


TD 93/D222 - Income tax: are amounts set aside by registered clubs to pay "linked poker machine" jackpots:(a) assessable income of the club ? (b) deductible to the club ? Note : This Draft Determination (TD) only relates to clubs that are not exempt from income tax.

 This cover sheet is provided for information only. It does not form part of *TD 93/D222 - Income tax: are amounts set aside by registered clubs to pay "linked poker machine" jackpots:(a) assessable income of the club ? (b) deductible to the club ? Note : This Draft Determination (TD) only relates to clubs that are not exempt from income tax.*

This document has been Withdrawn.
There is a [Withdrawal notice](#) for this document.

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 amounts set aside by registered clubs to pay "linked poker machine" jackpots:

- (a) assessable income of the club ?**
- (b) deductible to the club ?**

Note : This Draft Determination (TD) only relates to clubs that are not exempt from income tax.

1. Under the Regulations of the Liquor Administration Board, registered clubs in New South Wales are required either to set aside in a separate bank account or obtain a bank guarantee for monies which would be paid to persons who win jackpots on linked poker machines, where the jackpot exceeds \$10,000. If a club sets aside those monies in a separate bank account, those monies cannot be used for any purpose other than to pay those jackpots.

2. Where amounts of assessable income, such as proceeds from poker machines, are set aside in the above manner, their assessability is not affected. Although they have been carried to a reserve or sinking fund they are appropriations of assessable income (See *Mersey Docks & Harbour Board v. Lucas* (1883) 2 TC 25).

3. The amounts set aside are not deductible, because there is no presently existing liability to pay the jackpot until it has been won. Payment is contingent upon the player winning the jackpot (See *Nilsen Development Laboratories Pty Ltd & Ors v. FC of T* (1981) 144 CLR 616; 81 ATC 4031; 11 ATR 505).

Commissioner of Taxation
2/9/93

FOI INDEX DETAIL: Reference No.

Related Determinations:

Related Rulings:

Subject Ref: clubs, provisions

Legislative Ref: ITAA 19; ITAA 25; ITAA 51(1)

Case Ref: *Mersey Docks & Harbour Board v Lucas* 1883 2 T.C. 25; *Nilsen Development Laboratories Pty Ltd & Ors v. FC of T* (1981) 144 CLR 616; 81 ATC 4031; 11 ATR 505

ATO Ref: ALB A.W. 920159

ISSN 1038 - 8982