TD 93/D148 - Income tax: how should a licensed club apportion expenses when calculating its taxable income?

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This document has been finalised by TD 93/194.

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: how should a licensed club apportion expenses when calculating its taxable income?

1. A licensed club is only assessable on trading income which relates to non-members and on income received from sources outside its general trading activities. This is due to the principle of mutuality that recognises that any surplus arising from contributions to a common fund created and controlled by people for a common purpose is not income. (*Bohemians Club v Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD *Case T55*.)

2. Subsection 51(1) of the *Income Tax Assessment Act* provides that expenditure incurred for income producing purposes is allowable as a deduction, except to the extent to which it relates to gaining exempt income (or is of a capital, private or domestic nature). Accordingly, expenses incurred by a licensed club can be classified for income tax purposes as follows:

(a) Non allowable : expenses relating specifically to members (e.g. members badges, members' functions);

(b) Wholly allowable : expenses relating specifically to non-members (e.g. non member only promotions), expenses relating to wholly assessable income (e.g. investment expenses) and non-apportionable deductions including contributions to staff superannuation, rates and taxes and donations to approved funds ; and

(c) Partly allowable : expenses which cannot be identified as either member or non-member. The allowable proportion is determined by applying the non-member ratio to the expenses incurred. The formula for providing clubs and their advisors with a basis for calculating the non-member ratio is as follows:

$$\frac{(B \times 75\%) + C}{([R \times S] \times T) + A}$$

Where
A= total visitors for the year of income
B= members' guests, that is those visitors who are accompanied to the club by a member and signed into the club by that member
C= A-B
R= the average number of subscribed members in the year of income
S= the average daily percentage of member attendance at the club
T= the number of trading days in the year of income

3. Clubs may, for the purposes of calculating taxable income, adopt an alternative measurement technique where there is a reasonable basis to do so (e.g. better recording system of member/non-member spending) and provided it reasonably and accurately reflects the club's income for the year in question.

4. A full discussion of these issues is contained in the Guidelines for registered and licensed clubs published by the Australian Taxation Office in May 1992.

Example:

The club's activities for the year resulted in trading income of $100,000 and investment income of $5,000. The non-member ratio for the year was 25%. Total expenses for the year was $60,000, which was broken up as follows:

- *(a) $52,000 being expenses which cannot be identified as either member or non-member (includes expenses for rates and taxes and staff superannuation amounting to $2,000);*
- *(b) $5,000 member only expenses;*
- *(c) $2,000 non-member only expenses; and*
- *(d) $1,000 being expenses in relation to investment income.*

Answer:

Gross income (from trading accounts)			*105,000*
less investment income			*5,000*
			100,000
Gross expenditure (from trading accounts)		*60,000*	
less			
member only expenditure	*5,000*		
rates and taxes and superannuation	*2,000*		
expenses in relation to investment expenditure	*1,000*		
non-member only expenditure	*2,000*	*10,000*	*50,000*
			50,000
Non-member ratio (25% of 50,000)			*12,500*
add investment income			*5,000*
			17,500
less			
rates and taxes and superannuation		*2,000*	
epenses in relation to investment income		*1,000*	
non-member only expenditure		*2,000*	*5,000*
Taxable income			*12,500*

Commissioner of Taxation
10/6/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: Clubs; allowable deductions

Legislataive Ref: ITAA 51(1)

Case Ref: *Bohemians Club v Acting FCT* (1918) 24 CLR 334; *Sydney Water Board Employees Credit Union v FCT* (1973) 73 ATC 4129; (1973) 4 ATR 157; (1968) 18 TBRD Case T55

ATO Ref: CHA51

ISSN 1038 - 8982