by TD 93/122.

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

Draft Taxation Determination

Income tax: are organisations which are established to promote tourism exempt from income tax under paragraph 23(h) of the *Income Tax Assessment Act 1936*?

1. No. Paragraph 23(h) provides that the income of a society or association not carried on for the purposes of profit or gain to its individual members, established for the purpose of promoting the development of aviation or of the agricultural, pastoral, horticultural, viticultural, manufacturing or industrial resources of Australia, is exempt from income tax.

2. The development of one or more of the resources specified in paragraph 23(h) may be promoted incidentally by the activities of tourism organisations. That is not enough to qualify the organisations for exemption. To qualify for exemption, the principal or dominant purpose for which an organisation is established must be to promote the development of one or more of those resources themselves: see *Australian Insurance Association v. FC of T*: 79 ATC 4569, (1980) 10 ATR 333.

3. It has been suggested to this office that bodies which promote tourism are exempt under paragraph 23(h) on the basis that tourism is an industrial resource of Australia. However, in the *Australian Insurance Association* case, Sheppard J stated that the draftsman did not intend to give the word 'industrial' any wide meaning that would embrace business or commercial resources generally. Tourism is a business or commercial resource, but is not an industrial resource.

4. Taxation Ruling IT 2415, in the course of arriving at its particular conclusions, implies that tourism is an industrial resource for the purposes of paragraph 23(h). For the reasons outlined in paragraphs 1 to 3 of this Determination, that view is considered to be incorrect. To the extent that IT 2415 deals with this issue, it is withdrawn with effect from the date of this Determination (the final Taxation Determination based on this draft).

Commissioner of Taxation

04/03/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings: IT 2415

Subject Ref: income tax; exempt income; industrial resources of Australia; tourism; tourism organisations

Legislative Ref: ITAA 23(h)

Case Ref: *Australian Insurance Association v. FC of T* 79 ATC 4569, 1980 10 ATR 333

ATO Ref: NO 92/9022-2

ISSN 1038 - 8982