



# Payroll Tax Court Decision Summaries

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# NSW Court of Appeal Decisions Summaries

## Exemptions

### 2011 Decision Summary

#### Northern NSW Football Ltd v Chief Commissioner of State Revenue [2011] NSWCA 51

**Date of Decision:** 15 March 2011

**Decision:** The appeal was dismissed. The Court unanimously held that:

1. The promotion of a healthy sport, such as soccer, although beneficial to the participants and the public is not a charitable purpose: *Re Nottage* [1895] 2 Ch 649 CA and *The Royal National Agricultural and Industrial Association v Chester* (1974) 48 ALJR 304 followed; and
2. The promotion of a sport was not a benevolent purpose: *Australian Council of Social Service Inc v Commissioner of Pay-roll Tax (NSW)* (1985) 1 NSWLR 567 applied.

*Catchwords:-*

Payroll Tax – exemption for a non-profit organisation having as its sole or dominant purpose a charitable purpose – whether a non-profit amateur sporting association such as the appellant having as its purpose the promotion and management of football in a particular geographic area falls within the exemption – consideration of the law of charities in the context of payroll tax

TAXATION - payroll tax - exemption - non-profit organisation - whether dominant charitable purpose - promotion of soccer - not charitable purpose

CHARITY - promotion of sport - not charitable.

*Select this hyperlink to go to the summary:-*

[Northern NSW Football Ltd v Chief Commissioner of State Revenue \[2011\] NSWCA 51](#)

## High Court of Australia

### Grouping

#### 2011 Decision Summary

#### Tasty Chicks Pty Limited & Ors v Chief Commissioner of State Revenue [2011] HCA 41

**Date of Decision:** 05 October 2011

**Decision:** In 2009 the appellants in these proceedings succeeded in an appeal to the Supreme Court against certain payroll tax grouping decisions of the Chief Commissioner State Revenue. Gzell J upheld the appeal against the Chief Commissioner's decisions to group the appellant for periods prior to 1 July 2003, and granted exclusions from grouping from 1 July 2003 to 30 June 2007.

In 2010 the Court of Appeal overturned the exclusion decisions of Gzell J on the basis that the decision to degroup was not open to the Court on the evidence before it. The Court of Appeal held that the only question that should have been decided was whether the Chief Commissioner's failure to be satisfied that the appellants should be degrouped was based on an error of law. The Court of Appeal reinstated the assessments of the Chief Commissioner for the relevant years.

The High Court allowed the appeal on the basis that the Supreme Court had the same powers of review under section 101 of the Taxation Administration Act as the Administrative Decisions Tribunal, and had not erred by exercising the powers of the Chief Commissioner in granting exclusions. The High Court ordered that the matter be remitted to the Court of Appeal for further hearing in light of the determination by the High Court of the nature of the review.

*Catchwords:-*

Payroll tax – grouping and "de-grouping"

Administrative law – nature of appeal and nature of review – whether need to find error in discretionary decision of Chief Commissioner before review by Supreme Court

Original jurisdiction upon statutory "appeal" and "review" in respect of administrative decision – Nature, power and duties of court in exercise of that jurisdiction

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[Tasty Chicks Pty Limited & Ors v Chief Commissioner of State Revenue \[2011\] HCA 41](#)